

Report on Implementation of the CHT Accord

2 December 2016



 Parbatya Chattagram Jana Samhati Samiti

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Signed in 1997 between
The Government of Bangladesh and the PCJSS



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GLOSSARY

| | |
|---------|---|
| BGB | Border Guard Bangladesh |
| BNP | Bangladesh Nationalist Party |
| BOP | Border Out Post |
| CHT | Chittagong Hill Tracts |
| CHTDB | Chittagong Hill Tracts Development Board |
| CHTJRWA | CHT Returnee Jumma Refugees Welfare Association |
| CHTRC | Chittagong Hill Tracts Regional Council |
| DC | Deputy Commissioner |
| GoB | Government of Bangladesh |
| HDC | Hill District Council |
| HDLGC | Hill District Local Government Council |
| IDPs | Internally Displaced Persons |
| IPs | Indigenous Peoples |
| LGRD | Local Government and Rural Development |
| MoCHTA | Ministry of CHT Affairs |
| MP | Member of Parliament |
| NGO | Non-Government Organisation |
| PRC | Permanent Resident Certificate |
| SP | Superintendent of Police |
| PCJSS | Parbatya Chattagram Jana Samhati Samiti |
| UNO | Upazila Nirbahi Officer |

Editorial

The Chittagong Hill Tracts (CHT) Accord is about to complete 19 years after its signing. Despite being passed 19 years, the core issues of the Accord have been left unimplemented as yet. The core issues of the Accord include devolution of functions to three Hill District Councils and the CHT Regional Council and putting them in force; preservation of Jumma-predominant feature in CHT region; withdrawal of all temporary camps including de facto military rule 'Operation Uttoron'; resolution of land disputes; rehabilitation of the India-returnee Jumma refugees and internally Jumma displaced people; bringing amendment to the other laws applicable in CHT in consonance with the Hill District Council Acts and CHT Regional Council Act as well as the CHT Accord; appointment of the permanent residents with priority preference to the Jumma peoples in all jobs available in CHT, rehabilitation of Bengali settlers outside CHT with due dignity etc.

Even though 6 governments of which were four political and two caretaker governments had hitherto ascended to the state power within the prolonged 19 years, none of the governments came forward with firm political commitment in implementing the core issues of the Accord. Even the Awami League government, one of the signatories of the Accord, has been and as of date being in the power for 8 years since 2009 has undertaken no effective step in implementing the unimplemented core issues of the CHT Accord. During the tenure of the present Awami League government, a few measures that have been undertaken towards implementation of the Accord are: transfer of few subjects and offices to the three Hill District Councils, withdrawal of 35 temporary camps, laying foundation stone of the CHT Complex in Dhaka, amendment to the CHT Land Dispute Resolution Commission Act 2001 etc. However, these initiatives have been in lacking of continuity and firm political commitment. The government does not have time-frame based work plan or road map in all its initiatives in which it absolutely lacks of sincere political commitment and democratic and non-communal outlook.

The Interim CHT Regional Council and the three Interim Hill District Councils have though been constituted, the government has been following dilly-dallying tactics in devolving the functions to the Hill District Councils as per the Act as yet. In the name of increasing the members of the interim Hill District Councils from 5 to 15, an amendment was brought in the three Hill District Council Acts in 2014 despite strong opposition of CHT people and PCJSS, mainly with an objective to run the interim Councils with the party-nominated members undemocratically, instead of forming Councils with the members directly elected by the people. Thus the conspiracy with the Councils is being executed by the government to meet its mean political objective of turning the CHT Regional Council and three Hill District Councils into dysfunctional administrative organs, indeed. The way that the Councils pertaining to the special administrative

system of CHT into mere dysfunctional institutions proves that the government is utterly reluctant to establishing the political, economic, social, lands and cultural rights of the Jumma peoples as well as the CHT people.

It is relevant to mention here that instead of implementing the CHT Accord properly, the government is persuading its conspiracy of making the CHT into a Muslim-dominated region and uprooting the Jumma peoples from their traditional homesteads and lands, through establishing land port at Thega Mukh, constructing Thega Mukh-Chittagong port connectivity road and border road, establishing luxurious tourist centers by the army, declaring expansion of reserved forest areas, establishing Border Out Posts of BGB elsewhere, exploration and extraction of oil & gas at geographical-structures of Kasalong-Sita Pahar areas etc. Despite tough opposition of the Jumma peoples, various development programs including the Rangamati Science & Technology University and Medical College in the name of development and expansion of education are being forcibly implemented through state machineries the main aim of which is to set up a political center against the CHT Accord and interest of the Jumma peoples.

With a view to attaining mean objective of thwarting down the democratic movement of the Jumma peoples for implementation of the CHT Accord, in recent days, atrocities and repressive actions against the innocent Jumma people including members and supporters of the PCJSS and its associate organizations have been intensified to an alarming state by the army-BGB-police authorities in association with the local units of the ruling Awami League. Especially, the repressive measures being perpetrated by the army-BGB-police forces include: searching and vandalizing the PCJSS offices, filing up fabricated cases against members and supporters of the PCJSS and taking arrest, conducting search operation in their houses and ransacking the valuables of the houses, creating terror by collecting information and names of the members of PCJSS and its associate organisations and so on.

In fact, there is no alternative to implementation of the Accord in settling the CHT crisis through political and peaceful means. The CHT Accord is a charter of rights of the CHT people and it was obtained through blood-shedding struggle that lasted for more than two and a half decades. Any conspiracy designed to foil implementation process of the Accord and any plot of suppressing the democratic movement of the CHT people for implementation of the Accord by fascist way of measures, however, cannot bring in any auspicious outcome for the greater interest of the country. As usual, for the sake of implementation of the CHT Accord aimed at settling the CHT crisis through political and peaceful means, PCJSS is in firm conviction to resist any conspiracy designed to anti-Accord and anti-Jumma interest and PCJSS declares the same stance in clear voice on this 19th anniversary of CHT Accord.



Part : One

Present State of Implementation of CHT Accord 1997

Part : One

Present State of Implementation of CHT Accord 1997

The preamble of the Chittagong Hill Tracts (CHT) Accord states, "Reposing full and unswerving allegiance in the State-sovereignty and territorial integrity of Bangladesh regarding its hill tracts region within the ambit of the Constitution of the People's Republic of Bangladesh, the National Committee on Chittagong Hill Tracts on behalf of the Government of the People's Republic of Bangladesh and the Parbatya Chattagram Jana Samhati Samiti on behalf of the inhabitants of the Chittagong Hill Tracts region have reached the following Agreement, comprised of four Parts (A, B, C, D), with a view to upholding the political, social, cultural, educational and economic rights of all the citizens of the Chittagong Hill Tracts region and expediting their socio-economic development process and preserving and developing the respective rights of all the citizens of Bangladesh."

Provisions of the CHT Accord

The CHT Accord was signed on 2 December 1997. There are 4 Parts in the Accord. Under Part 'A', there are 4 Sections. As per Part 'B', amendment was brought to 35 Sections from among the 79 Sections of the Hill District Local Government Council Act and 44 Sections were retained as before. Under Part 'C' on Chittagong Hill Tracts Regional Council, there are 14 Sections and it is mentioned to the effect that the other Sections and Sub-Sections shall be incorporated following the Hill District Council Acts. Part 'D' contains General Amnesty, Rehabilitation and Other Matters and 19 Sections were incorporated in this part. Therefore, implementation of CHT Accord refers to implementation of the provisions included under Part 'A', provisions of Hill District Council (Amendment) Act 1989 including the concerned provisions incorporated as per Part 'B', the provisions of CHT Regional Council Act 1998 formulated as per Part 'C' and implementation of the provisions incorporated in Part 'D' of the Accord.

A: General

A.1: Preservation of Tribal-inhabited Feature of CHT Region

"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."

In ensuring the provision of the Accord, the other provisions that have been incorporated are resolution of land disputes, establishment of special administrative system in CHT, rehabilitation of returnee refugees and internally displaced tribal families, determination of definition of non-tribal permanent residents, preparation of electoral roll with the

permanent residents, etc. In context of demand placed by PCJSS, the then Chief Whip Mr. Abul Hasnat Abdullah, Convener of National Committee on CHT Affairs time and again informed the PCJSS representatives that the settlers who had been rehabilitated in 1980s, as assured by the Prime Minister, would be relocated in the plain lands. But it was for some special reason that could not be mentioned in the Accord. Referring to that assurance, Honorable Prime Minister reiterated the issue to the PCJSS representatives headed by PCJSS President soon after the occasion of signing the Accord on 2 December 1997.

The statement pronounced by the government claiming that the issue of development and preservation of language and culture of the tribes, minor races, ethnic sects and communities has been ensured through inclusion in Article 23(a) under the 15th Amendment to the constitution is not appropriate.

In order to preserve the tribal pre-dominated characteristics of the region, on part of the government, it is urgent-

- (1) to introduce a statutory measure to the Constitution stating that CHT is a region pre-dominated by multi-lingual hill/tribal people;
- (2) to incorporate the words 'or the hill people of Chittagong Hill Tracts' immediately after the words "in favour of women or children or the backward sections of citizens" in Article 28(4) of the Constitution and
- (3) to adopt and implement a plan for rehabilitation of settlers settled in 1980s in the plain districts.

As per this provision, there has been no initiative or programme on the part of the government for the protection and preservation of the "special character" of the CHT region and its development process.

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

As part of this planning, so far, apart from frequent incidents of sporadic arson on Jumma dwellings, at least 19 massive communal attacks including 10 attacks during the period of present grand-alliance government were perpetrated during the post- Accord period in different parts of the three hill districts of CHT, obviously, to uproot indigenous Jumma peoples from their ancestral land and to settle down Bengali settlers over there. Moreover, activities to incite communal frenzy in the CHT are being intensified through commissioning a communalist organization of the Bengali settlers called Sama Odhikar Andolan (Movement for Equal Rights). For instances, the latest communal attacks at Rangamati Government College on 17 October 2015 was carried out upon Jumma students by Chhatra League with the help of outsider miscreants. At least four Jummas were critically injured in the attack.

On 16 December 2014 the Bengali settlers and military forces perpetrated communal attack upon three Jumma villages in Bogachari area under Naniarchar Upazila in Rangamati district. In this heinous attack, the Bengali settlers put to torch 50 houses and 7 Jumma-owned shops. Bengali settlers also vandalised 5 Jumma-owned shops at Choddomile, severely beat one Buddhist monk, broke Buddha images and looted 5 bronze-made Buddha statues including the donation box of Suridas Para Buddhist temple. On the other side, 2 Jumma civilians including one public representative were beaten by the army.

Communal attacks carried out by Bengali settlers in collusion with the security forces and government administrations after signing the CHT Accord are as follows.

| Attack | Date | No. of houses | | No. of person killed | No. of person injured | Raped/ sexual harass |
|-------------------------------|----------------|---------------|----------------|----------------------|-----------------------|----------------------|
| | | Burnt down | Looted/ Damage | | | |
| Baghahat Attack | 4 April 1999 | -- | -- | -- | 51 | 1 |
| Babuchara Attack | 16 Oct 1999 | -- | 74 | 3 | 140 (3 monks) | 1 |
| Boalkhali-Merung Attack | 18 May 2001 | 42 | 191 | -- | 5 | -- |
| Ramgarh Attack | 25 June 2001 | 126 | 118 | -- | Several | -- |
| Rajvila Attack | 10 Oct 2002 | 11 | 100 | -- | 3 | -- |
| Bhuyanchari Attack | 19 April 2003 | 9 | -- | -- | 12 | -- |
| Mahalchari Attack | 26 August 2003 | 359 | 137 | 2 | 50 | 10 |
| Maischari Attack | 3 April 2006 | - | 100 | - | 50 | 4 |
| Sajek Arson Attack | 20 April 2008 | 78 | 78 | - | - | - |
| Baghahat (Sajek) Arson Attack | 19-20 Feb 2010 | 437 | Same | 2 | 25 | - |

| | | | | | | |
|------------------------------|-----------------|-----|------|---|-----|---|
| Khagrachari Arson Attack | 23 Feb 2010 | 61 | Same | - | - | - |
| Longadu Arson Attack | 17 Feb 2011 | 21 | 6 | - | 15 | - |
| Ramgarh-Manikchar Attack | 17 April 2011 | 111 | - | 2 | 25 | - |
| Baghaichari-Dighinala Attack | 14 Dec 2011 | - | - | 1 | 11 | - |
| Rangamati Attack | 22-23 Sept 2012 | - | 11 | - | 117 | - |
| Taindong-Matiranga | 3 August 2013 | 36 | 261 | 1 | 12 | - |
| Kamalchari-Betchari | 25-26 Feb 2014 | - | 6 | - | 5 | - |
| Bogachari | 16 Dec 2014 | 59 | 5 | - | 3 | - |
| Rangamati Govt. College | 17 October 2015 | - | - | - | 15 | - |

On the other hand, the Muslim Bengali refugees coming from Arakan of Myanmar who are identified as Rohingya have been settled at Naikhyongchari, Ruma, Lama, Alikadam and Sadar Upazila of Bandarban hill district with direct patronization and supervision of the local administrative authorities. They have been issued PRCs and enumerated in the local electoral roll violating the terms of the CHT Accord. Many development and employment facilities sanctioned in the name of the local indigenous peoples are being routed to them. The government, as it was done earlier, has enumerated the outsiders in the electoral rolls violating the Accord while updating of the electoral roll in 2015.

A.2: Enactment and Amendment of Various Laws

Clause 2 of Part A stipulates,

“Both the parties have agreed to make alter, amend and add to, in consonance with the consensus and responsibilities expressed in the different section of this Agreement, the relevant laws, regulations and practices according to law as early as possible.”

The three Hill District Council Acts and CHT Regional Council Act were formulated in 1998. The contradictory provisions of the CHT Land Dispute Resolution Commission Act 2001 were amended on 6 October 2016 through passage of the CHT Land Dispute Resolution Commission (Amendment) Act 2016 in the Parliament.

The CHT Regional Council placed its recommendations before the government for necessary amendments to the existing laws, namely, the Electoral Roll Ordinance 1982, the Electoral Roll Rules 1982, the CHT Regulation 1900, Draft Rules on Social Forestry 2001 and the Code of Conduct on NGOs. But the government has taken no step in this regard with an exception to the Draft Rules of Social Forestry 2001.

For making this provision of the Accord effective, amendment to the following laws applicable in CHT (such as, Laws, Regulations, Rules, Orders, Circulations, Allocation of Business of various ministries, etc.) and the special laws relating to CHT (such as, CHT Regulation 1900, etc.) is a must-

A) General laws require amendment

- 1) Police Act 1861
- 2) Police Regulation
- 3) Union Council Act, 2009
- 4) Municipal Act, 2009
- 5) Upazila (Sub-District) Council Act, 1998
- 6) Municipal Budget Rules, 2010
- 7) Municipal Servants Rules, 1992
- 8) Registration of Birth and Death (Municipal) Rules, 2006
- 9) Municipal Rules of Business, 1999
- 10) Upazila Council Budget (preparation and approval) Rules, 2010
- 11) Upazila Council (Programs Implementation) Rules, 2010
- 12) Municipal Tax Rules
- 13) Union Council (Tax) Rules
- 14) Small Ethnic Groups Cultural Institution Act, 2010
- 15) Bangladesh Tourism Board Act, 2010
- 16) Bangladesh Art Academy Act, 1989
- 17) Bangladesh Statistics Act, 2010
- 18) Disaster Management Act, 2012
- 19) Child Act, 2013
- 20) Family Violence Resistance and Protection Act, 2010
- 21) Cooperative Act, 2001
- 22) Bangladesh Silk Development Board Act, 2013
- 23) Land Appeal Board Act, 2013
- 24) Land Reform Act, 2013
- 25) Sand and Soil Management Act, 2010
- 26) Bangladesh Rubber Board Act, 2013
- 27) Bangladesh Water Act, 2013
- 28) Bangladesh Environment Protection Act, 1995
- 29) Wild Life (Protection and Security) Act, 2012
- 30) Cotton Act, 1957

- 31) Forest Act, 1927 (Draft Forest (Amendment) Bill, 2012)
- 32) Social Forestation Rules, 2004
- 33) Government Finance and Budget Management Act, 2009
- 34) Bangladesh Parjatan Corporation Order, 1972
- 35) Bangladesh Tourism Reserved Area and Special Tourism Act, 2010
- 36) Bangladesh Tourism Reserved Area and Special Tourism Region Rules, 2010
- 37) Circular of the Office of the Prime Minister in relation to the Rules of Business to be followed by the Non-Government Organizations
- 38) Industry Policy, 1999
- 39) National Woman Policy, 2010
- 40) Secretariat Directives, 2008 (....)
- 41) Standing Order on Disaster
- 42) Order in relation to Operation Uttoron (Operation Upliftment), etc.

B) CHT related Special Rules that require amendment or omission

- 1) CHT Regulation, 1900 (1 of 1900)
- 2) Bazar Fund Rules, 1937
- 3) CHT Loan Regulation, 1938
- 4) CHT Agriculture Loans Rules, 1939
- 5) Hill Districts (Repeal and Application and Special Rules) Act, 1989
- 6) Memorandum relating to effectiveness/operation of the CHT Regulation 1900 promulgated in 1990
- 7) Chittagong Hill Tracts Development Board Act, 2014
- 8) CHT (Land Acquisition) Regulation, 1958
- 9) Land Khatian (Chittagong Hill Tracts) Ordinance, 1984
- 10) Rangamati Science and Technology University Act, 2001 etc

A.3: CHT Accord Implementation Monitoring Committee

According to this provision of the Accord, the CHT Accord Implementation Monitoring Committee has been being formed so far. But this Committee does not have any office and manpower of its own. Consequently, there is no continuity in the process of Accord implementation and there is no process to monitor the implementation of decisions adopted by the Committee.

During the period (1996-2001) of Awami League Government, the CHT Accord Implementation Monitoring Committee was formed. However, the committee was not formed during the period (2007-2008) of Caretaker Government led by Dr. Fakhruddin Ahmed. After assuming the power in 2009, Awami League-led present grand alliance government appointed Syeda Sajeda Chowdhury, Deputy Leader of the Parliament as representative of Prime Minister as convenor of the Committee on 25 May 2009.

It is to be mentioned that after reconstitution of the CHT Accord Implementation Monitoring Committee, it has held five meetings on 19 August 2009 in Rangamati, 26 October 2009 at Jatiya Sangsad Bhaban, 26 December 2010 in Khagrachari, 22 January 2012 and 28 May 2012 at Jatiya Sangsad Bhaban.

After forming new government for second tenure following the general elections of 5 January 2014, the CHT Accord Implementation Monitoring Committee convened a meeting on 20 January 2015 at Jatiya Sangsad Bhaban in Dhaka.

In the last meeting chaired by Syeda Sajeda Chowdhury, Convener of the Committee; Jyotirindra Bodhipriya Larma, President of PCJSS and also Member of the Committee and Jatindra Lal Tripura, Chairman of the Task Force on Rehabilitation of Returnee Refugees and Internally Displaced People, were present. Besides, the personalities attended in the meeting were Dr. Gawher Rizvi, Advisor to the Prime Minister; R A M Obaidul Moktadir Chowdhury, Chairman of the Parliamentary Standing Committee on CHT Affairs Ministry; Bir Bahadur Ushwe Shing, State Minister for CHT Affairs Ministry and Naba Bikram Kishore Tripura, Secretary, Ministry of CHT Affairs.

In the meeting, it was unanimously decided that the CHT Land Dispute Resolution Commission Act 2001 would be amended as per the 13-point amendment proposal as it had been adopted in the meeting held at Chittagong Circuit House on 9 January 2015.

At present the function of CHT Accord Implementation Committee remains in standstill situation. Putting an end to the situation, in order to maintain continuity of the Accord implementation process and to expedite and making it proper, it is necessary to allot office, manpower and fund for the office and it is expedient to appoint a competent person to the post of Convener of Accord Implementation Committee.

A.4: Duration of Validity of the Accord

Clause 4 of the Part A says, "The Agreement shall come into force from the date of its signing and execution by both the parties. This Agreement shall remain valid from the date of its effect until all the steps are executed as per this Agreement."

Over the two separate cases filed by Bodiuzzaman in 2000 and Advocate Tazul Islam in 2007, the High Court Division of the Supreme Court gave verdict on 12-13 April 2010 terming the CHT Regional Council Act and some of the important sections of the Hill District Council Acts as unconstitutional.

Following the government's appeal against the High Court verdict, chamber judge of the Appellate Division of the Supreme Court stayed the HC verdict on 15 April 2010 for six weeks. Later the stay order of the Appellate Division was extended till regular appeal. At the last stage, a 7 member bench headed by the Chief Justice ordered the verdict of the High court to stay.

It is a matter of urgency to take necessary step to direct the Ministry of CHT Affairs, Ministry of Law and Attorney General to settle the appealed case with the Supreme Court on CHT Accord, Hill District Council and CHT Regional Council.

During the 15th Amendment to the Constitution in 2011, it was a strong demand of PCJSS, CHT people and the civic society of the country, to include the CHTRC Act and Rangamati, Khagrachari and Bandarban HDC Acts, enacted in light of the Accord, as 'Effective Laws' in the First Schedule to provide legal saving for these laws. It is noteworthy that the demand for constitutional guarantee of the CHT Accord was raised during the signing of the CHT Accord in 1997. It was replied by then Awami League-led government, they did not have required majority in the Parliament to amend the Constitution to ensure constitutional guarantee for the Accord. However, they promised that in future they would ensure the constitutional guarantee of the Accord, if they could secure required majority in the Parliament. But during the 15th amendment to the constitution, the Awami League-led grand alliance government kept themselves far off their assurance and promise.

B: Hill District Local Government Council / Hill District Council

In the introductory part it has been laid down, "Both the parties have agreed to alter, amend, add to and repeal the Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989 (Rangamati Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989, Bandarban Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989 and Khagrachari Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989) and its various sections, as may be in force till the date of commencement of this Accord, in the manner set forth here under".

On the basis of this Part 'B' of the CHT Accord, the following have been in progress:

At a glance: Implementation of Part B

- On 3, 4 and 5 May 1998 Rangamati HDC (Amendment) Act 1998, Khagrachari HDC (Amendment) Act 1998 and Bandarban HDC (Amendment) Act 1998 were passed respectively in the Parliament, and these were published in official gazette on 24 May 1998.
- There were four provisions in the Rangamati HDC (Amendment) Act 1998 and one each in the Khagrachari HDC (Amendment) Act 1998 and Bandarban HDC (Amendment) Act 1998 which were contradictory to the CHT Accord. After several months, the contradictory provision relating to the definition of "non-tribal permanent residents" along with a few other provisions was amended in accordance with the Accord. But the provision relating to 'all development programmes undertaken or to be undertaken at national level' is yet to be amended.

- The government has amended the section 18 of the HDC Acts without any consultation with the CHT Regional Council. The new amendment qualifies Bengali settlers to be voters in all elections in the CHT. This is a clear violation of the CHT Accord. The CHT Regional Council demanded the government action to repeal it, but the latter did not pay any attention to the demand.
- Even after 19 years of signing of the Accord, no elections have been held in the three Hill District Councils. The Election Rules and Electoral Rolls Rules of three HDCs have not been formulated till today. Instead of forming 34-member elected HDCs, the Councils are being operated undemocratically by the interim Councils nominated by the ruling party. Ignoring the opinion of the CHT people, on 23 November 2014 the government amended three HDC Acts by increasing the members of three interim HDCs from 5 to 15, including the chairman. The main objective of making amendments to the three HDC Acts seems to be to by-pass the elections for the CHT institutions and deprive the CHT people from their political rights to franchise and access to representation. In fact, these interim HDCs work without any obligation and accountability to the people.
- Since after the amendment of the HDC Acts in order to streng then the HDCs as per the CHT Accord, the Rules of Business of the HDCs are yet to be amended so far.
- Out of 33 subjects of the HDCs, only 17 subjects (including 10 subjects transferred before signing of the Accord) have been transferred partially to the HDCs so far. However, the most crucial subjects, such as, law and order of the district, land and land management, police (local), forest and environment etc. are yet to be transferred to the HDCs.
- The three HDC Acts have not been implemented fully and properly. Rather, these Acts are being violated in various ways.

The present state of important provisions of the Part B are given below:

B.3: Identification of “Non-Tribal Permanent Residents” of the Region

Clause 3 of this Part provides, "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".

While amending the Rangamati Hill District Local Government Council Act 1989 under the CHT Accord, the definition of a “non-tribal permanent resident” has been changed by replacing “and” with “or” in the Act No. 9 of the Rangamati Hill District Council (Amendment) Act 1998. The intention behind the replacement of “and” with “or” in the definition was to include all the Bengali settlers and outsiders, who lived in a particular

address howsoever under the category of 'non-tribal permanent residents'. It was a total diversion from the spirit of the CHT Accord. This provision was amended in line with the Accord later on by the Act no. XXIII of 1998 after a strong popular protest from the Jumma people and their organisations.

Following an administrative order issued by CHT Affairs Ministry on 21-12-2000, the Deputy Commissioners of the three hill districts are violating the provision by issuing "permanent resident certificate" to the Bengali settlers and outsiders for providing them with settlement of land, employment and other facilities. On the contrary, the Jumma and the permanent Bengali residents are being deprived of settlement of land, development benefits and employment etc. as maximum as possible by the authorities.

B.4(d): Issuance of Certificate to the non-tribal People

Clause 4 of this Part stipulates,

"Whether a person is a non-tribal or not and, if so, which community he is a member of, shall be determined, subject to his producing a certificate from the concerned Mouza Headman/Union Council Chairman/Municipality Chairman, by the concerned Circle Chief and without a certificate in this connection being received from the Circle Chief, no person shall be eligible as a non-tribal to be candidate for the post of a non-tribal member."

This provision of the Accord has been duly incorporated in the new Sub-Section (5) under Section 4 of the Hill District Council Act. But the provision has never been implemented.

However, violating this provision, the Ministry of CHT Affairs sent a letter [letter no. PCBM (P-1) PJP/certificate/62/99-587 dated 21/12/2000] to the Deputy Commissioners and Circle Chiefs of CHT stating that "Alongside the Deputy Commissioners of Hill Districts, the Circle Chiefs, in need relating to job, shall also issue Permanent Resident Certificate within their respective jurisdiction." The directive given in the letter is contravening to the Hill District Council Act enacted in light of the CHT Accord.

It is to be mentioned that the Deputy Commissioners of three hill districts have been issuing Permanent Resident Certificates to such individuals who are not permanent residents of hill districts. The certificates of the kind have been being used especially, in obtaining jobs, land settlements or in admission cases of educational institutions, which ultimately lead to deprivation to the permanent residents of both tribal and non-tribal people from their due rights.

A discussion on putting an end to the process of obtaining the said certificates from the Deputy Commissioners by the non-resident and non-tribal individuals in CHT and from outside CHT was held in the meeting of CHT Accord Implementation Committee

chaired by its Convenor Syeda Sajeda Chowdhury at the Conference Hall of Ministry of CHT Affairs on 26 December 2010 and it was decided that issuance of certificate by the Deputy Commissioners shall be cancelled.

The responsibility of taking initiative to execute the said decision of CHT Accord Implementation Committee falls upon the Ministry of CHT Affairs. But no initiative has been undertaken to execute the said decision as yet.

It is to be mentioned that there is no provision relating to issuance of 'Permanent Resident Certificate' in CHT Regulation 1900 and it is only the responsibility of granting citizenship certificate (v. granting domicile certificate) has been entrusted to the Deputy Commissioners in the Sub-directive No. 5 of Directive No. 11 (Licence and Certificates) under 'Charter of Duties of Deputy Commissioners' formulated by Cabinet Division in November 1983. So, to withdraw the directive relating to entrusting responsibility of issuing permanent resident certificate to Deputy Commissioners is indispensable.

Section 9 of the HDC Acts: Privileges of the Chairman and the Members

Section 9 of the HDC Acts says, "The privileges of the Chairman and the Members shall be determined by regulation."

Privileges of the Chairman and the Members have been determined as per the regulation framed by the Hill District Councils. The Chairmen of Local Government Hill Councils were awarded with status of a deputy minister by notification of Cabinet Division in 1989. The Chairmen enjoy facilities of having police guard, security personnel and hoisting flag in the vehicle, salary-allowances, etc. In later period, on formation of Interim HDCs, facilities of same kind continued for some time. These facilities began getting reduced by the Ministry of CHT Affairs from the tenure of four-party coalition government.

It is to be mentioned that the present HDCs, though being an interim Council, has been entrusted with all responsibilities of discharging powers and functions of HDCs. Hence, to awarding deputy minister status to the Chairmen of HDCs is statutory and logical. Similarly, it is of necessity to define status of members of the HDCs.

B.9: Qualification of a Voter and Voter List

Clause 9 of this Part says,

"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."

The provision of the Accord as aforesaid has been incorporated under Section 17 of the HDC Acts. But this provision has not been made effective. It is worthy to be mentioned that the provision of permanent resident to become a voter is one of the provisions that have been incorporated to preserve the feature of CHT. Especially, the balance of population got changed due to transfer of almost 500,000 non-tribal people to CHT under government plan in 1980s. Hence, it has become indispensable to incorporate this provision in the Accord.

Ministry of CHT Affairs drafted Electoral Roll Rules 2000 for the three HDCs and Election Rules for the Chairman and the Members of HDCs in 2000. The CHT Regional Council submitted its recommendations on these regulations following Section 53 of the Act. But the regulations have not yet been framed for the final. During the period of BNP-led four-party coalition government, the CHTRC and the PCJSS sent letters requesting the government to pass and enforce the said Rules as soon as possible. The MoCHTA undertook an initiative to resolve the issue, and the Ministry of Law, after vetting it, sent the Draft Rules to the Prime Minister's Office. However, it is yet to be published in the gazette and enforced.

The government has amended the section 18 of the HDC Acts without any consultation with the CHT Regional Council. The new amendment qualifies Bengali settlers to be voters in all elections in the CHT. This is a clear violation of the CHT Accord. The CHT Regional Council demanded the government's action to repeal it, but the latter did not pay any attention to the demand.

After the Accord, the outsiders were also included in the Electoral Roll prepared in 2000 and 2007-2008 as per the general electoral roll regulation. Besides, the outsiders were also enlisted in the electoral roll during updating programs conducted on different time. The Rohingya Muslim refugees coming from Myanmar have been enlisted in the electoral rolls in Naikhyongchari, Lama, Alikadam and Sadar Upazila of Bandarban Hill District including Bilaichari of Rangamati Hill District with direct or indirect support of the administration.

Functions of HDC as stated under Section 22 of the main Act

Under Section 22 of the Hill District Council (Amendment) Act 1989, it is mentioned, "22. The functions as set out in the First Schedule shall be the functions of the Council and it shall perform the functions consistent with the fund."

As per Section 22 of the Hill District Council Act, since the functions or subjects mentioned under the First Schedule are the statutory functions of the HDC, the HDC can, by Section 69, frame up regulation and carry out the functions accordingly. So, there is no necessity of signing agreement afresh for transfer of the said functions to the HDCs.

On the other hand, the concerned ministry can transfer the concerned functions or subjects (i.e. all works, concerned offices or institutions, officers and employees, salary-allowances, infrastructure, leaves, annual confidential report, etc. under the concerned functions at district and upazila levels) by executive order.

It is worthy to be mentioned that a total of 7 functions/subjects have been transferred by the concerned ministries to the HDCs by Executive Order following Section 22 and Section 69 of the HDC Acts.

Instead of following Section 22 and Section 69, rather following Section 23(b) which is only applicable to special cases, various ministries have transferred the other 12 functions/subjects to HDCs through signing agreement. None of the functions or subjects transferred by the said way has been devoluted to their fullest. It is only few works, partial offices or institutions, officers and employees, salary-allowances, etc. have been transferred to the HDCs as per whims and wishes of the ministry concerned. For instance, few works and offices, officers and employees and salary-allowances of primary education at district level have been transferred to HDCs. But the offices, officers & employees and salary-allowances at upazila level have not yet been transferred to HDCs. More to be mentioned that the functions of local tourism have though been transferred to HDCs, no existing offices or institution and officers & employees, salary-allowances, etc. have been transferred. It is only the function of establishing tourism centers at own finance of the HDCs has been transferred. The existing offices or institution or the tourism centers under control of Bangladesh Tourism Corporation and other authorities have not been transferred to the three HDCs.

As to this day, 5 functions/subjects have been fully transferred to the three HDCs through executive order and 12 functions or subjects have been partially transferred to the three HDCs having signed agreement with the HDCs. From among the said 12 functions under which included 29 offices and institutions to Rangamati and Khagrachari HDCs each and 27 offices and institutions to Bandarban HDC, have been transferred.

On the other hand, 16 functions, out of 33, have not yet been transferred to the HDCs and various works, offices and institutions, officers-employees, infrastructure, salary-allowances etc. under transferred functions have not been devoluted fully and properly.

It is to be mentioned that it is stated in the said Section 23: "Notwithstanding anything contained in this Act or any other law for the time being in force, the Government may, with the consent of the council, direct that-

- (a) any institution or service maintained by the Council shall be transferred to the management and control of the Government; and
- (b) any institution or service maintained by the Government shall be transferred to the management and control of the Council."

The provision is in its clarity that the government shall give order for transfer only certain institution or function maintained by HDCs to the government management & control and the certain government maintained institution or function to the management and control of HDCs. It means that this special provision can be applicable only to transfer the works or institutions already transferred to HDCs and managed by the HDCs or to transfer the works or institutions managed by the government. This, however, cannot be applicable to the functions or subjects included in the First Schedule.

In context of the provisions mentioned herein above, it is of jurisprudence to transfer functions of the HDCs through executive order as per Section 22 of the Act, in lieu of following Section 23 of the Act. In this context, on part of CHT Regional Council, a letter on issuing directives to transfer the functions of HDCs through executive order by the concerned ministry was sent to the Honorable Prime Minister on 19-11-2012.

B.13 & 14: Appointment of Officers and Employees of the Council

Clause 13 of the Part B stipulates, "It shall be provided in sub-section (1) and (2) of Section 31 that a Chief Executive Officer of the rank of a Deputy Secretary to the government shall be the Secretary of the Council and the tribal officers shall be given preference for appointment to this post."

Clause 14 of the Part B also says,

"(a) There shall be provision in sub-section (1) of Section 32 that the Council shall be competent, subject to approval by the government, to create posts of officers and employees of different categories for the purpose of smooth completion of the works of the Council.

(b) Sub-section (2) of the Section 32 shall be formulated in the following manner "The Council shall, as per Regulations, have competence to appoint Class-III and Class-IV employees and to transfer, suspend, dismiss, remove or otherwise punish them.

Provided that it shall be the condition attached to such appointments that the tribal residents of the district concerned shall have right of preference.

(c) It shall be provided in sub-section (3) of Section 32 that the Government shall, as per Regulations, have the authority to appoint officers in consultation with the Council and to transfer elsewhere, suspend, dismiss, remove or otherwise punish them."

The provisions of the Accord have been incorporated under Sub-Sections (1), (2), (3), and (4) of Section 32.

But the HDCs, as per their advantages or whims and wishes, have been giving appointment to the 3rd and 4th class employees by the appointment committee so formed. In some cases, without following provisions of the HDC Act, the HDCs have been giving appointment to the 3rd and 4th class employees as per the general policy on quota system existent in the country. Besides, the non-resident and non-tribal individuals gain employment in the HDCs on the basis of certificates granted by the Deputy Commissioners based on the certificates from Union Parishad Chairman or Municipality Chairman. As a result, the permanent residents are being deprived from their due rights.

In the posts of the Council i.e. for the posts of 1st and 2nd class officers, in most cases, the government appoints the non-residents and non-tribal officers in lieu. As a result, the provision, for the objective of which has been incorporated, could not be implemented properly.

During the tenure of present grand-alliance government, in the cases with recruitment of 3rd and 4th class employees in the three hill districts, appointment is being given through absolute corruption, irregularities, party-line practices and abuse of power. Even appointment is being given to the outsiders who are not permanent residents of CHT. A letter from CHT Regional Council was sent to the Rangamati Hill District Council on 31 August 2015 asking to postpone the process of appointment for the posts related to the functions or institutions of transferred departments or subjects including the primary school teachers, until the Appointment Regulation is amended in consonance with the laws applicable in CHT and the Rules of Business. It was stated in the letter that the appointment process was in lacking of transparency, accountability and proper management in every step pertaining to legal provisions and procedures followed, formulation of question papers, arrangement of examinations, evaluation of the answer scripts and above all, in publishing out the results all of which was contrary to the objectives of appointment and justice. The appointment policy, for not having been amended in consonance with the laws and rules of business enacted during the post-accord period, the committee for scrutiny and its procedure and quota system do not correspond to hopes and longings of people and at the same time, is contravening to the Hill District Council Act. Besides, in the letter of CHT Regional Council, it was also mentioned that the process is not in conformity with the CHT Regional Council Act 1998 and Allocation of Business of the Ministry of CHT Affairs. The CHT Regional Council expressed its concern over the loop whole due to procedural defects that allows room for serving the vested interest. But in June and September 2015, hundreds of primary teachers were appointed in two phases ignoring the instruction of the CHT Regional Council.

B.19: Development Planning

Clause 19 of the Part B also says,

The following sub-section shall be added to section 42: "(4) The Council shall be competent to prepare, undertake and implement, with the help of money receivable from the Government, development projects in respect of the matters transferred to it and all development programmes at national level shall be implemented through the Council by the concerned Ministry/ Department/ Institution".

The provision stated in Section 19 has been incorporated in Sub-Section 4 under Section 42 as under: "all development programmes undertaken at national level on transferred subjects shall be implemented through the HDC by the concerned Ministry/ Department/ Institution."

This provision has not been included rightly in the Act No. 9, 10 and 11 of Hill District Council Act 1998 while amending the Hill District Local Government Council Act 1989 in line with the CHT Accord. The proposed provision of section 42 was split into two sub-sections in the following way:

"(2a) As Sub-Section (1) of Section 42, the Council with its own fund or money given by the government can prepare and execute development projects on institutions or works transferred by the government to the Council under Section 23 (b)".

"(4) All development programmes undertaken by the government at national level on any subject placed under the Council will be implemented by concerned ministries, departments or institutions through the Council".

The government was persuaded again and again to amend the said contradictory provision in line with the CHT Accord. Finally, only the Sub-clause (2a) was amended in accordance with the Accord in the Act no. 29, 30 and 31 of the HDC Acts 2000. But the Sub-clause (4) remains as it has been.

This provision which provides to implement all development programmes undertaken at national level on transferred subjects through the HDC by the concerned Ministry/ Department/ Institution has not yet been implemented.

B.24 & 25: District Police

The provisions made under Section-24 and 25 of Part-B have been properly replaced under Sections-62 and 63 of HDC Act in the following manner respectively:

"62. District Police.- (1) Notwithstanding anything contained in any Act for the time being in force, all members of the rank of Sub-Inspector and below thereof of Rangamati/ Khagrachari/ Bandarban Hill District Police shall be appointed by the Council in a manner laid down by regulations and the Council may transfer and take disciplinary action against them as per procedure laid down by regulations:

Provided that with regard to such appointment the preference shall be given to the tribal candidates of Rangamati/ Khagrachari/ Bandarban Hill District.

- (2) The terms and conditions of service of all the officers and members of the District Police, appointed by the Council, and their training, uniform, duties, responsibilities and administration shall be the same as those of the other District Police, and all the laws relating to these matter as applicable to the district police shall, subject to provisions of sub-section (1) be applicable to them as well.
- (3) The officers and members of all ranks of the Rangamati Hill District Police shall, subject to provisions of all other relevant laws with necessary additions, be responsible to the Council in the matter of discharging their duties and responsibilities."

"63. Responsibilities of the Police.- It shall be the responsibility of all Police Officers to bring the incidence of any crime within Rangamati/ Khagrachari/ Bandarban Hill District to the notice of the Chairman of the Council and to assist the Chairman of the Council and its officers in the exercise of lawful authority."

The said provisions have not yet been implemented. It is to be mentioned that the subject Police has been transferred to the HDCs by Home Ministry through an executive order on 12-07-1989. However, it was cancelled after one week.

Formation of district Police Force is indispensable to secure safety of life and property of inhabitants of CHT, especially, the Jumma people and to preserve the tribal-pre-dominated feature of CHT region.

Besides, as per clause 33(a) and 34(b) of this Part of the Accord, "Supervision, maintenance and improvement of the law and order of the district" and "Police (local)" are included in the First Schedule of the HDC Acts as a function of the HDCs. But no measure has yet been taken to transfer the said subjects and functions to the HDCs for implementation. The higher authorities of the police continue to exercise this power as before till today.

It is worthwhile that the CHT Regional Council and three Hill District Councils have the authority of maintenance and supervision of law & order. But this power is being exercised by the concerned Deputy Commissioners and Superintendents of Police with the cooperation extended through 'Operation Uttoron' ignoring these councils. The law & order meeting in the three hill districts is convened by the Deputy Commissioners, instead of the Hill District Councils,. Thus the government, itself, continues to violate the Hill District Council Act. It is due to not having formed the Hill District Police, the terrorist activities, such as, communal attack, extortion of money, abduction, killing, etc. are in the increase and that the law & order situation is deteriorating day by day.

The meeting held at Home Ministry chaired by the Home Minister on 7 January 2015, adopted a decision that stands: "The other forces engaged in law & order in CHT shall work with 24th Infantry Division assigned with the responsibility of overall law & order maintenance through mutual cooperation (Decision No. 6)" and "The former Shanti Bahini members absorbed in Ansar and police forces shall have to be transferred to other districts simultaneously (Decision No. 11)". The decision of Home Ministry conferring the coordinating power of law & order to the army instead of CHT Regional Council and three Hill District Councils, is conflicting and contravening to the special administrative system under which CHT Regional Council and three Hill District Councils were constituted.

B.26: Special Provision relating to Land

Clause 26 of the Part B stipulates,

"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, Betunia 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."

This provision has been included in the Act. However, the provision has not been implemented properly.

As per this provision, though opinion is given on part of government to the effect that lands in settlement, purchase, selling, transfer and acquisition is done having prior approval of the HDC is not of jurisprudence. As per Section 34(a) under Part B of the Accord, the subject 'Land & Land Management' is a subject within jurisdiction of HDC. But since the subject has not been transferred to the HDC as yet, it is not possible to formulate regulation relating to this provision to deal with it.

On the other hand, the Deputy Commissioners have been practicing the process of mutation, acquisition, lease and settlement following the CHT Regulation 1900.

Thousand acres of lands are being taken in acquisition in the name of forestation and expansion of cluster villages, establishment and expansion of army camp and training centres including establishment of tourism centres. So, it is utmost necessary that the subject of lands and land management is transferred to the HDCs.

The DCs continue to ignore and violate the circular issued by the Land Ministry on 17 July 1989 and instruction by the CHTRC. The DCs of the three hill districts were ordered to revoke this illegal settlement, lease or transfer of land through a letter no. CHTAM(P-1)/HD/ Miscellaneous/ 85/2000/529 issued by the CHT Affairs Ministry on 14 October 2000. Nevertheless, the process of giving lease and settlement of land to outsiders has not been stopped. This trend still goes on unabated covertly.

Leases and illegal occupation of lands by Outsiders: In the name of horticulture and rubber plantation, forestation and fruit garden, long-term lease has been being given to the persons who are not permanent residents of CHT, violating the CHT Accord. From among the lease recipients, there are military and civil officers and their relatives, political leaders and various influential personalities. The lands given to leases includes the traditional Jum lands of the indigenous Jum cultivators and even in some cases, the lands recorded and under traditional occupation of the indigenous Jumma people. As a result, hundreds of Jumma residents are being dispossessed of their Jum lands and being evicted from their villages and homesteads. A total of 40,047 acres of lands divided into 1605 plots covering 25 acres in each plot in the areas of Bandarban Sadar, Lama, Alikadam and Naikhyongchari upazilas under Bandarban district have been given to the plain land dwellers specially from Dhaka, Chittagong, Rajshahi, Khulna and Sylhet divisions.

The leases given to the outsiders by the government in the name of rubber plantation and horticulture in Bandarban district alone is given in the following table:

| Sl. | Name of upazila | Rubber plantation | | Horticulture | | Total | |
|---------------------|-----------------|-------------------|----------------|--------------|----------------|--------------|----------------|
| | | No. of plots | Land (in acre) | No. of plots | Land (in acre) | No. of plots | Land (in acre) |
| 1. | Bandarban | 91 | 2,275 | 119 | 2,855 | 210 | 5,130 |
| 2. | Lama | 835 | 20,875 | 177 | 4,500 | 1012 | 25,375 |
| 3. | Alikadam | 194 | 4,847 | 62 | 1,550 | 256 | 6,397 |
| 4. | Naikhyongchari | 112 | 2,800 | 15 | 375 | 127 | 3,175 |
| Total in 4 upazilas | | 1,232 | 31,797 | 373 | 9,280 | 1,605 | 40,077 |

Besides, illegal occupation of lands is being carried out by the outsider businessmen, influential persons and land grabbers with the assistance and support of the military and civil administration. For instances, forcible occupation of lands belonging to 21 Chak families by an influential outsider through evicting them and forceful occupation of Jum lands by former UP Chairman Faruk Ahmed in Kamichara mouza under Naikhyongchari

upazila; communal attack upon the Jumma villagers aiming at making them afraid in Lama upazila by the land-grabbers and threatening of eviction to 250 Mro families living in Lulaing mouza in Lama upazila; illegal forcible occupation of lands covering 175 acres belonging to 75 families of Mro, Tripura, Marma and permanent Bengali residents by Laden Group and more 221 families given threatening of eviction in Fasyakhali union of Lama upazila; an ill-effort for occupation of lands measuring about 500 acres through attacking Marma villagers in Rupasi Union of Lama upazila by Mujibur Hoque gang; an ill-effort of illegal occupation and settlement of lands belonging to 33 Marma families through forgery; and about 1000 acres of recorded and traditionally occupied lands of Mro, Tripura and Marma people, etc. incidents are of the worth-mentioning the misdeeds of which are being carried out with the support of state machineries and all this gives out a vivid picture of 'might is right' situation.

Land Possession for Reserved and Protected Forest: In the name of afforestation, the government has unilaterally undertaken a programme to acquire 218,000 acres of land. Of this land, 72,000 acres of land alone fall under the Bandarban district. Thus, the Khyang ethnic people, the smallest and most deprived and disadvantaged Jumma group in the CHT, are on the verge of total eviction from their ancestral lands where they have been living and cultivating Jum for generations. The lands illegally acquired by the Forest Department in the name of afforestation in Bandarban Hill district alone is given in the following table:

| Sl | Name of the upazilas | No. of mouzas | Land (in acre) |
|--|----------------------|---------------|----------------|
| 1. | Alikadam | 3 mouzas | 5,754.98 |
| 2. | Naikhyongchari | 3 mouzas | 4,840.00 |
| 3. | Lama | 5 mouzas | 2,780.99 |
| 4. | Bandarban | 5 mouzas | 15,750.00 |
| 5. | Rowangchari | 10 mouzas | 45,950.00 |
| 6. | Ruma | 5 mouzas | 11,500.00 |
| 7. | Thanchi | 4 mouzas | 7,500.00 |
| Total in 35 mouzas under 7 upazilas | | | 94,066.97 |
| Occupation under Forest Department without acquisition | | | 23,933.03 |
| Total acquired land for reserved forest | | | 218,000.00 |

In recent days, acquisition of mouza lands covering 84,542.42 acres under 20 mouzas of Rangamati Hill district has been accelerated by the Forest Department as per its declaration of Reserved Forest areas under Section-20 of Forest Act 1927 violating the CHT Accord and traditional rights to lands of the Jumma peoples. It was learnt that the decision of making the acquisition process of mouza lands accelerated was taken in a meeting presided over by the Deputy Commissioner on 28 January 2013.

As part of the move, a report was submitted to the Deputy Commissioner by the Additional Deputy Commissioner (Revenue) and Forest Settlement Officer Dr. Muhammad Mustafizur Rahman. It is mentioned in the report that as per Section 9 of the

Forest Act, a meeting in coordination with the representatives of the Forest Department and Headmen was held on 29 June 2014 on objection raised by the Headmen of 20 mouzas over the issue of proposed Reserved Forest and the mouzas are: (1) No.130 Barudgola mouza, (2) No. 128 Basanta Mouza, (3) No. 122 Kutubdia Mouza, (4) No. 131 Ballachari Mouza, (5) No. 108 Manikchari Mouza, (6) No. 99 Ghagra Mouza, (7) No. 127 Atharak Char Mouza, (8) No. 57 Ultachari Mouza, (9) No. 123 Hemanta Mouza, (10) No. 109 Sapchari Mouza, (11) No. 111 Kutubchari Mouza, (12) No. 110 Shukurchari Mouza, (13) No. 125 Phulgazi Mouza, (14) No. 129 Kaindya Mouza, (15) No. 79 Kengelchari Mouza, (16) No. 77 Toichakma Mouza, (17) 70 Hazachari Mouza, (18) No. 69 Ghilachari Mouza, (19) No. Choudhurichara Mouza and (20) No. 3 Longadu Mouza.

As per decision taken in the said meeting, the Revenue Deputy Collector and representatives of forest department visited No. 110 Shakurchari Mouza and following their visit, they submitted the report. In the report, it is mentioned that 45 families have already had settlement and are dwelling there in the proposed reserved forest area while the remaining 42 families have applied for settlement. Besides, the report also mentioned that the dwellers have already developed forestal and horticultural gardens. The report also mentioned that the Headmen of the other Mouzas had made it known that there is no lands as such that could be taken into acquisition for, of them some have already had their lands recorded and got settled while many others, following submission of their application for settlement, having raised forestry and horticultural gardens, have been dwelling therein since long time. In the report it was opined that 'If the given areas as proposed for reserved forest is to be taken in acquisition, many people will have to be evicted the action of which will not be proper in present context of CHT.

It is worthy to be mentioned that the lands for acquisition for the proposed reserved forest include: recorded homesteads, fruit gardens, forestry gardens, lands under process for settlement, Jum lands under traditional collective ownership, recorded and traditionally occupied lands, the lands recorded on the name of Jum Control Division of Forest Department, Bangladesh Agricultural Development Corporation, Horticulture Development Board and the lands of people rehabilitated under Jumia rehabilitation programme by the CHT Development Board. It is estimated that some 200,000 people of both tribal people and permanent Bengali residents will be victimized of forcible eviction from their respective lands, if the said programme is implemented.

Land Acquisition for Military Purpose: Huge amount of lands have been acquired for military purpose in CHT, particularly for the expansion of and camps, opening new Artillery Training Centers and new Air Force Training Centers. Consequently, the Jumma and permanent Bengali residents are being evicted from their own homesteads and for having been dispossessed of their lands of traditional usage, their living and livelihood are getting hampered. The land illegally acquired by the government in the

name of military purpose in Bandarban Hill district alone is given in the following table:

| Sl. | Particulars | Land (in acre) |
|----------------------|---|----------------|
| 1. | Acquired for Sualok artillery & infantry training centre | 11,445.45 |
| 2. | Under process for acquisition for Sualok artillery & infantry training centre | 19,000.00 |
| 3. | Acquired for expansion of Ruma garrison | 9,560.00 |
| 4. | Under process for acquisition for expansion of Bandarban brigade headquarters | 181.00 |
| 5. | Under process for acquisition for establishment of Chimbuk Hill Ecopark and tourism of army | 5,500.00 |
| 6. | Under process for acquisition for Bandarban-Lama air forces training centre | 26,000.00 |
| 7. | Under process for acquisition for establishment of BDR battalion HQ in Ruma | 25.000 |
| Total amount of land | | 71,711.45 |

As part of the acquisition of lands proposed for the Ruma cantonment, conspiracy to evicting the local dwellers including the Mro people forcibly from their lands and homesteads is continuing. On the other hand, a process is underway to take 25 acres of lands in acquisition for construction of BGB Battalion Headquarters at Thana Para under Poly Mouza of Ruma upazila. If the proposed BGB Headquarters gets built, as a result, 40 families from Than Para, 15 families from Borshi Para and 50 families from Upper and Lower villages of Rumachar will be evicted. On the other side, an initiative has also been undertaken to acquire 100 acres of lands for expansion of Palashpur BGB camp under Matiranga upazila in Khagrachari Hill District.

Instead of resolving the land problems, having the Jumma people and permanent Bengali residents evicted, the government is now pursuing the process of illegal occupation and acquisition of lands in the name of expansion of camps of Border Guard Bangladesh (BGB). For best illustrations, some of the kinds that can be cited are: establishment of BGB Battalion Headquarters by evicting 21 Jumma families and occupying one government primary school at Babuchara of Dighinala Upazila; establishment of BGB camps evicting about 500 Jumma families from Paindu Mouza and Paindu Para, Chandu Para and Chaipo Para of Poli Mouza of Ruma Upazila; and initiative to construct BGB Battalion Headquarters at Hlapaikhong Mouza in Bandarban Sadar Upazila. From among these incidents of forcible land acquisition, the Babuchara incident that involved conflicts between the BGB-police personnel and Jumma villagers has been an issue of country-wide discussion.

Since the early of 2016, 10 new Border Out Post (BOP) of BGB have been being set up in Bara Harina, Bhushanchara, and Aimachara unions of Barkal Upazila in Rangamati district. The camps being expanded are, namely,

- Gola Para Camp by 1 BGB Rajanagar zone of Bara Harina union set up in 3.00 acres of lands owned by Anil Chakma and Prema Moy Chakma;

- Talchara camp constructed in 2.00 acres of land owned by Anga Chandra Chakma (Boidya) of Shuknachari village;
- Camp under construction in 2.00 acres of land owned by Chitra Kumar Chakma of Shrinagar village, expanded by Choto Harina 25 BGB Zone authority;
- Camp constructed in 2.00 acres of lands by 25 BGB Zone at Gashkabachara;
- Camp under construction in 5.00 acres of land owned by Kanyaram Chakma near Kukichara bazaar;
- Camp under construction in 4.00 acres of lands owned by Late Pongchan Chakma at Bhalukyachari expanded by Choto Harina 25 BGB Zone.
- 2 camps are being attempted to establish in 5.00 acres of lands owned by Dhananjay Chakma in exchange of Taka 40,000 and the other one in 3.00 acres of lands owned by Daya Mohan Chakma in exchange of Taka 20,000 both located at Bhuatek of Aimachara by driving them away.
- A camp has been constructed in 2.00 acres of lands owned by Prabhat Chandra Chakma of Talaw Korolyachari Adam. Another attempt is underway to construct a camp in 4.00 acres of lands at Uluchari village, owned by three persons namely, Sadhana Chakma, Gyana Ranjan Chakma and Gyana Chandra Chakma.

Illegal land occupation in the name of Tourism Center: Hundreds of acres of lands are being illegally occupied and taken in acquisition in the name of establishing Tourism Centers in the three hill districts by army and other government authorities. At the initiative taken by the Ministry of Civil Aviation and Tourism, an inter-ministerial meeting was held on 10 August 2014 with a view to 'identifying tourism attracting spots in CHT and to formulating proper plan for their development' and 15 spots have been identified as tourist spot in the meeting. The tourism centers are being constructed at the main attractive locations particularly by the army. Of them, the worth-mentioning are:-

Number of indigenous villages and families in CHT to be affected by Tourism

| Places | Probable Quantity of occupied lands | Number of Villages | Number of familie | Community peoples |
|---|--|--------------------|-------------------|-------------------------------|
| Nilgiri (Kapru Mro Para), Bandarban sadar upazila | Recorded-16 acres Occupied-60 acres | 6 | 200 | Mro and Marma |
| Jibannagar (Sepru Para), Bandarban sadar upazila | 600 acres | 3 | 129 | Mro |
| Chandra Pahar, Bandarban sadar upazila | 500 acres | - | - | - |
| Sajek Resort, Baghaichari, Rangamati | 5 acres | 2 | 65 | Tripura |
| Dim Pahar (Kraudong), Alikadam-Thanchi upazila | 500 acres | 12 | 202 | Mro |
| Nilachal, Bandarban sadar upazila | 20 acres | 3 | 100 | Tripura, Tanchangya and Marma |

The worth of special mentioning tourism center established by the army are: establishment of luxurious resort at Rului village of Sajek under Baghaichari upazila in Rangamati district which lead to 5 families evicted and 65 Jumma families under threat of eviction; Anindya Tourism Center established in Ruma upazila, having the Bawm inhabitants evicted from their ancestral homesteads; various Tourism Centers established or under procession to establish at Dola Mro Para (Jibon Nagar), Kapru Para (Nilgiri), Chimbuk Sholo Mile, Wai Junction (Baro Mile) and in the Keokradong hill occupying 600 acres of lands in Bandarban district.

The administration is hatching conspiracy to evict the Bawm indigenous inhabitants from their homesteads in the hills of Boga Lake area under Ruma upazila in the name of establishing tourism center. As part of this move, an anti-state suit was filed against 14 Bawm inhabitants following prevention offered to Bir Bahadur MP by the local inhabitants when he went there to inaugurate the tourism center in 2009. In persistence to this, Mohammad Kazi Chahel Tastari, Upazila Executive Officer of Ruma Upazila, with a group of police force, conducted an eviction drive against 31 Bawm families on 5 April 2016. Another case was filed against 25 Bawm villagers on that day. The police and the army arrested 3 persons from the demonstration of the local people held at Ruma upazila headquarters on 7 April 2016 in protest against the eviction drive. In continuation to this, Moon Thang Bawm was arrested on 29 April 2016 and after arrest one of his legs got fractured due to inhuman torture of the army. The army of Boga Lake camp led by Lieutenant Riaz Saad prevented the Boga Lake Marma villagers from erecting a Buddhist pagoda there on 21 November 2016.

The lands identified for establishing tourism centers are the mouza lands and Jum lands wherein the indigenous peoples have been practicing their traditional livelihood of Jum cultivation for the generations. Indigenous peoples' rights to forests, lands and natural resources have been being denied and they are being prevented from cultivating jum, growing gardens and seasonal vegetables. Consequently, it is inevitable that the life and livelihood of the indigenous peoples, their food security, environment and bio-diversity will be at jeopardy.

B.28, 29 & 32: Special Prerogatives of the HDCs

Clause 28 of this Part provides, "In the event of necessity for harmonization of the works of the Council and the Governmental authorities, the Government or the Council shall raise proposals on specific subject and the harmonization of the works shall be effected through mutual communications between the Government and Council".

Clause 29 of this Part provides "With a view to carrying out the purposes of this Act, the Government may, upon consultation with the Council, make Rules through Notification in the Government official Gazette and the Council shall have a rights to apply to the Government for review of the said Rules even after they are already made".

Clause 32 of this Part provides "If, in the opinion of the council, any law made by the National Parliament or any other authority as applicable to the hill district is one which creates hardship for the said district or is objectionable for the tribals, the Council may, upon stating the cause of hardship or abjection, apply to the Government in writing for amending or relaxing the application of such law and the Government may take remedial measures in accordance with such application".

These provisions have been included in the Act, but the government continues to refrain from making rules. The government is applying the Speedy Trial Act 2003 and Women and Child Repression Act 2003 in the CHT without taking consideration of customs and practices of indigenous Jumma peoples and no consultation was made with the HDCs and the CHTRC while making these Acts.

B.34 Subjects under Jurisdiction of HDC and their Transfers

The subjects mentioned in Section B.34 of the Accord have been incorporated in the First Schedule of the HDC Acts.

However, the government continues to refrain from execution. The total subjects under the Councils are 33. Few offices/works have been transferred to the HDCs after signing the CHT Accord, but no full subject has properly been transferred. Out of 33 subjects of the HDCs, only 17 subjects (including 10 subjects transferred before signing of the Accord) have been transferred partially to the HDCs so far. 17 subjects transferred partially to the HDCs so far are as follows-

- 10 subjects have been transferred before signing of the Accord.
- During BNP-led four-party coalition government, office of the youth and sport have been transferred to Rangamati and Bandarban HDCs and Rangamati textile vocational institute has been transferred to Rangamati HDC.
- During military-back Caretaker Government led by Dr. Fakhruddin Ahmed, three works/offices including District Horticulture Centre & Nurseries and office of the Cotton Development Board have been transferred to the HDCs.
- During the previous period of grand alliance government (2009-2013), seven works/offices, such as, office of the youth and sport (to Khagrachari HDC), Nursing Training Institute and Health Engineering Directorate (under Health and Family Welfare Department); Bangladesh Agriculture Development Corporation (BADC) and Cotton Development Board (CDB) in Khagrachari zone (under Bangladesh Agriculture Expansion Department); Ramgarh Hatchery Farm (under Fisheries and Livestock Department) and Government Child Home (Shishu Sadan) (under Social Welfare Department) were transferred.

- During current tenure of present grand alliance government, in 2014 five subjects namely Secondary Education, Birth & Death and other Statistics, Shifting Cultivation, Money Lending Business and Tourism (Local) have been transferred to the HDCs.

However, the most crucial subjects, such as, law and order of the district, land and land management, police (local), forest and environment etc. are yet to be transferred to the HDCs.

List of transferred functions and subjects (as of March 2015)

| Subjects or Functions | Offices or Institutes | Rangamati | Khagrachari | Bandarban |
|--------------------------|---|-----------|-------------|-----------|
| 1. Industry and Commerce | 1. Bazar Fund | 1989 | 1989 | 1989 |
| | 2. Small and Cottage Industry Corporation | 1993 | 1993 | 1993 |
| 2. Agriculture | 3. Agriculture Extension Department | 1990 | 1990 | 1989 |
| | 4. District Horticulture Centre & Nurseries | 2007 | 2007 | 2007 |
| | 5. Cotton Development Board / office | 2007 | 2012 | 2007 |
| | 6. Bangladesh Agriculture Development Corporation | 2012 | 2012 | 2012 |
| 3. Health | 7. Civil Surgeon office | 1990 | 1990 | 1990 |
| | 8. District Family Planning Division | 1990 | 1990 | 1990 |
| | 9. Family Welfare Inspectors Training Institute | 2008 | - | - |
| | 10. Nursing Training Institute | 2009 | - | - |
| | 11. Health Engineering Department | 2012 | 2012 | 2012 |
| 4. Education | 12. District Primary Education | 1990 | 1990 | 1990 |
| | 13. District Public Library | 1993 | 1993 | 1993 |
| | 14. Rangamati Vocational Textile Institute | 2006 | - | - |
| | 15. Khagrachari Technical School & College | - | 2014 | - |
| | 16. District Secondary Education | 2014 | 2014 | 2014 |
| 5. Cooperative | 17. District Cooperative Division | 1993 | 1993 | 1993 |
| 6. Social Welfare | 18. District Social Welfare Department | 1993 | 1993 | 1993 |
| | 19. Government Child Home | - | 2012 | 2012 |
| 7. Fisheries | 20. District Fishery Office | 1993 | 1993 | 1993 |
| | 21. Ramgarh Fishery Farm (Hatchery) | - | 2012 | - |
| 8. Public Health | 22. District Public Health Engineering Department | 1993 | 1993 | 1993 |
| 9. Animal Husbandry | 23. District Livestock Department | 1993 | 1993 | 1993 |
| 10. Culture | 24. District Sports Association | 1993 | 1993 | 1993 |
| | 25. District Shilpakala Academy | 1993 | 1993 | 1993 |
| | 26. Small Ethnic Group Institute | 1993 | 1993 | 1993 |
| 11. Youth Welfare | 27. District & Upazila Youth Development Offices | 2006 | 2011 | 2006 |

| | | | | |
|---|---|-----------|-----------|-----------|
| 12. Tourism (Local) | 28. Local Tourism (no office or institute has been transferred) | 2014 | 2014 | 2014 |
| 13. Jum cultivation | No office or institute has been transferred | 2013 | 2013 | 2013 |
| 14. Improvement trust and other local Government organization except Pourashava and Union Parishad. | No office or institute has been transferred | 2014 | 2014 | 2014 |
| 15. Issuing license for local industries and business. | No office or institute has been transferred | 2014 | 2014 | 2014 |
| 16. Preservation of statistics on death-birth and others. | No office or institute has been transferred | 2014 | 2014 | 2014 |
| 17. Money lending business. | No office or institute has been transferred | 2014 | 2014 | 2014 |
| Total 17 functions or subjects | Functions or subjects → | 29 | 29 | 27 |

It is noteworthy that the government's claim stating the Rangamati Hill District Council and Khagrachari Hill District Council to have been devolved 28 of the aforesaid functions each and 26 functions to the Bandarban Hill District Council, is untrue and confusing.

It may be mentioned that out of these departments, only district level officers and employees and their salary and allowances have been transferred to the HDCs. But the sub-district (upazila) level development activities and officers and employees have not been transferred to the HDCs. In addition, only the bazaar fund administration of industry and trade and only the work and salary and allowances of the Small Ethnic Group Cultural Institutes have been transferred. In fact, the tribal cultural institutions have been still under the full control of the Ministry of Culture.

Although, the subject Tourism (local) that was transferred on 28 August 2014, in accordance of which, it is only the tourism centers to be established on self-finance shall be under jurisdiction of the three Hill District Councils. Tourism centers and the projects

implemented by other government authorities including Ministry of Tourism and Bangladesh Tourism Corporation have not been devolved under the Hill District Councils the issue of which is contradictory to the CHT Accord.

Functions not transferred to the HDCs

| Sl. | Entry No. & Functions/Subjects |
|-----|---|
| 1. | 1. Supervision, maintenance and improvement of the law and order of the district. |
| 2. | 2. Coordination of the development activities of local authorities of the district; monitoring the implementation of its development projects and audit thereof; rendering assistance, cooperation and encouragement. |
| 3. | 13. Construction, maintenance and development of highways, culverts and bridges not reserved by the Government or any local authority. |
| 4. | 13. Construction, maintenance and development of highways, culverts and bridges not reserved by the Government or any local authority. |
| 5. | 15. Provision of public parks, sports grounds and open spaces and maintenance thereof. |
| 6. | 16. Establishment and maintenance of inns, inspection bungalows and rest houses. |
| 7. | 17. Implementation of development plans entrusted to the Council by the Government. |
| 8. | 18. Development of communication system; |
| 9. | 19. Provision of drainage and water supply system, metalling of roads and other essential public welfare activities. |
| 10. | 20. Preparation of plans for local development. |
| 11. | 21. Taking measures of religious, moral and economic upliftment of the locality and its inhabitants. |
| 12. | 22. Police (local). |
| 13. | 23. Tribal custom, tradition and social justice system. |
| 14. | 24. Land and land management. |
| 15. | 25. Proper utilization and irrigation of the water resources of rivulet, canal, and streams other than Kaptai lake. |
| 16. | 26. Conservation and development of ecology. |

The CHT Regional Council opined that these subjects/department can be transferred through office order.

It is worthy to be noted here that a meeting of the State Minister of Ministry of CHT Affairs was held on 1-3 July 2012 with the secretaries of different ministries wherein Dr. Gawher Rizvi, External Affairs Advisor to the Prime Minister was also present there. A decision was taken to devolve all the untransferred subjects/functions to the Hill District Councils by 30 August 2012. But, according to the decision taken in the meeting, the important subjects, such as, law & order, land and land management, police (local), forest and environment, etc. have not yet been transferred.

C: Chittagong Hill Tracts Regional Council

As per the Clause 1 of Part C of the CHT Accord, “a Regional Council will be formed comprising the Local Government Councils of three Hill Districts, subject to amendment

and addition of the various sections in the Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989 (Act IXX, XX and XXI of 1989) for purpose of making the Hill District Council more powerful and effective”.

Clause 2 of this Part provides “The elected Members of the Hill District Councils shall, by indirect mode, elect the Chairman of this Council whose status shall be equivalent to that of a State Minister and who shall be a tribal”.

Clause 3 of this Part provides “The Council shall consist of 22 (twenty-two) Members including the Chairman. Two third of the Members shall be elected from amongst the tribals. The Council shall determine the modality of its functioning”.

Clause 5 of this Part provides “The Chairman of the three hill districts shall be ex-officio Members of the Council and they shall have right to vote”.

These provisions have been included in the CHT Regional Council (CHTRC) Act 1998. The followings have been progress in regard to introducing CHTRC:

At a glance: Implementation of Part C

- The CHTRC Act had been passed on 6 May 1998.
- Mr. Jyotirindra Bodhipriya Larma took the responsibility of the Interim CHTRC as Chairman on 12 May 1999 and interim CHTRC started its office on 27 May through a ceremonial function organized on that occasion in Rangamati.
- The election of the CHTRC could not be held during the last 17 years, as the HDCs have not been formed as per the provisions of the CHT Accord. As per rule, the elected members of the HDCs shall elect the chairman and members of the CHTRC.
- The government has approved the Rules of Business of the CHTRC. But the government ignored many of the recommendations and opinion of the CHTRC in framing up the Rules of Business. As a result, the Rules of Business contained several provisions, which are seriously conflicting and contradicting to the CHTRC Act.
- The CHT Regional Council Complex project is yet to be implemented. Hence, CHTRC suffers from its infrastructure.
- The powers and functions of the CHT Regional Council is yet to be executed. Hence, it cannot able to supervise, coordinate and execute its functions bestowed upon.
- The issues that have remained unsettled with the CHTRC are:-
 - (a) Amendment to the CHTRC Rules of Business;
 - (b) Amendment to the CHTRC Employee Service Regulation 1999;
 - (c) CHTRC Special Fund Regulation;
 - (d) Amendment to the CHTRC Members Facilities Regulation;
 - (e) Conducting the suit with the Supreme Court filed on CHT Regional Council Act 1998;
 - (f) Amendment to sub-section-2 of Section 16(a) under the three HDC Acts;
 - (g) Reinstated Tribal Employee (Special Facilities) Regulation 2014;
 - (h) Amendment to the laws or regulations applicable to CHT for the proper effectiveness of the CHTRC Act and the three HDC Act .

C.1: Formation of Regional Council

Clause 1 of the Part C stipulates,

“Subject to amendment and addition of the various sections in the Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989 (Act IXX, XX and XXI of 1989) for purpose of making the Hill District Council more powerful and effective, a Regional Council will be formed comprising the Local Government Councils of three Hill Districts.”

As per the provision, the CHT Regional Council Act 1998 was formulated and the interim Council was formed in 1999. But the Act could not be made effective properly.

It is to be mentioned that the CHT Regional Council submitted a project titled “Construction of Chittagong Hill Tracts Regional Council Head Office, Residence and Related Complex” to the government. For the said project, steep hill lands of several holding numbers measuring 42.13 acres under 102 No. Rangapani mouza of Rangamati Hill district were included in the project. Among these lands, 14.75 acres of abandoned lands under jurisdiction of National Housing Authority were brought under the project in consultation with the National Housing Authority. The National Housing Authority had a project named “Housing Project for Lower and Middle Income People” with the said lands in 1982-83. The said hill lands remained abandoned for not having been approved since 1983-84.

In July 2005, ECNEC approved the CHT Regional Council Complex project and the Finance Ministry allotted a lump-sum grant for the project.

The Ministry of CHT Affairs sent money being the first installment from the allotted fund for the project to the Regional Council and directed to pay off the money of the said first installment for several lands including for the land abandoned by the National Housing Authority. A letter stating about the land measuring 14.75 acres that falls under disposal of National Housing Authority was sent to the concerned authority in due time. But due to receiving no favorable response from the National Housing Authority, the money could not be spent during the said fiscal year. Duration of the said project expired in June 2008.

The Regional Council re-sent a letter dated 24-06-2014 to the Ministry of CHT Affairs to undertake necessary measure for transfer of the said lands subject to settling the said 14.75 acres of land of free from National Housing Authority or by way of paying the amount spent by the National Housing Authority. The issue of transfer of lands subject to settling the said land measuring 14.75 acres free or paying price of the land has not yet been settled. Consequently, the Regional Council office is being run in the Chittagong Hill Tracts Development Board Rest House on rental basis.

Section-11 under CHT Regional Council Act: Facilities of Chairman and Members

Section 11 of CHT Regional Council Act 1998 stipulates,

“11. Facilities of chairman and Members: (1) The chairman shall have the status, and enjoy other facilities of a State Minister of the Government.

(2) The facilities of other members shall be decided by the regulation.”

As per the provision, Chairman enjoys the status and facilities similar to that of a state minister of the government. Facilities of other members are determined from time to time. But the status of the members has not yet been defined. Though the issue has been put off with the Ministry of CHT Affairs and Principal Secretary of the Prime Minister's office, the problem of determining status of members has not yet been settled.

C.9 (a): Supervision and Coordination of HDC Functions

Clause 9(a) of the Part C stipulates,

“The Council shall supervise and coordinate all the development activities carried out by the three Hill District Councils, and shall also superintend and harmonize all the affairs of and assigned to the three Hill District Councils. Besides, in the event of lack of harmony or any inconsistency being found in the discharge of responsibilities given to the three Hill District Councils, the decision of the Regional Council shall final.”

Till now, it is due to non-cooperation of three HDCs and the Ministry of CHT Affairs, the supervision and coordination of all the subjects including the development programme of the three HDCs could not be carried out by CHT Regional Council.

It is to be mentioned that an Office Order from the Cabinet Division was issued on 10 April 2001 directing to follow the 'CHT Regional Council Act, 1998 and supervision & Coordination of development programme of the HDCs. But other concerned authorities including the three HDCs maintained no effective role in compliance to the said Office Order.

During the current period of the grand-alliance government, the CHT Regional Council is being ignored in the appointment process of 3rd and 4th class employees including the teachers. Especially, no representative is included in the Appointment Committee of the three Hill District Councils.

In June 2016, an initiative was undertaken by the Regional Council in coordination with the three Hill District Councils to bring an amendment to the Rules of Business of the Hill District Councils. But Bandarban Hill District Council is utterly opposing to this initiative. Though there is provision of coordination and supervision over the three Hill

District Councils on part of the CHT Regional Council, Bandarban Hill District Council raises plea that stands against the Accord and the law stating that since the Bandarban Hill District Council Act does not contain the provision to that affect, the Bandarban Hill District Council is not bound to comply with such initiative taken by the CHT Regional Council. It is needless to say that Chairman of Bandarban Hill District Council, by merit of being ex-officio, is a members of the CHT Regional Council. Furthermore, it is clearly stated in the preamble of CHT Regional Council Act 1998 that goes, "It is expedient and necessary to provide for setting up a Regional Council for coordinating the activities of the three Hill District Councils". It is beyond doubt that the Chairman and Members of Bandarban Hill District Council are ignorant to that much extent to believe as to whether any national law or any special law relating to CHT is applicable to Bandarban Hill District, with exception to the Bandarban Hill District Act (Amendment) 1989. In fact, such denial on part of the Bandarban Hill District Council to recognize the jurisdiction of CHTRC may be considered as an anti-accord outburst by the might of ruling party and chauvinism.

C.9 (b): Supervision and Coordination of Local Councils including the Municipalities

Clause 9(b) of this Part stipulates,

“This council shall supervise and coordinate the Local Councils including the municipalities.”

This provision has been included in the Act, but has not been implemented.

The local councils including the municipalities are administered by the Ministry of Local Government and Rural Development. So, it is expedient that the concerned laws and regulations are brought in amendment in consistence with the CHT Regional Council Act, 1998 in order to get the local councils including the municipalities supervised and coordinated by the Regional Council.

It is to be mentioned that two letters with specific recommendations were sent from CHT Regional Council to the Ministry of CHT Affairs in order to bring amendment to the Upazila Parishad Act in 2000 and in 2009. But no measure has been taken to that regard as yet. It is further to be mentioned that in context of raising the issue by Regional Council, a letter directing to take necessary step to follow the Regional Council Act properly, was sent from the Ministry of Local Government to the Deputy Commissioners of three hill districts. Even after this, no progress was to be seen on the issue.

But it is due to negative outlook on part of the concerned Ministries and negative role of all the municipalities, it has become impossible to put the law in force. Hence, even the municipal authorities are not extending cooperation and rather opposing to the CHT Regional Council in performing its duties and applying powers.

It is mention worthy that allegation brewed up centering the irregularities in appointing employees for the Rangamati municipality. It is for the same reason, the municipal authority defies to comply with any initiative for coordination taken by the CHT Regional council. This issue was raised to the government but the government did not undertake any step to that direction. On the other hand, despite proposal was made to amend the Union Parishad Act, Municipality Act and Upazila Parishad Act as to remove these inconsistencies, no measure has been taken by the government to that affect.

C.9(c): Supervision and Coordination of General Administration, Law & Order and Development

Clause 9(c) of this Part stipulates,

“The Regional Council shall coordinate and supervise the three hill districts in matters of general administration, law and order and development.”

This provision has been included in the Act, but has not been implemented.

The Deputy Commissioners in the three hill districts are exercising all powers relating to general administration of the districts as before in accordance with the CHT Regulation, 1900. On the other hand, due to having not mentioned about the Regional Council in the said regulation, the Deputy Commissioners kept abstaining from cooperation with the Regional Council all along. As a result, supervision and coordination of the general administration in three hill districts cannot be carried out by the Regional Council.

Question arose on Chittagong Hill Tracts Regulation, 1900 when the Hill District Local Government Council Act was enacted in 1989. In this context, the notification promulgated in 1990 states that the Chittagong Hill Tracts Regulation 1900 shall remain in force and effective. CHT Regional Council submitted a set of recommendations to the government urging to cancel the said notification and promulgate a fresh notification to the affect that the said regulation shall remain in force and effective subject to the CHT Regional Council Act and the Hill District Council Acts. In that regard, a directive relating to promulgation of laws was given to the Ministry of CHT Affairs from Cabinet Division in 2013. However, no measure was taken as per this dicrective as yet.

It is relevant to be mentioned that various provisions of CHT Regulation are conflicting to the HDC Acts and CHT Regional Council Act. Hence, bringing amendment to CHT Regulation is indispensable. Above all, determination and adjustment of ‘Charter of Duties’ of Deputy Commissioners in consistence with the Regional Council Act and three Hill District Council Acts is desirable.

Law & Order in the three Hill Districts has been being looked after by Deputy Commissioners and Superintendents of Police in accordance with the concerned laws in force before the Accord. Above all, as per the ‘Operation Uttoron (Operation Upliftment),’ de facto military rule, imposed in 2001, the army has been providing assis

tance in law and order affairs, in fact. the army has been indirectly controlling the region, as a whole.

Apart from office order issued by Cabinet Division according to which the law and order of CHT is to be supervised and coordinated by CHT Regional Council, a “circular dated 17-01-2000 was issued from Ministry of CHT Affairs for cooperation, on part of concerned ministries including the Deputy Commissioners posted for duty in the three hill districts in discharging duties by the Ministry of CHT Affairs as per CHT Regional Council Act, 1998 (Act XII of 1998).” Despite being so, the Deputy Commissioners, Superintendents of Police or army authority did not pace forward to cooperate the Regional Council and on the contrary, these institutions have been conducting the law & order affairs by-passing the Regional Council absolutely. As a result, the law & order cannot be supervised and coordinated by the Regional Council. So, it is agreeable that the Police Act 1861 and Bangladesh Police Regulation is amended in consistent with Regional Council Act and the HDC Acts.

Despite circular dated 17-01-2000 issued by Ministry of CHT Affairs for cooperation in discharging duties of supervision and coordination by Regional Council on development issues in the three hill districts, the CHT Regional Council is seldom involved or informed by various ministries including the Ministry of CHT Affairs as per the CHTRC Act in the affairs, such as, planning, formulation, adoption and implementation of development programmes. As a result, supervision and coordination in development programmes could not be carried out on part of the Regional Council and that the waste of money and anti-public-interest development programmes could not be stopped in the development sector. So, it is desirable that the Regional Council is informed of and involved in overall development programmes in CHT.

A meeting presided over by the State Minister of Home Ministry was held on 7 January 2015 to discuss on “Post-Accord Overall Situation and Relevant Issues” and adopted 11 directives on CHT. Decisions taken in the meeting include: to ensure presence of representative from local administration, army/BGB during the interview of indigenous Jumma people (in words of the government, ‘tribal people’) of CHT with any national and foreign person/organization; foreigners intending to visit CHT shall have to apply to the Ministry of Home for permission prior to one month ahead; to transfer the tribal police to other districts; review of advancement of implementation of the UNDP projects worth of 160 million US dollars. The subject of coordination and supervision over general administration and law & order though falls under the CHT Regional Council, the government has been adopting anti-constitutional, anti-accord and conflicting and discriminating decisions by-passing the Regional Council.

The government is in its practice of taking many important decisions on general administration, law & order and development issues without having consultation with the CHT Regional Council and the three Hill District Councils. For instance, the decision

on creation of Guimara Upazila under Khagrachari Hill District, Sajek police station and Borthali union under Rangamati Hill District without consultation with the Regional Council. Many development programmes, such as, construction of border road, establishment of Land Port, establishment of luxurious tourist centers, declaration of reserved forests, establishment of BoPs of BGB, etc. were being undertaken keeping the CHT Regional Council aside. On the other hand, despite vehement opposition of the indigenous Jumma people, the government is implementing the project of Rangamati Science & Technology University, Medical College and other development programmes forcefully through state machineries.

in an interview with the press media on 8 July 2016, Transport & Bridge Minister, Obaidul Qader said: 'An initiative for construction of a road measuring 832 kilometers starting from Ramgarh of Khagrachari to Gundum was undertaken.' Bangladesh government has taken up an ambitious project to establish a Land Port at Thega Mukh aiming at expanding border trade with Indian State of Mizoram and to construct a road connecting to Chittagong port via Rajasthali, Jurachari, Barkal and Thega Mukh under CHT Connectivity Project supported by the World Bank. But no proper discussion has ever been held with the Regional Council and the three hill district councils, on part of the government.

C.9(d): Coordination of Disaster Management and Relief Program including NGO Activities

Clause 9(d) of this Part stipulates,

“The Council shall coordinate the activities of the NGOs in addition to disaster management and carrying out the relief programmes.”

As per Section 46, the CHT Regional Council can carry out disaster management and relief programme, having the regulation formulated thereof. To that end, it is indispensable to incorporate food grains and fund in the annual budget of the Regional Council. It is due to having undertaken no step on part of the government to that direction no program as such has been carried out by the Regional Council to this day. So, it is desirable that necessary measure is undertaken by the Ministry of Disaster and Relief Management in this regard.

The Regional Council has been persuading its effort as per the act to coordinate the NGO activities. On the other hand, a gazette notification titled “Code of Conducts to be followed by the foreign NGOs working in Bangladesh and Bangladeshi NGOs supported by the foreign fund” was issued from the Prime Minister’s office in 2001. The Regional Council, following Section 53 of its Act, submitted a set of recommendations stating several aspects of the gazette notification to be painful and objectionable to the

tribal people of CHT. Accordingly, an amended office order was issued in 2012. In the office order, though several points of recommendations were accepted, but most of the recommendations were ignored.

Besides, during the tenure of present grand alliance government, in a meeting of Parliamentary Standing Committee on CHT Affairs Ministry held in May 2010, violating the Accord, it was recommended to assign the Deputy Commissioners with responsibility of monitoring the NGO programme, instead of CHT Regional Council and the three Hill District Councils.

The process is on to entrust the Deputy Commissioners with responsibility of coordinating the NGO activities as it is currently being practiced in other districts of the country. Consequently, it has become difficult-some on part of the Regional Council to coordinate the NGO programme being implemented in CHT. In this context, it is desirable that the office order issued by the Prime Minister's office on NGOs in 2012 is amended in accordance with the recommendations submitted by Regional Council.

C.9(e): Coordination and Supervision of Tribal Customary Laws and Community Adjudication

Clause 9(e) of this Part stipulates,

“Tribal law and community adjudication shall be within the jurisdiction of the Regional Council.”

This provision of the Accord has not been implemented.

The judicial power of civil and criminal cases, which earlier, were entrusted with the officials serving at district and divisional levels, now through enactment of Chittagong Hill Tracts Regulation (Amendment) 2003 (Act No.38 of 2003), the judiciary power has been delegated to the judicial officers serving under Ministry of Law, Justice and Parliamentary Affairs. The judiciary power of Circle Chiefs under customary law has been recognized in the CHT Regulation (Amendment) Act 2003. Furthermore, the traditional judiciary system of the indigenous Jumma peoples has been clearly kept outside jurisdiction of the recently established courts. Furthermore, in the said Act it is also mentioned that the laws, customs and procedures applicable in the three hill districts shall be endorsed in the court of law. But the judges in the three hill districts are alleged of not following the laws, customs and procedures or take the verdict of Circle-Chiefs and Headmen into account. Even after getting the CHT Regulation (Amendment) 2003 passed, the review power against the verdict given in the court of Circle Chief, has been left entrusted with the Chittagong Divisional Commissioner. This is tantamount to direct violation of CHT Accord. This power may be delegated to the Chairman of CHT Regional Council by bringing amendment to the CHT Regulation.

The government passed the Small Ethnic Cultural Institute Act in April 2010. The CHT Regional Council was not consulted during formulation of the law and even through enactment of this act, the distinct national entity of indigenous peoples was identified as “Small Ethnic”, which is not acceptable to the indigenous peoples.

C.9(f): Issuance of Licenses for Heavy Industries in Consistence with the National Industrial Policy

Clause 9(f) of this Part stipulates,

“The Council shall be competent to grant License for heavy industries.”

This provision of the Accord has not been implemented.

Till this day, the CHT Regional Council is being ignored in the affairs of administration and management of the Chandraghona Rayon Mills and Paper Mills. The government started extraction of gas from Simutang Gas Plant since March 2009. But no consultation was held with the Regional Council and Khagrachari Hill District Council.

With a view to increase speedy gas supply and to combat the gas crisis in Chittagong, a decision was taken in a meeting of 361st session of BAPEX Management Committee to explore and extract oil and gas in the geological structure in Potia and Jaldi under Chittagong and in Kasalong and Sita Pahar of CHT. A plan for extraction of oil and gas from Kasalong of Baghaichari Upazila and Sita Pahar of Kaptai Upazila under Rangamati Hill District in the areas measuring 972.77 square kilometers and 673.23 square kilometers respectively.

From the Ministry of CHT Affairs, a letter was sent to CHT Regional Council, CHT Development Board, three Hill District Councils and three Deputy Commissioners of the three hill districts for opinion of the said plan. In response to, an opinion of civil society including the CHT Regional Council was sent to the Ministry of CHT Affairs opining for postponement of the plan of exploration and extraction of oil and gas from Kasalong and Sita Pahar geological structure, so long the special administrative system in CHT is not institutionalised; no effective measures directing to preservation of Jumma-predominated feature of CHT undertaken; security to life and properties of the indigenous Jumma peoples gets ensured and above all, so long the ownership of lands of the indigenous Jumma peoples gets ensured through resolution of the CHT land disputes. However, despite of this popular opinion, conspiracy for implementation of the said plan is being dragged on.

C.10: General and Overall Supervision over CHT Development Board

Clause 10 of this Part stipulates,

“The Chittagong Hill Tracts Development Board shall discharge the assigned duties under the general and overall supervision of the Council. The Government shall give preference to the eligible tribal candidates in appointing the Chairman of the Development Board.”

The provision has though been incorporated in the Regional Council Act, ruling party member is appointed as Chairman all along and in most of the time, a non-resident and non-tribal officer is appointed as Vice Chairman. As a result, the CHT Development Board has been conducting the overall programmes without keeping touched with the Regional Council.

The Chittagong Hill Tracts Development Board Act, 2014 has been formulated and enacted by replacing the Chittagong Hill Tracts Development Ordinance, 1976. This act is incorporated of many provisions, which are not in consistence with the three Hill District Council Acts and CHT Regional Council Act and as of this day, the Development Board has been conducting its programmes completely by-passing the Regional Council. Hence, while placing opinion on CHT Development Board Act 2014, the CHT Regional Council submitted a set of recommendations for cancellation of CHT Development Board Act, 2014 and abolishment of the Board. It is agreeable that necessary measure is undertaken as per the recommendation in the interest of overall development in CHT.

It is noteworthy that though an MP from among the Jumma people was appointed as Chairman of the CHT Development Board during Awami League government (1996-2001), but during the period of BNP-led four-party coalition government (2001-2006), Abdul Wadud Bhunyan, MP of BNP from Khagrachari constituency, though being a settler was appointed for the post of Chairman of the CHT Development Board violating the provisions of CHT Accord. Dr. Fakruddin Ahamed-led Caretaker government also appointed the General Officer Commanding (GOC) of 24 Infantry Division as Chairman of the Board in 2008 violating the CHT Accord.

After assuming the power by the present grand alliance government led by Awami League, Bir Bahadur MP elected from Bandarban was appointed as Chairman of the Board on 24 March 2009 and Naba Bikram Kishore Tripura in 2014 respectively. But, as it has been in the past, the functions of the Development Board is also being run ignoring the CHT Regional Council by now.

C.11: Removal of Inconsistencies of CHT Regulation of 1900 and other related Acts

Clause 11 of this Part stipulates,

“The Chittagong Hill Tracts Regulation of 1900 and other related Acts, Rules and Ordinances being found inconsistent with the Local Government Council Acts of 1989, it shall be removed by law as per advice and recommendations of the Regional Council.”

This provision of the Accord has not been implemented.

Though a proposal was submitted with a proposal on making the CHT Regulation effective, to cancel the memorandum issued on 29-10-1990 and to issue a fresh memorandum stating that subject to the other laws including the CHT Regional Council Act 1998 and the three Hill District Council Act (Amendment) 1998 formulated within jurisdiction of the CHT Accord, shall be made effective, so far, the government did not undertake any measure to that affect. Consequently, showing the CHT Regulation 1900 and having the CHT Regional Council Act 1998 and three Hill District Act 1989 (Amended in 1998) violated, the Deputy Commissioners of the three hill districts, as it was earlier, have been exercising the power in all affairs in the hill districts including general administration, law & order, land & land management, land acquisition and giving in lease, agriculture, education, health, supervision of NGO programme. As a result, disorder and mayhem have appeared in all spheres including forest and environment, general administration, development of law and order, etc.

C.12: Interim CHT Regional Council

As per Clause 12 of this Part, CHT Regional Council has been formed. Mr. Jyotirindra Bodhipriya Larma took the responsibility of the Interim CHTRC as Chairman on 12 May 1999 and interim CHTRC started its office on 27 May through a ceremonial function organized on that occasion in Rangamati.

The election of the CHTRC could not be held during the last 17 years, as the HDCs have not been formed as per the provisions of the CHT Accord. As per rule, the elected members of the HDCs shall elect the chairman and members of the CHTRC.

C.13: Prerogatives of CHT Regional Council in Making Law

Clause 12 of this Part stipulates,

“In making any law in connection with Chittagong Hill Tracts, the Government shall enact such law in consultation with and as per advice of the Regional Council. If it becomes necessary to amend any law which bears an adverse effect on the development of the three hill districts and welfare of the tribal people or to enact new law, the Council shall be competent to apply or submit recommendations to the Government.”

This provision of the Accord has not been implemented.

It is to be mentioned that as per the provision under Section 53 of the CHT Regional Council Act, in some cases relating to formulation or amendment of laws, advice of CHT Regional Council is accepted. The CHT Regional Council so far, has provided advices in alteration or bringing amendment to such provisions of laws that may make adverse effects to CHT Accord, laws of CHT region and development of hill district and to the path towards welfare of the tribal peoples. But in most cases, either advice from CHT Regional Council was not sought or advice of CHT Regional Council was not accepted.

Though proposal for bringing amendment to the Code of Conducts of NGOs, and other laws and regulations, the government has not stepped up any measure as to this day.

Following the grand-alliance government assuming to the power, the opinion of CHT Regional Council was submitted to the government on CHT Forest Produce Transport Act 1973, National Education Policy 2010 and Water Resources Act 2009, but the government took no step to that regard. Opinion from CHTRC was not sought while formulating Bangladesh Wildlife Act that began in 2010 and in bringing amendment to Forest Act. Besides, No opinion was sought from the CHT Regional Council during formulation of Public Representation Ordinance 2008 (2nd Amendment), Local Government (Upazila Council) Ordinance 2008, Local Government (Municipality) Act 2009, Local Government (Union Council) Act 2009, Small Ethnic Cultural Institute Act 2010 and Bangladesh Wildlife Protection Act 2012. However, some of the proposals of CHT Regional Council were accepted and included in the National Education Policy. Opinion was not sought from the CHT Regional Council during formulation of the National Women Development Policy 2011. Furthermore, while totally ignoring the opinion and consultations of the CHT Regional Council, the government enacted the CHT Development Board Act 2014 and passed the three Hill District Council (Amendment) Act 2014, which is a direct violation of CHT Accord and CHT Regional Council Act 1998.

D: Rehabilitation, General Amnesty and Other Matters

In order to restore normalcy in the Chittagong Hill Tracts region and, to that end, in respect of the works and matters of rehabilitation, general amnesty and allied issues, both the parties have arrived at the consensus and agreed to undertake programmes under this part of the Accord. At a glance of present state of implementation of this part of the Accord are as follows:

At a glance: Implementation of Part D

- Jumma refugees comprising 12,222 families were repatriated from India. However, most of them have not got back their lands occupied by Bengali settlers and military authorities although they availed most of the economic facilities.

- During the Awami League (1996-2001), the Task Force headed by Dipankar Talukdar had unilaterally and defectively prepared a list of internally displaced Jummas in which so many internally displaced Jumma families were excluded. However, listed Jumma IDPs have not been rehabilitated so far. In addition, in violation of the CHT Accord, all the Bengali settler families were identified as “internally displaced people”.
- Settlement of land in the name of accommodating landless people, was postponed due to pending resolution of land-disputes that arisen out of forcible land grabbing by the Bengali settlers.
- Since signing the CHT Accord, CHT Land Dispute Resolution Commission has been formed time to time. As part of this, five successive retired justices were appointed as Chairman of the Land Commission. On 7 September 2014, retired justice Anowarul Hoque was appointed as chairman of Land Commission.
- The CHT Land Dispute Resolution Commission Act 2001 was passed by the then Awami League government without consultation of CHT Regional Council. Hence, there were many provisions included in the Act which were found to be contradictory to the CHT Accord. After 15 years of intensive series of lobby and movement for amendment of these contradictory provisions of the Act, on 1 August 2016 the CHT Land Dispute Resolution Commission (amendment) Act 2016 has been approved by the Cabinet as per 13-point recommendations of the CHT Regional Council. Subsequently, following the final consent of the President of Bangladesh, gazette notification of the “CHT Land Dispute Resolution Commission (Amendment) Ordinance 2016” has been published by Law, Justice and Parliamentary Affairs Ministry on 9 August 2016. Accordingly the CHT Land Dispute Resolution Commission (Amendment) Act 2016 has been passed in the Parliament on 6 October 2016. This amendment of the Land Commission Act paves the way for proper resolution of land disputes and restitution of dispossessed land to the Jumma peoples.
- Though there was a decision to cancel 593 plots of lands in Bandarban district made in the Parliamentary Standing Committee on CHT Affairs Ministry, later on, most of the cancelled plots of lands were reinstated with the lease holders through various corruption and irregularities. And at the same time, even after the signing of Accord, the Deputy Commissioners have been giving the lands to the outsiders in lease.
- The government has allocated fund for development in CHT. But it is too meager to meet the requirement. During the period of successive governments, lion share of the fund was allocated for CHT Development Board

by passing the CHTRC and the HDCs. Allocation for fund are not granted as per budgets adopted by CHTRC and three HDCs. The funds so allocated are not being properly utilized due to corruptions and irregularities with the party-line facilitation.

- There is reserved quota for indigenous students. However, it is very limited and not provided properly. There is not adequate scholarship of indigenous students for higher education.
- The successive governments have not taken any step for promotion and preservation and patronage of the traditions and culture of the indigenous Jumma peoples. The government enacted Small Ethnic Group Cultural Institutes Act 2010 without having discussion with the CHT Regional Council. Government also termed Jumma peoples as Bengali through the 15th Amendment to the Constitution.
- The PCJSS has laid down all its arms and ammunitions after the CHT Accord.
- Decision to withdraw 720 cases lodged against PCJSS members and persons involved in PCJSS and permanent residents of CHT have been taken. However, the decision is yet to be implemented. In addition, cases pending in martial court are yet to be withdrawn.
- The government has provided PCJSS members returned to normal life with Taka 50,000 as per the CHT Accord. 64 PCJSS members have been reinstated in their jobs. 685 PCJSS members have been appointed in police services. However, 1429 projects submitted by PCJSS members for self-employment and income generation have not been approved and bank loans taken by 4 PCJSS members amounting Taka 22,783 are also yet to be exempted.
- A total 70 camps out of over 500 temporary military camps in the CHT were withdrawn during 1997-1999 in two phases. However, the government claimed that 200 camps have been withdrawn from CHT since then signing of the Accord. Grand-alliance government declared to withdraw 35 camps including a brigade headquarters in 2009. However, no information on the list of camps withdrawn is available from the government side. On the other, de facto military rule was imposed in CHT by declaring 'Operation Uttoron' in 2001 by which interfering with the functions of the general administration and law and order by the army is also continuing in CHT unabated.
- No initiative has been taken by the government to appoint the permanent residents with priority of indigenous Jumma peoples in all posts and services in the CHT. As a result, most of the posts and services are still manned by Bengali outsiders and Bengali settlers. The CHTRC's recommendation for inclusion of this provision in the concerned appointment/service rules and regulations has not yet been put in force.

- The Ministry on CHT Affairs was set up and its Rules of Business was also published in official gazette on 15 July 1998. But the Ministry does not play supportive role towards implementation of the CHT Accord and overall development of the CHT.

Present state of implementation of issues laid down in the Part D is given below-

D.1: Rehabilitation of India-Returnee Refugees

As per the Clause 1 of Part D of the CHT Accord and upon signing the 20-Point Package Agreement between the government and Jumma refugee leaders on 9 March 1997 in Agartala, Tripura, India, a total number of 64,609 souls of 12,222 families were repatriated to Bangladesh. It is also to be mentioned that GoB had also signed another 16-point agreements in 1994 with the leaders of the Jumma refugees for bringing back them to their homes with the commitment of security of life and giving back their ancestral lands following which 379 families (1841 people) in February 1994 and another 648 families (3345 people) in July 1994 were repatriated.

With an exception to lands and homesteads, most of the economic facilities as stated in the 20 Point Package Agreement were provided to most of the refugees through the Task Force. But still many families are yet to get cash against pairs of bullocks and still 40 ancestral Jumma villages are under the occupation of the settlers and 9,780 Jumma families are yet to get back their lands. As per agreement with refugee leaders and the CHT Accord, many of repatriated Jumma refugees have not got back their government jobs, those who have been able to get back their jobs their seniority have not been honoured and outstanding government loans have not been wiped out. This way there are many unresolved issues. Their rehabilitation has not been possible till today because of occupation of their land and villages by Bengali settlers and army, Ansar and VDP personnel through their establishments, particularly, at Matiranga of Feni valley, Manikchari and Ramgar Upazila, Dighinala in Maini valley, Mahalchari Upazila under Khagrachari hill district and in Maini and Longadu of Kacsalong valley.

The unimplemented points of the 20-Point Package Agreement published by the CHT Returnee Jumma Refugees' Welfare Association (CHTRJRW) in its report are given in the following table:

| | |
|--|-----------------|
| Total number of Repatriated Jumma Refugees (64,609 persons) | 12,222 families |
| Total number of Repatriated Jumma Refugees who have not got back land, orchards or gardens and homesteads | 9,780 families |
| Repatriated Jumma Refugees who have not received money for buy bullocks for cultivation | 890 families |
| Schools not shifted to their previous locations | 6 schools |
| Markets established on the land belonged to the Repatriated Jumma Refugees and not shifted to their previous locations | 5 Markets |
| Buddhist monastery and Hindu temple illegally occupied | 7 temples |
| Repatriated Jumma Refugee villages illegally occupied by settlers | 40 villages |
| Number of Repatriated Jumma Refugees whose loan has not been exempted | 642 persons |

Clause 7 of this Part provides, "The loans which were taken by the tribal refugees from Government agencies, but could not be properly utilized on account of the state of belligerency, shall be remitted along with interest". This provision has not been implemented properly. 642 refugees applied to the government for exemption of loan. Still the government has not taken any step to this effect.

D.1 & 2: Rehabilitation of the Internally Displaced People

It is mentioned in the end of the Clause 1 of this Part provides, "After ascertaining the identity of the Internally Displaced Persons of the three hill districts, rehabilitation measures shall be undertaken through a Task Force". It is a fact that no internally displaced Jumma people have been rehabilitated so far.

The definition that was determined referring to the 'internally displaced refugees' in the Task Force Meeting held at the Khagrachari Circuit House on 27 June 1998, is as follows:

"In the time from 15 August 1975 to 10 August 1992 (from the day of the Ceasefire) due to the prolonged unstable and commotion situation of the Chittagong Hill Tracts (Rangamati, Khagrachari and Bandarban), the tribal people who has compelled to abandon their own village, mouza, area and has gone or compelled to go other places within the country will be considered as Internally Displaced Persons."

A decision was resolved in the Task Force meeting held on 13-09-2014 to provide the ration and other financial facilities to the internally displaced tribal families and minutes of the meeting including the decision was approved in the Task Force meeting held on 28-02-2015. But the decision has not yet been implemented.

It is worth mentioning that during the Awami League Government (1996-2001), Dipankar Talukder, then MP from Rangamati constituency, was appointed as Chairman of the Task Force on Rehabilitation of Returnee Refugees and Internally Displaced Peoples (IDPs). Since then, the government has initiated a process of rehabilitation of the Bengali settlers brought into the CHT under the state-sponsored population transfer programme for Islamisation of the CHT by identifying them as "internally displaced persons", though the Clause 1 and 2 of Part D of the CHT Accord allow such rehabilitation only for the internally displaced Jumma (tribal) people. In protest to the continued attempts of the Task Force to identify the Bengali settlers as "internally displaced persons" for rehabilitation in the CHT, the delegations of the PCJSS and the Returnee Jumma Refugee Welfare Association staged a walk-out from the 9th round of the meeting of the Task Force held on 22 September 1999. They boldly declared to the Task Force authorities that they would not join the meeting until and unless the process of rehabilitation of the Bengali settlers in the CHT was stopped, and issued a joint press release to this effect. Later, at a unilateral meeting held on 15 May 2000, the authorities identified 90,208 Jumma (tribal)

families and 38,156 Bengali settler families as “internally displaced families” and recommended a package programme for them. The following table shows the details of the number of “internally displaced families” and package for them in the three hill districts:

| Hill district | Jumma families | Bengali settler families | Total families |
|---------------|----------------|--------------------------|----------------|
| Rangamati | 35,595 | 15,595 | 51,111 |
| Bandarban | 8,043 | 269 | 8,312 |
| Khagrachari | 46,570 | 22,371 | 68,941 |
| Total: | 90,208 | 38,156 | 128,314 |

Package-facilities

- 1) A grant of Taka 15,000 (fifteen thousand only) may be given to each “internally displaced family”.
- 2) The Jumma families displaced internally since 15 August 1975 and before 10 August 1992 (the day on which cease-fire was declared) were categorised into two groups in terms of amount of loan taken from the government. These are:
 - a) Those who took Taka 5000 (five thousand only) as agricultural loan may be exempted from the loan; and
 - b) Those who took Taka more than 5000 (five thousand only) may be exempted from the interest accrued of it.
- 3) Land-related disputes under the ownership of the internally displaced Jumma people may be settled through the CHT Land (Disputes Settlement) Commission.
- 4) A grant may be provided for income-generating projects. And measures may be taken to give long-term loan from that grant on flexible terms through scheduled banks for production-oriented activities.

Against this backdrop, in June 2000, a memorandum from the PCJSS with following demands was submitted to the then Prime Minister and the Convenor of the CHT Accord Implementation Committee for rehabilitation of the internally displaced Jumma peoples and solution to the vexed Bengali settler-issue with following proposals:

1. (a) To cancel the process of identification of the non-tribal outsider Bengali settlers as “non-tribal internally displaced persons” and of their rehabilitation in the CHT. And for this purpose, withdrawal of the letter dated 19 July 1998 sent from the Special Affairs Division to the Task Force instructing rehabilitation of the “internally displaced non-tribal persons”.
- (b) To transfer the non-tribal outsider Bengali settlers outside the CHT and rehabilitate them there.

2. (a) To accelerate the process of rehabilitation of the internally displaced Jumma people.
- (b) To make a list of the internally displaced Jumma people excluded from that list made unilaterally by the Task Force on 15 May 2000.
3. To rehabilitate the internally displaced Jumma people on the basis of the package proposal made by the PCJSS rather than on the basis of 4-point package programme unilaterally made by the Task Force.

In this context, it may be mentioned that the package programme proposed by the Task Force for the rehabilitation of the internally displaced Jumma people was too inadequate to serve the purpose. Under no circumstances, their genuine rehabilitation would be possible with such package. That package was too less than that proposed by the PCJSS at the second round meeting of the Task Force. The package proposed by the PCJSS is:

- (a) To return the land including the homestead to the owners of internally displaced Jumma people.
- (b) To provide Taka 15,000 (fifteen thousand) along with materials for construction of house, CI sheet and other necessary essentials to each family.
- (c) To grant Taka 10,000 (ten thousand only) to each family.
- (d) To provide daily essentials like oil, dal, salt etc. including ration for one year.
- (e) To provide land with the landless.
- (f) To arrange drinking water.
- (g) To provide loan on flexible terms.
- (h) To reinstate in the job and take measures for promotion on the basis of seniority.
- (i) To reinstate the Headmen.
- (j) To exempt from loan.
- (k) To withdraw cases.

The task of the Task Force headed by Mr. Dipankar Talukder came to an end with the expiry of the tenure of the Awami League government on 13 July 2001. After assuming in state power, BNP-led four-party coalition government appointed Samiron Dewan as Chairman of the Task Force on 20 October 2004. Four meetings of the body held on 22 April, 27 May, 25 July and 21 November in 2004. But no progress was made in the meeting. During the Caretaker Government led by Dr. Fakhruddin Ahmed, a meeting of the Task Force was also convened on 3 June 2007 at Khagrachari circuit house.

After the assuming to the state power, Awami League-led grand alliance Government appointed Mr. Jatindra Lal Tripura, MP from Khagrachari, as Chairman of the Task Force on 23 March 2009. Following the reorganization of the Task Force, four meetings were held on 5th October 2009 and 27th January 2010 at Khagrachari Circuit House and on 26th January 2011 and 8 September 2013 at Chittagong Circuit House.

The 5th meeting of Task Force was held at Chittagong Circuit House on 29 September 2014 after forming up new government following the 10th National Parliamentary Elections. Besides, The Task Force held its meeting on 26 February 2015 and another meeting on 8 January 2016.

The issues basically discussed in those meetings include determination of process to identify the internally displaced people and inclusion of the real internally displaced refugees, facilities of 20-point facilities, holding monthly meetings of the Task Force, field visit of the Task Force and also discussed on manpower and fund for the task Force. The proposal of PCJSS representative for exclusion of the settlers from the list of internally displaced persons was unanimously accepted.

It is alleged that the CHT Ministry is unable to provide necessary funds to the Task Force.

D.3: Settlement of Lands with the Landless

Clause 3 of this Part says,

“In order to ensure the land-ownership of tribal families having no land or lands below 2 (two) acres, the Government shall, subject to availability of land in the locality, ensure settling 2 (two) acres of land per family. In the event of non-availability of required land, grove-lands shall be tapped.”

This provision of the Accord has not yet been implemented.

D.4, 5 & 6: Land Commission and Land Dispute Resolution

Clause 4, 5 & 6 of this Part stipulates,

“4. 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 judgments 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.

5. This Commission shall be constituted with the following Members:

- a) Retired Justice;
- b) Circle Chief (concerned)
- c) Chairman/Representative of the Regional Council;
- d) Divisional Commissioner/Additional Commissioner;
- e) Chairman of the District Council (concerned).

6. a) The tenure of office of the Commission shall be three years. But its tenure shall be extendible in consultation with the Regional Council.
- b) The Commission shall resolve the disputes in consonance with the law, custom and practice in force in the Chittagong Hill Tracts.”

The Land Commission has been being constituted since 1999 as per Section 5 of the Accord.

Since then, the following retired Justices were appointed as Chairman of the Land Commission-

- (1) Retired Justice Anwarul Haque Chowdhury was appointed as Chairman of the Commission on 3 June 1999. But he passed away on 6 December 1999 before taking his responsibility.
- (2) 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 years.
- (3) After assuming the office, the four-party coalition government appointed retired Justice Mahmudur Rahman on 29 November 2001. He too passed away in November 2007. The Caretaker Government led by Dr. Fakhruddin Ahmed did not take action to this effect.
- (4) Awami League-led grand alliance government appointed retired Justice Khademul Islam Chowdhury as chairman of the Land Commission on 19 July 2009. After ending his tenure on 18 July 2012, the post of chairman of Land Commission remains vacant for more than two years.
- (5) Lastly on 7 September 2014, current Chairman of the Commission retired justice Anowar-ul Hoque was appointed by the newly elected grand alliance government which was formed following the 10th Parliamentary Election 2014.

Despite appointment of five consecutive chairmen of the Commission, the Land Commission could not start its functions for resolution of land disputes due to keeping the amendment of contradictory provisions of the CHT Land Dispute Resolution Commission Act 2001 pending for 15 years. However, finally on 6 October 2016 the CHT Land Dispute Resolution Commission (Amendment) Act 2016 has been passed in the Parliament. This amendment of the Land Commission Act paves the way for proper resolution of land disputes and restitution of dispossessed land to the indigenous Jumma peoples.

After amendment to the CHT Land Dispute Resolution Commission Act 2001, a meeting of the CHT Land Dispute Resolution Commission was held on 4 September

2016. A public notice was issued from the CHT Land Dispute Resolution Commission office on 8 September 2016 according to which, as per section-9 of the CHT Land Dispute Resolution Commission Act 2001, any aggrieved person can apply in plain white paper putting in own signature/thumb print underhand and submit to the Commission office directly or through representative or by post within 45 days effecting from the date of notification and accordingly, the dead line for submission of application expired on 24 October, 2016. In the 2nd meeting of CHT Land Dispute Resolution Commission it was decided that the date for submission of application would remain open for an indefinite time.

Amendment of CHT Land Dispute Resolution Commission Act 2001

The then Awami League government hurriedly enacted the Chittagong Hill Tracts Land Dispute Resolution Commission Act, 2001 without consultation of CHT Regional Council and the PCJSS in 2001. As a result, there were several sections incorporated in this Act, which are conflicting to the CHT Accord and appear to be detrimental to the interest of the Jumma peoples.

Accordingly, 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. A meeting was also held on 12 March 2002 to consider the recommendations at the Ministry of Law and Justice and Parliamentary Affairs between then Minister concerned including then Minister of the Ministry Moudud Ahmed and delegation of the CHTRC led by its Chairman J B Larma. 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. However, later, at a meeting held on 21 January 2003 between the then Minister of the Law, Justice and Parliamentary Affairs Moudud Ahmed and delegation of the CHTRC, both sides accepted this recommendation.

Thereafter the Land Commission Act was vetted by the Ministry of Law Affairs and finally sent to the Prime Minister office. However, the then four party coalition government did not amend the Land Commission Act as recommended by the CHTRC as well as agreed upon by both sides. Even during the Caretaker Government led by Dr. Fakhruddin Ahmed did not take any initiative in this regard.

With the grand alliance forming a new government in January 2009, the CHTRC once again sent the recommendations to the government on 7 May 2009 for consideration. After that, a dozen of meetings over the amendment of contradictory provisions of the CHT Land Dispute Resolution Commission Act of 2001 were held at different levels. But no substantial progress in amending the contravening sections of the Act was achieved.

On 20 June 2011 Ministry of CHT Affairs (MoCHTA), with the consultation with CHTRC, finalised 13-point amendment proposals of the Act and sent them to Land Ministry for taking necessary initiative to place Cabinet and Parliament for final adoption. Later on, the 13-point proposal for amendment of CHT Land Dispute Resolution Commission Act was adopted in the 4th and 5th meetings of CHT Accord Implementation Committee held on 22 January 2012 and 28 May 2012 and Inter-ministerial Meeting held on 30 July 2012 with the Law Minister in the chair. However, since then, no progress was accomplished.

It is to be mentioned that on 27 May 2013 the Land Ministry placed a draft amendment bill titled "CHT Land Disputes Resolution Commission Act (Amendment) Bill 2013" before the Cabinet and accordingly on 3 June 2013 the Cabinet approved this amendment Bill. Again, on 16 June 2013 the amendment Bill 2013 has been introduced in the Parliament for adoption. The Parliament sent it to the Parliamentary Standing Committee on Land Ministry seeking its opinions. However, it is observed that out of the 13 amendment proposals, only 10 have been incorporated in this Bill. The rest three amendment proposals were fully excluded and on the other, out of 10, two important provisions have not been incorporated properly. Hence, with a view to bringing proper amendment to the CHT Land Dispute Resolution Commission Act, a 5-point amendment proposal on the said Bill was submitted by the PCJSS on 18 June 2013.

In perspective of the amendment proposal, the Parliamentary Standing Committee on Land Ministry held the 1st meeting on 16 July 2013 in the Cabinet Hall of the Parliament during which PCJSS again raised the demands for amendment to the Act. Afterwards, in perspective of the amendment proposal, the Parliamentary Standing Committee held the 2nd meeting on 18 September 2013 wherein, motivatedly invited representatives of anti-accord organization, such as, Parbatya Juba Front, Parbatya Nagorik Parishad, Bangali Chatra Parishad and some other communal organizations in the meeting who were opposing CHT Accord and the CHT Land Dispute Resolution Commission. Following this, The Parliamentary Standing Committee held its meeting for twice on 3 October 2013 and on 11 November 2013. The agenda of the meeting though contained the issue of 'CHT Land Dispute Resolution Commission (Amendment) Act 2013 Bill', however the committee left the bill hanging without bringing it to discussion table. From a reliable source, it was known that the government adopted dilly-dallying tactics in bringing amendment and as a part of it, the bill was left hanging without concluding in a decision over the bill.

After formation of new government following the 10th National Parliamentary Elections, meetings at the initiative of Dr. Gawher Rizvi, External Affairs Advisor to the Prime Minister were held at the Office of the Prime Minister for twice on land problems and bringing amendment to the CHT Land Dispute Resolution Commission Act 2001 as per the CHT Accord on 27 October 2014 and 1st December 2014.

As continuation of these two meetings, third meeting was held at Chittagong circuit house on 9 January 2015 and 13 points of recommendations were unanimously adopted in this meeting. Accordingly Gowher Rizvi, Advisor to the Prime Minister on external affairs; Jyotirindra Bodhipriya Larma, Chairman of CHT Regional Council and member of CHT Accord Implementation Monitoring Committee, and Naba Bikram Kishore Tripura, Secretary of CHT Affairs Ministry put their signature in approval of the recommendations. The recommendations were also adopted in the meeting of the CHT Accord Implementation Monitoring Committee held on 20 January 2015. Similarly, in the high level meeting held over the Act at Rangamati on 28 January 2015, the said recommendations were also unanimously accepted.

After 15 years of intensive series of lobby and movement demanding for amendment of these contradictory provisions of the Act, on 1 August 2016 the CHT Land Dispute Resolution Commission (amendment) Act 2016 has been approved by the Cabinet as per 13-point recommendations of the CHT Regional Council. Subsequently, following the final consent of the President of Bangladesh, gazette notification of the "CHT Land Dispute Resolution Commission (amendment) Ordinance 2016" has been published by Law, Justice and Parliamentary Affairs Ministry on 9 August 2016. Accordingly the CHT Land Dispute Resolution Commission (amendment) Act 2016 has been passed in the Parliament on 6 October 2016. This amendment of the Land Commission Act paves the way for proper resolution of land disputes and restitution of dispossessed land to the Jumma peoples.

The CHT Land Dispute Resolution Commission Act 2001 has been made in conformity with the CHT Accord 1997 through the amendment and the functions or jurisdiction as shrined in the Accord have been duly incorporated in the provision by which they are to be entrusted with the Commission. In the CHT Accord, it is stated to the affect that goes: "The Commission shall resolve the disputes in consonance with the law, custom and practice in force in the CHT". However, only 'laws and customs in force in the CHT' were included in the CHT Land Dispute Resolution Commission Act 2001. The word 'practices' was not included. Whereas, the 'practices' is very important in the case with land management in CHT and now the word 'practices' has been incorporated in the CHT Land Dispute Resolution Commission (Amendment) Act 2016.

The CHT Accord is contained of the provision that states: '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'. But in the CHT Land Dispute Resolution Commission Act of 2001 it was mentioned only the words that stand: 'disposal of land disputes of the rehabilitated refugees'. The words that stand: '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' were completely

dropped, whereas, besides the disputes over lands and homesteads, there are huge disputes over 'illegal settlement' and 'occupation.' Now, the disputes of said 'illegal settlement' and 'illegal occupation' have been incorporated in the CHT Land Dispute Resolution Commission (Amendment) Act 2016 for disposal.

In the CHT Land Commission Act of 2001, Chairman of the Commission was entrusted with unitary power by stating: 'Chairman shall take decision on the basis of discussion with other members present on the areas of its activities along with the matter stated in section 6(1) unanimously and in case decision is not unanimous his decision shall be treated as the decision of the Commission.' In the CHT Land Dispute Resolution Commission Act amended in 2016, the said unitary and dictatorial section of the Act has been made democratic in which it has been stated as: 'Chairman shall take decision on the basis of discussion with other members present on the areas of its activities along with the matter stated in section 6(1) unanimously and in case decision is not unanimous, decision of majority including the chairman shall be treated as the decision of the Commission.' This amendment to the Commission Act has been brought following the principle of pronouncing verdict on the basis of general majority opinion of full-bench judges of the Appellate Division in the most Honorable High Court.

In the said Act, in place of the words: 'Chairman and two other members', the words: 'Chairman and three other members' have been incorporated for maintaining quorum through which the functions of the Commission has been made more democratic, accountable and transparent. Furthermore, the issue of 'In the post of Secretary, officers and employees of the Commission, under this sub-section, the permanent inhabitants of the CHT shall be appointed giving priority to the tribal persons of the Hill districts' has been incorporated through which right to employment irrespective of Jumma people and Permanent Bengali residents has been ascertained.

D.8: Cancellation of Leases on Lands allotted for Rubber and other Plantation

Clause 8 of this Part stipulates,

"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 of the Accord has not yet been implemented properly. During 1980s and 1990s, some 46,750 acres of lands against total 1,877 plots located in Bandarban Sadar, Lama, Alikadam and Naikhyongchari upazilas in Bandarban district were given in lease to individuals from plain districts.

In the meetings of Parliamentary Standing Committee on CHT Affairs Ministry held on 20 July and 18 July 2009 respectively at Khagrachari and Rangamati, it was decided to

cancel those leases of the lands given to the non-residents in which no rubber plantation or plantation have yet been developed as per the agreement. In light of the decision, leases on some 15,000 acres of lands given against 593 plots were cancelled by Deputy Commissioner of Bandarban district and leases on some 350 acres of lands were cancelled by Deputy Commissioner of Rangamati district.

But after two months of cancellation of leases, violating the decision, most of the cancelled leases were reinstated by Deputy Commissioner of Bandarban district by notification of Memo No. JPRABAN/ Lease/ Mo No.1060 (d) / 80-81/2009 dated 19-11-2009. On the other hand, the remaining plots, though had been cancelled in papers, are still under occupation of the leaseholders.

Following the cancellations of the leases mentioned above, on 13 March 2014, Mohammad Badiul Alam son of Alhaj M. A Rashid, his wife Mrs. Suraiya Alam and his son Md. Shahzadul Alam (all of address: House 2, Road 2, Block-B, Section-10, Mirpur, Dhaka) filed, on behalf of following nine leaseholders, a writ petition (petition no. 1482/2014) under the Article of 102 of the Constitution of Bangladesh to the High Court division of the Supreme Court. The nine leaseholders were:

1. Zaki Ahad, son of Nur-Al-Ahad, House 5, Block-29/A, Pallabi, Dhaka;
2. Zia Ahad, son of Nur-Al-Ahad, House 5, Block-29/A, Pallabi, Dhaka;
3. Fahima Ahad, wife of Zaki Ahad, House 5, Block-29/A, Pallabi, Dhaka;
4. H J Ahad, wife of Nur-Al-Ahad, House 5, Block-29/A, Pallabi, Dhaka;
5. Murad Mohammad Taj, son of Hazrat Shah Sufi Taj Islam, of Bishura Darbar Amantola, Khanka Sharif, Mirsharai, Chittagong;
6. Popy, daughter of Sirajuddin Ahmed Chowdhury, of 42/ Ka, Mohamamdpur, PC Culture and Housing Society, Mohamamadpur, Dhaka;
7. Hosner Jahan Ahad, wife of Nur-Al-Ahad of House 5, Block-29/A, Pallabi, Dhaka;
8. Lamiya Ahad, wife of Zaki Ahad of House 5, Block-29/A, Pallabi, Dhaka;
9. Rayeed, son of Zakia Ahad of 42/Ka, Mohammadpur, PC Culture Housing Society, Mohammadpur, Shyamoli, Dhaka.

The writ petition was filed against seven respondents, such as, Secretary of the Land Ministry, Secretary of the CHT Affairs Ministry, Divisional Commissioner of Chittagong Division, Deputy Commissioner of Bandarban hill district, Upazila Nirbahi Officer of Alikadam upazila under Bandarban district, Assistant Commissioner (Land) of Alikadam upazila and Headman of 291 Toinfa Mouza of Alikadam upazila. It is worth mentioning that Mohammad Badiul Alam & gang tactfully did not mention the name of Bandarban Hill District Council and CHT Regional Council, the apex institutions of administration and development in the CHT, to avoid strong opposition from these authorities.

As the respondents did not oppose the writ petition strongly, the High Court issued a stay order on the cancellation of leases pending a Court decision on this matter. Following the stay order, the leaseholders are carrying out works to develop plantation on their respective lands and at the same time issuing threats to the indigenous Jumma villagers to leave the localities.

On the other, the non-permanent and outsider Bengalis in collaboration with the concerned administration are occupying thousands acres of lands in the name of lease, and giving threats to the local Jumma people asking them to leave the lands. In the mean while, in some areas, the Jumma villages were also attacked by Bengali laborers hired by the so-called lease-holders. As a result, the indigenous Jumma peoples are passing their days in fright and anxiety. If the leases are not cancelled and the occupants are not driven away, the situation in those areas will get worsen.

In April 2013, 21 Chak families were evicted from homesteads at Badurjhiri, a village located in Alikhyong mouza under Baishari union of Naikhyongchari upazila in Bandarban district. The victims were forced to leave due to continuous torture, harassment, robbery, and illegal land grabbing. Yet, their displacement is accelerated following a robbery occurred on 13 March 2013 when a group consisting of about 12/13 of robbers attacked the villagers. They looted valuables and gave life threat to villagers before leaving. Affected families took shelter in three villages of Headmanpara, Moddyampara, and Uporpara under Baishari mouza. It is learnt that most of the evicted families are Jum cultivators (traditional shifting cultivator). Around 582 acres of land at Badurjhiri area were occupied by the land grabbers.

On 21 October 2015, the indigenous Jummas of Kalajhiri Para under Rupasi Union of Lama Upazila in Bandarban district was assaulted by a group of 20/25 miscreants led by land grabber Md. Saiful Haque and Selim Soudagor of the area. It was learnt that, on the day of incident, a group of land grabbers came to the house of Redak Marma and presented illegal papers to him claiming his lands. At a stage of argument, the group started vandalizing the house in an attempt to seize 0.80 acre of registered land. They assaulted a pregnant women named Mamasing Marma (28) as well, daughter of Reda Marma while she tried to resist them. As critically injured, the woman was later admitted in the Lama Hospital. A case was filed in this connection by Reda Marma with the Lama police station. But no action was taken against the attackers by the police.

D.9: Allocation of Funds and Encouragement on Tourism

Clause 9 of this Part stipulates,

“The Government shall allocate additional finance on priority basis for the implementation of increased number of projects towards developments in the Chittagong Hill Tracts. The Government shall implement new project on priority basis for the construction of required infrastructure for the development of

the region and shall allocate necessary finance to this end. Keeping in view the environment of this region, the Government shall encourage the development of tourism facilities for the tourists, indigenous and foreign.”

The government has allocated fund for development in CHT. But it is too meager to meet the requirement. During the period of successive governments, lion share of the fund was allocated for CHT Development Board by passing the CHTRC and the HDCs. Though there is provision to implement the development programme through HDCs under supervision of CHTRC as per the provision conferred in the Accord and in the Act as well, that has not yet been followed properly. Allocation for fund are not granted as per budgets adopted by CHTRC and three HDCs. The funds so allocated are not being properly utilized due to corruptions and irregularities with the party-line facilitation.

The local Tourism, i.e. tourism of hill district has though been transferred to the HDCs, indeed, the office and tourism centers run by Bangladesh Tourism Corporation or other authorities have not been transferred to the HDCs. So, it is urgent that the function of the subject tourism, which was transferred through an agreement, is cancelled and to transfer the subject to the fullest to the HDCs by executive order to that affect.

D.10: Preservation of Quota and Providing Stipend

Clause 10 of this Part stipulates,

“Quota reservation and stipend grant: The Government shall maintain the quota system for the tribals in respect of government service and in institutions for higher studies until their attainment of parity with other regions of the country. To the aforesaid end, the Government shall grant increased number of stipends for the tribal male and female students in the educational institutions. The Government shall provide necessary scholarships for higher education and research in foreign countries.”

The quota is kept reserved for tribal students in different educational institutes. But the number of seats in the earlier quotas has been reduced in different educational institutions. In jobs, the quota system is not being implemented properly.

The government has a 5% quota reservation in Bangladesh Civil Service (BCS) for indigenous peoples. But this has never been practiced in reality. In addition to that, no measure has been taken on the part of the government to provide scholarship to the Jumma students for higher education and research studies in foreign countries. Furthermore, in several cases, the indigenous quotas are filled up by Bengali students on the pretext of not having qualified indigenous students.

It is to be mentioned that PCJSS demanded to the government to provide adequate facilities and fund for development of primary and secondary education in the CHT including non-government schools and colleges and to ensure quality education and to

enhance facilities in three Government University Colleges in the three Hill District headquarters to study honours courses on more other subjects and to provide housing facilities for teachers and students and necessary equipments. However, ignoring said popular demands, and above all remaining CHT Accord unimplemented, the government is implementing projects of establishing Rangamati Science and Technology University and Rangamati Medical College which leads to make CHT situation more complex and uncertainty.

D.11: Distinctness of Tribal Customs & Culture

Clause 11 of this Part stipulates,

“The Government and the Elected Representatives shall strive to uphold the characteristics of tribal creed and culture. The Government shall patronize and help the cultural activities of the tribes towards their efflorescence at national level.”

The distinctness of tribal customs and culture has not made ascertained as yet. There is lacking of proper patronization and assistance to develop the tribal customs and culture to national level.

There are three Small Ethnic Group Cultural Institutes in the three hill districts. But their role remains confined to entertaining the VIPs with colorful presentation of tribal dances and a few publications. Absence of state patronage to promote the indigenous culture and tradition is discernible in the systematic decay of these ethnic Jumma heritages.

The authorities keep renaming various places in the CHT after Islamic names and traditions. Indigenous Jumma students have no option but to learn Islamic values in schools. On the contrary, culture, values, lifestyle, history and traditions of indigenous Jummas have been misrepresented in educational curricula.

D.13: Deposit of Arms and Ammunitions by the Members of the PCJSS

Clause 13 of this Part provides, “The Government and the Jana Samhati Samiti shall, within 45 (forty-five) days of the signing of this Accord, jointly determine the date, time and place for deposit of arms. After the determination of the date and place for deposit of arms and ammunitions of the listed members of Jana Samhati Samiti, all sorts of security shall be provided for the return of the members of Jana Samhati Samiti as per list also of their family members to normal life”.

The PCJSS had complied with this provision properly.

D.14 & 16(b): General Amnesty and Withdrawal of Cases

Clause 14 of this Part stipulates,

"The Government shall declare amnesty for those members who will deposit arms and ammunitions on the scheduled date. The Government shall withdraw all those cases which were lodged against them. The Government shall declare amnesty for those members who will deposit arms and ammunitions on the scheduled date. The Government shall withdraw all those cases which were lodged against them."

Clause 16(b) of this Part stipulates,

"After deposit of arms and return to normal life of all such members, including the armed ones, of the Jana Samhati Samiti against whom cases were filed, warrants of arrest were issued, 'hulias' were published or sentence was given on trial in absentia, as against them all cases shall be withdrawn, warrants of arrest and 'hulias' shall be called back and sentence given in absentia shall be remitted as early as possible. If any member of the Jana Samhati Samiti is in Jail, he too shall be set at liberty."

These provisions of the Accord have been partially implemented. A list of 839 cases against 1524 persons was submitted to the government. The committee for Withdrawal of Cases headed by Deputy Commissioner, after vetting, sent 720 cases attached with recommendations for withdrawal to the Ministry of Home. But no gazette notification relating to withdrawal of the cases has been made public. Besides, no decision has been taken on withdrawal of 119 cases. It is to be mentioned that the persons awarded punishment in abscondia for being involved in 43 cases made mercy petition to the President. Those appeals have not yet been sent to the President from the Ministry of Home Affairs. Furthermore, the three District Committees for Withdrawal of cases could not yet find out the cases lodged with the martial court.

| District | Total Cases | Cases decided to withdraw | Cases yet to decide to withdraw |
|-----------------|--------------------|----------------------------------|--|
| Rangamati | 350 | 285 | 65 * |
| Khagrachari | 451 | 405 | 46 |
| Bandarban | 38 | 30 | 8 |
| Total | 839 | 720 | 119 |

D.16(d)(e)(f): Loan Exemption, Reinstatement in Service and Rehabilitation of Members of the PCJSS

Clause 16(d)(e)(f) of this Part stipulates,

- (d) The loans which were taken by such members of the Jana Samhati Samiti from Government Banks and Establishments, who could not have utilized such loan properly on account of the state of belligerency, shall be remitted with interest.

- (e) Those of the returned members of the Jana Samhati Samiti, who were previously in the service of the Government or of government organizations shall be reinstated to their respective posts and the members of the Jana Samhati Samiti and members of their families shall be given employment in accordance with their qualification. In this respect, government policy regarding relaxation of age-bar for them shall be followed.
- (f) Priority shall be given to the members of the Jana Samhati Samiti in giving bank loans on simple terms with a view to helping their self-employment generating activities such as cottage industries, horticulture, etc.

The Ministry of CHT Affairs has taken no step regarding applications for exemption of loan amounting to a total of Taka 22,783 (twenty thousand seven hundred and eighty three) against these four PCJSS members namely (1) Sunil Talukder s/o Sudhir Chandra Talukder, (2) Ratna Bikash Chakma s/o Purna Chandra Chakma, (3) Jyotirmoy Chakma s/o Singha Mani Chakma and (4) Hridoy Ranjan Chakma s/o Tukko Chandra Chakma under the provision cited above.

A list of 78 members of PCJSS who had been in government services was submitted to the government. From among them 64 persons were reinstated to their previous services. To award them with seniority status and other facilities, formulation of "Reinstated Tribal Employees (Exceptional Facilities) Rules 2000" is yet under process since 2000. It has been learnt that the Ministry of Law has given opinion on the draft regulation in March 2015 and it has been sent to the Ministry of CHT Affairs. At present the said regulation is lying under process with the Ministry of CHT Affairs.

The returnee members of PCJSS and their family members are not being appointed in jobs as per their qualification and no relaxation is being applied in their age-limit. Certificates obtained from foreign board and educational institutions by the children of returnee members of PCJSS have been made legal. But no education facilities have been given to the children of returnee members of PCJSS as of this day.

On the other, 1429 projects submitted by PCJSS members for self-employment and income generation have not been approved.

D.17(a)(b): Withdrawal of Temporary Camps and Transfer of Abandoned Lands

Clause 17(a) of this Part stipulates,

"After the signing and execution of the Agreement between the Government and the Jana Samhati Samiti and immediately after return of the members of Jana Samhati Samiti to normal life, all the temporary camps of the army, the Ansars and the Village Defence Party (VDP), excepting the Border Security Force (BDR) and permanent army establishment (being those three at the

three district headquarters and those at Alikadam, Ruma and Dighinala), shall be taken back by phases from Chittagong Hill Tracts to permanent cantonments and the time-limit shall be fixed for its purpose. In case of deterioration of the law and order situation, in time of normal calamities and for similar other purposes, Army Forces may be deployed under the authority of the civil administration in adherence to Law and Rules as are applicable to all the other parts of the country. In this respect, the Regional Council may, in order to get the required or timely help make requests to the appropriate authority.”

After signing the Accord, it has been learnt that from among more than 500 camps, it was only 70 temporary camps were withdrawn in 1997-1999 in two phases. On the contrary, the government claimed that more than 200 camps have been withdrawn since then signing of the Accord. However, no information on the list of camps withdrawn is available from the government side. Following the formation of a new government by the grand alliance, a total of 35 camps including a brigade headquarters were withdrawn. But it is alleged that at least 5 APBN camps out of 35 camps withdrawn, comprising two camps each in Longadu and Barkal upazilas and one camp in Rangamati sadar upazila, have been re-deployed.

As per this provision of the Accord, no time-line for withdrawal of the temporary camps back to their respective permanent stations has been fixed. With exception to border forces (BDR at present BGB) and 6 permanent cantonments (3 in 3 hill district headquarters and Alikadam, Ruma and Dighinala cantonments), the other temporary camps of Army, Ansar and Village Defence forces have not been withdrawn from CHT as envisaged in the Accord.

It is to be mentioned that in place of ‘Operation Dabanol’ (Operation Wildfire) imposed in 1970s, ‘Operation Uttoron’ (Operation Upliftment) was unilaterally decided and promulgated by the government in CHT. Though civil administration exists in CHT, military interference with and dominance over the civil administration, law and order, construction and repairing of roads, tribal affairs and forest resources and also conducting operation and searching by setting up check etc. are still continuing on one hand, and on the other, they continue to actively support the Bengali settlers in expanding and establishing newer cluster villages in the CHT with the financial support under “Shantakaran Prakalpa” (Pacification Project).

In a meeting held at Home Ministry chaired by the Home Minister on 7 January 2015, a set of 11 Decisions was adopted. Decision No. 6 states that all other law enforcing agencies will carry out their responsibilities through mutual cooperation with the 24 Infantry Division, responsible for keeping overall law & order in the CHT. Further Decision No. 10 also mentions that check posts at the entry of the CHT should be made

more operating. Whereas CHT Accord provides to withdraw all temporary camps of army, ABPN, Anser and VDP and accordingly almost all the checkpoints have been withdrawn, so the decision for fresh operating of the checkpoints cannot be considered to be positive for implementation of CHT Accord.

In recent days, atrocities upon the Jumma peoples including members and supporters of the PCJSS and its associate organisations, being perpetrated by the army-BGB-police forces in league with local leadership of the ruling party Awami League (AL), has alarmingly intensified. The atrocities includes carrying out searching operation and vandalism in the PCJSS offices, filing fabricated cases against and arbitrary arrest of members and supporters of PCJSS, searching and ransacking their houses, collecting the list and information of the members of the PCJSS and its associate organizations with an aim to make panic and harass them, and so on. Since January to October in 2016, fabricated cases were filed against 130 persons, 30 persons were arrested, 59 persons were detained and harassed for a few hours, 89 persons were physically tortured and more than 150 PCJSS members were forced to flee from their respective areas.

Clause 17(b) of this Part stipulates, "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."

This provision of the Accord is partially implemented. But some cases, though the authorities of the withdrawn camps abandoned the lands, transferring the lands to the original owners has not been done.

D.18: Appointment of Permanent Residents in all kinds of Services on Priority Basis

Clause 18 of this Part stipulates,

"Against all the posts of officers of all ranks and employees of different classes in government, semi-government, local government and autonomous bodies of the Chittagong Hill Tracts, the permanent dwellers of the Chittagong Hill Tracts shall be appointed, subject to priority being given to the tribals. But, in case of non-availability of a qualified person among the permanent dwellers of Chittagong Hill Tracts for any post, appointment may be made to such post on deputation from the Government or for a definite period."

To make this provision of the Accord effective, CHT Regional Council submitted recommendations to the Ministry of CHT Affairs and Ministry of Establishment (at present Ministry of Public Administration).

In this regard, on 22 October 2000 the Ministry of Establishment provided favorable advice to make the issue effective and according to the said advice on 25 August 2002 the Ministry of CHT Affairs, in order to include this provision of the Accord in the concerned appointment regulations, sent to various ministries or departments or institutions. However, no progress has been made in this regard.

CHT Regional Council re-submitted recommendations on this issue. In context to the approach, the Public Administration Ministry issued gazette notification on 27 June 2014 to make the provision effective. The said notification has not yet been sent to the concerned departments, institutions and authorities in CHT.

It is worth mentioning that the CHT Regional Council gave its recommendation to the CHT Affairs Ministry along with the Ministry of Public Administration to take necessary measures for inclusion of the said provision in the concerned appointment/service rules and regulations. But this provision has not yet been included in the concerned appointment/service rules and regulations applicable in the CHT region by the Ministries concerned. As a consequence, the outsiders as well as Bengali settlers are encroaching upon all employment facilities created for the CHT depriving Jumma peoples and permanent Bengali residents from their due rights.

D.19: Ministry of CHT Affairs

Section 19 under Part 'D' of the Accord says, "A ministry on Chittagong Hill Tracts shall be established on appointing a Minister from among the tribals."

The Ministry of CHT Affairs was set up as per the provision and its Rules of Business was also published in official gazette on 15 July 1998. But the Ministry does not play supportive role towards implementation of the CHT Accord and overall development of the CHT.

However, 'Allocation of Business' of various concerned ministries have not been made conformity with the Rules of Business of the Ministry of CHT Affairs. It is due to not having been amended the 'Allocation of Business' of various concerned ministries, the said ministries are dealing with the CHT related affairs as before. Consequently, the Ministry of CHT Affairs could not become properly effective. Therefore, it is desirable that the existing Rules of Business of the various concerned ministries are amended in line with the Accord.

During the term of the Awami League government (1996-2001), a minister for the Ministry of CHT Affairs was appointed and Advisory Committee was formed in accordance with this provision.

During the period of BNP-led four-party coalition government (2001-2006), the responsibility of the Ministry for CHT Affairs was kept under the control of then Prime

Minister herself without any justification. Thus the Ministerial post has not been lying vacant. In violation of this provision, a Deputy Minister, rather than a Minister, from amongst the Jumma peoples, has been appointed to the post. The Advisory Committee to the Ministry has not been formed during the four party coalition government.

The military-back Caretaker government (2007-2008) led by Dr. Fakhruddin Ahmed at first appointed a non-indigenous person as Advisor for CHT Affairs Ministry. However, in November 2007 Chakma Circle Chief, Raja Devasish Roy was appointed as Special Assistant to the Chief Advisor and put in charge of the Ministry.

After assuming in the state power in 2009, Awami League-led grand alliance government appointed Mr. Dipankar Talukdar as State Minister of the ministry and he was bestowed with full responsibilities of the ministry. After forming new government following the general election held on 5 January 2014, Government appointed Mr. Bir Bahadur Ushwe Shing as State Minister of the ministry.

As per Allocation of Business, mandates and powers and functions were not yet properly bestowed upon CHT Affairs Ministry. Almost 95% of the officers in the Ministry are non-indigenous persons (Bengalis). Most of them are either unaware of or insensitive with the CHT and her original inhabitants.



Part : Two

CHT Accord 1997

Part : Two

CHT Accord 1997

TRANSLATED ENGLISH VERSION

OF

AGREEMENT

BETWEEN THE NATIONAL COMMITTEE ON CHITAGONG HILL TRACTS

CONSTITUTED BY THE GOVERNMENT

AND

THE PARBATYA CHATTAGRAM JANA SAMHATI SAMITI

Reposing full and unswerving allegiance in the State-sovereignty and territorial integrity of Bangladesh regarding its hill tracts region within the ambit of the Constitution of the People's Republic of Bangladesh, the National Committee on Chittagong Hill Tracts on behalf of the Government of the People's Republic of Bangladesh and the Parbatya Chattagram Jana Samhati Samiti on behalf of the inhabitants of the Chittagong Hill Tracts region have reached the following Agreement, comprised of four Parts (A, B, C, D), with a view to upholding the political, social, cultural, educational and economic rights of all the citizens of the Chittagong Hill Tracts region and expediting their socio-economic development process and preserving and developing the respective rights of all the citizens of Bangladesh:

(A) GENERAL:

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. Both the parties have agreed to make alter, amend and add to, in consonance with the consensus and responsibilities expressed in the different section of this Agreement, the relevant laws, regulations and practices according to law as early as possible.
3. In order to monitor the process of implementation of this Agreement, an Implementation Committee will be formed with the following members:
 - a) A member to be nominated by the Prime Minister:
Convenor
 - b) The Chairman of the Task Force formed with the Purview of this agreement:
Member
 - c) The President of the Parbatya Chattagram Jana Samhati Samiti: Member

4. The Agreement shall come into force from the date of its signing and execution by both the parties. This Agreement shall remain valid from the date of its effect until all the steps are executed as per this Agreement.

(B) HILL DISTRICT LOCAL GOVERNMENT COUNCIL/HILL DISTRICT COUNCIL

Both the parties have agreed to alter, amend, add to and repeal the Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989 (Rangamati Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989, Bandarban Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989 and Khagrachari Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989) and its various sections, as may be in force till the date of commencement of this Agreement, in the manner set forth here under:

1. The word "Tribe" used in the various sections of the Council Act shall remain in tact.
2. The name of "Parbatya Zilla Sthanio Sarkar Parishad" shall be amended and this Council shall be re-named as "Parbatya Zilla Parishad".
3. "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.
4.
 - a) There shall be 3 (three) seats for women in every Hill District Council. One third (1/3) third (1/3) of these seats shall be for the non-tribals.
 - b) Sub-section 1, 2, 3 and 4 of section 4 shall remain in force as per the original Act.
 - c) The words "Deputy Commissioner" and "Deputy Commissioner's" appearing in the second line of sub-section (5) of section 4 shall be substituted by the words "Circle Chief" and "Circle Chief's" respectively.
 - d) The following sub-section shall be added to section 4: "Whether a person is a non-tribal or not and, if so, which community he is a member of, shall be determined, subject to his producing a certificate from the concerned Mouza Headman/Union Council Chairman/Municipality Chairman, by the concerned Circle Chief and without a certificate in this connection being received from the Circle Chief, no person shall be eligible as a non-tribal to be candidate for the post of a non-tribal member".
5. It is provided in Section 7 that a person elected to the post of Chairman or Member shall, before assumption of office, swear or affirm oath before the Commissioner, Chittagong Division. This shall be amended by provisions to the effect that the Members shall swear or affirm oath before "a Judge of the High Court Division" instead of the "Commissioner, Chittagong Division".

6. The words "to the Commissioner, Chittagong Division" appearing in the fourth line of section 8 shall be substituted by the words "as per election rules".
7. The words "three years" in the second line of Section 10 shall be substituted by the words "five years".
8. It shall be provided in Section 14 that in the event of the post of Chairman falling vacant for any cause or of his absence, a tribal member elected by other members of the Council shall preside over and discharge other responsibilities.
9. The existing Section 17 shall be substituted by the following sentences: "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.
10. The words "delimitation of constituencies" appearing in sub-section 2 of Section 20 shall be distinctly incorporated.
11. There shall be a provision in sub-section 2 of Section 25 to the effect that the Chairman and in his absence, a tribal Member elected by the other Members shall preside over all the meetings of the Council.
12. Since the entire area of Khagrachari district is not encompassed by the Mong Circle. the words "Khagrachari Mong Chief" appearing in Section 26 of the Act regarding Khagrachari Hill District Council shall be substituted by the words "Mong Circle Chief and Chakma Circle Chief". Similarly, there shall be made a scope for the attendance of the Bohmang Chief in the meetings of Rangamati Hill District Council. In the same manner there shall be provision that the Bohmang Circle Chief, at his will or on being invited, shall be entitled to attend the meetings of Bandarban Hill District Council.
13. It shall be provided in sub-section (1) and (2) of Section 31 that a Chief Executive Officer of the rank of a Deputy Secretary to the government shall be the Secretary of the Council and the tribal officers shall be given preference for appointment to this post.
14. a) There shall be provision in sub-section (1) of Section 32 that the Council shall be competent, subject to approval by the government, to create posts of officers and employees of different categories for the purpose of smooth completion of the works of the Council.
b) Sub-section (2) of the Section 32 shall be formulated in the following manner "The Council shall, as per Regulations, have competence to appoint Class-III and Class-IV employees and to transfer, suspend, dismiss, remove or otherwise punish them.

Provided that it shall be the condition attached to such appointments that the tribal residents of the district concerned shall have right of preference".

- c) It shall be provided in sub-section (3) of Section 32 that the Government shall, as per Regulations, have the authority to appoint officers in consultation with the Council and to transfer elsewhere, suspend, dismiss, remove or otherwise punish them.
15. The Words as per Rules shall be inserted in sub-section (3) of Section 33.
16. The words "or in any other way determined by the Government" appearing in the third line of sub-section (1) of Section 36 shall be deleted.
17. a) The provision starting with "Fourthly" in sub-section (1) of Section 37 of the original Act shall remain in tact.
b) The pharae "as per as" shall inserted in clause 'D' of sub-section (2) of Section 37.
18. Sub-section (3) of Section 38 shall be deleted and sub-section (4) shall be formulated as follows: "At any time before the expiry of a financial year, a budget may be prepared and approved, if necessary, for that financial year".
19. The following sub-section shall be added to section 42: "(4) The Council shall be competent to prepare, undertake and implement, with the help of money receivable from the Government, development projects in respect of the matters transferred to it and all development programme at national level shall be implemented through the Council by the concerned Ministry / Department / Institution".
20. The word "Government" appearing in the second line of sub-section (2) of Section 45 shall be substituted by the word "Council".
21. Sections 50, 51 and 52 shall be repealed and in their stead the following Section shall be enacted: "In order to ensure harmonization of the activities of the Council advice or instructive orders, if necessary, if the Government be convinced on having received such evidence that any activity done or proposed to be done by or on behalf of the Council is inconsistent with law or contrary to public interest, it shall then have the authority to call for in writing from the Council information and explanation about the matter concerned and give advice or directive in that regard.
22. The words "after the expiry of the period of being defunct" in Sub-section (3) of Section 53, shall be deleted and instead thereof the words "Within 90 days of cancellation of the Council" shall be inserted before the words "this Act".

23. The word "Government" will be replaced by word "Ministry" in the third and fourth lines of Section 61.
24. a) Sub-section (1) of Section 62 shall be amended as follows: "Notwithstanding anything contained in any other law for the time being in force, Sub-Inspectors and all members of ranks subordinate thereto of the Hill District Police shall be appointed by the Council as per Regulations and prescribed procedure and the Council shall be competent to transfer them and take punitive action against them in accordance with the procedure prescribed by the Regulations; Provided that, the tribals of the district shall have preference in case of the said appointment.
- b) The words "subject to the provisions of all other laws for the time being in force" as appear in the second line of sub-section (3) of Section 62 shall repealed and substituted by the words "as per law and rules".
25. The words "to render assistance" in the third line of Section 63 shall remain in tact.
26. Section 64 shall be amended and enacted as follows:
- a) "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".
- b) "Notwithstanding anything contained in any other law for the time being in force, No land, hill or forest under the controlled and within the jurisdiction of the Council shall be acquired or transferred by the Government without consultation with or the consent of the Council.
- c) The Council may supervise and control the works of the Headmen, Chainmen, Amins, Surveyors, Kanungos and Assistant Commissioner (land).
- d) The reclaimed fringe lands of Kaptai Lake shall be leased out on priority basis to the original owners.
27. Section 65 shall be amended and formulated as follows: "Notwithstanding anything contained in any other law for the time being in force, the responsibility of collecting the Land Development Tax of the district shall rest in the hands of the Council and the collected tax of the district shall be deposited in the fund of the Council."

28. Section 67 shall be amended and formulated as follows: "in the event of necessity for harmonization of the works of the Council and the Governmental authorities, the Government or the Council shall raise proposals on specific subject and the harmonization of the works shall be effected through mutual communications between the Government and Council".
29. Sub-section (1) of Section 68 shall be amended and formulated as follows: "With a view to carrying out the purposes of this Act, the Government may, upon consultation with the Council, make Rules through Notification in the Government official Gazette and the Council shall have a rights to apply to the Government for review of the said Rules even after they are already made".
30. a) The words "with prior approval of the Government" in the first and second lines of Sub-section (1) of Section 69 shall be repealed and after the words "may make" in the third line the following proviso shall be added:

"Provided that if the Government does not agree with any part of the Regulations made, it shall be competent to give advice or directive to the Council towards amendments of the said regulations".
- b) The words "conferment of the powers of the Chairman on any officer of the Council" in clause (h) of sub-section (2) of Section 69 shall be deleted.
31. Section 70 shall be deleted.
32. Section 79 shall be amended and formulated as follows:

"If, in the opinion of the council, any law made by the National Parliament or any other authority as applicable to the hill district is one which creates hardship for the said district or is objectionable for the tribals, the Council may, upon stating the cause of hardship or abjection, apply to the Government in writing for amending or relaxing the application of such law and the Government may take remedial measures in accordance with such application".
33. a) The word "discipline" appearing in Item No. 1 under the heading the activities of the Council in the First Schedule shall be substituted by the word "supervision".
- b) In Item No. 3 of the Council's activities, the following shall be added: "(1) Vocational education, (2) Primary education through mother tongue, (3) Secondary education".
- c) The words "reserved or" appearing in Clause 6(b) of the Council's activities shall be deleted.

34. The following subjects shall be included in the functions and the responsibilities of the Hill District Council:
- a) Land and land management;
 - b) Police (local);
 - c) Tribal law and social justice;
 - d) Youth welfare;
 - e) Environmental protection and development;
 - f) Local tourism;
 - g) Improvement Trust and other institutions concerning local administration, other than Municipality and Union Council;
 - h) Issuing license for local commerce and industries;
 - i) Proper utilization of rivers and streams, canals and Beels and irrigation system other than water resources of the Kaptai Lake;
 - j) Maintaining of the statistics of birth and deaths;
 - k) Money lending business;
 - l) Jum cultivation.
35. The following items shall be added to the subjects for imposition of taxes, rates, tolls and fees by the Council as stated in the Second Schedule:
- a) Registration fees of non-mechanical transports;
 - b) Tax on buying and selling of commodities;
 - c) Holding tax on lands and buildings;
 - d) Tax on selling of domestic animals;
 - e) Fees for community adjudication;
 - f) Holding tax on Government and Non-government industries;
 - g) A specified part of the royalty on forest resources;
 - h) Supplementary Tax on Cinema, Jatra and Circus;
 - i) Part of the royalty received by the Government against granting Licenses or Pattas for the exploitation of mineral resources;
 - j) Tax on business;
 - k) Tax on lottery;
 - l) Tax on catching Fish.

(C) CHIITAGONG HILL TRACTS REGIONAL COUNCIL:

1. Subject to amendment and addition of the various sections in the Parbatya Zilla Sthanio Sarkar Parishad Ayin, 1989 (Act IXX, XX and XXI of 1989) for purpose of making the Hill District Council more powerful and effective, a Regional Council will be formed comprising the Local Government Councils of three Hill Districts.

2. The elected Members of the Hill District Councils shall, by indirect mode, elect the Chairman of this Council whose status shall be equivalent to that of a State Minister and who shall be a tribal.
3. The Council shall consist of 22 (twenty-two) Members including the Chairman. Two third of the Members shall be elected from amongst the tribals. The Council shall determine the modality of its functioning. The constitution of the Council shall be as follows:

| | |
|----------------------------|------------|
| Chairman | 1 person |
| Member | 12 persons |
| Member (tribal female) | 2 persons |
| Member | 6 persons |
| Member (non-tribal female) | 1 person |

Of the male tribal Members, 5 shall be elected from the Chakma tribe, 3 from the Marma tribe, 2 from Tripura tribe, 1 from the Murung and Tanchangya tribes and 1 person from amongst the Lusai, Bawm, Pangkho, Khumi, Chak and Khiang tribes.

Of the male non-tribal Members, 2 persons shall be elected from each district.

Of the female tribal Members, 1 person shall be elected from the Chakma tribe and another from the rest of the tribes.

4. There shall be reserved 3 (three) seats for the women in the Council and one third (1/3) thereof shall be for the non-tribals.
5. The Members of the Council shall, by indirect mode, be elected by the elected Members of the three Hill District Councils. The Chairman of the three hill districts shall be ex-officio Members of the Council and they shall have right to vote. The qualification and disqualification of candidature for membership of the Council shall be similar to those of the Members of the Hill District Councils.
6. The tenure of office of the Council shall be 5 (five) years. The procedure and other matters regarding the preparation and approval of the budget of the Council, dissolution of the Council, framing of the Rules of the Council, appointment and control of the officers and employees, etc. shall be similar to the procedure and other matters as are applicable to the Hill District Councils.
7. There shall be the Council, a Chief Executive Officer of the rank equivalent to that of a Joint Secretary to the Government and the tribal candidate shall be given preference for appointment to this post.
8. a) If the post of Chairman of the Council falls vacant, one person from amongst the other tribal members shall be, by indirect mode, elected Chairman for the interim period by the Members of the three Hill District Councils.

- b) If the post of a Member of the Council falls vacant for any reason, it shall be filled up by by-election.
9. a) The Council shall coordinate all the development activities carried out by the three Hill District Councils, and shall also superintend and harmonize all the affairs of and assigned to the three Hill District Councils. Besides, in the event of lack of harmony or any inconsistency being found in the discharge of responsibilities given to the three Hill District Councils, the decision of the Regional Council shall be final.
- b) This Council shall coordinate and supervise the Local Council, including the municipalities.
 - c) The Regional Council shall coordinate and supervise the three hill districts in matters of general administration, law and order and development.
 - d) The Council shall coordinate the activities of the NGOs in addition to disaster management and carrying out the relief programme.
 - e) Tribal law and community adjudication shall be within the jurisdiction of the Regional Council.
 - f) The Council shall be competent to grant License for heavy industries.
10. The Chittagong Hill Tracts Development Board shall discharge the assigned duties under the general and overall supervision of the Council. The Government shall give preference to the eligible tribal candidates in appointing the Chairman of the Development Board.
11. The Chittagong Hill Tracts Regulation of 1900 and other related Acts, Rules and Ordinances being found inconsistent with the Local Government Council Acts of 1989, it shall be removed by law as per advice and recommendations of the Regional Council.
12. Until the formation of the Regional Council through direct and indirect election, the Government shall be competent to constitute an interim Regional Council and to empower it to discharge the responsibilities of assignable to the Council.
13. In making any law in connection with Chittagong Hill Tracts, the Government shall enact such law in consultation with and as per advice of the Regional Council. If it becomes necessary to amend any law which bears an adverse effect on the development of the three hill districts and welfare of the tribal people or to enact new law, the Council shall be competent to apply or submit recommendations to the Government.

14. The sources of the Council Fund shall be as follows:
- a) Money received from the District Council Fund;
 - b) Money or profits received from all the properties vested in or managed by the Council;
 - c) Loans and grants from the Government and other authorities;
 - d) Grants given by any institution or person;
 - e) Profits earned from the investments of the Council Fund;
 - f) Any money received by the Council;
 - g) Money received from other sources provided to the Council as per direction of the Government.

(D) REHABILITATION, GENERAL AMNESTY AND OTHER MATTERS:

In order to restore normalcy in the Chittagong Hill Tracts region and, to that end, in respect of the works and matters of rehabilitation, general amnesty and allied issues, both the parties have been arrived at the following consensus and agreed to undertake programmes as follows:

1. With a view to bringing the tribal refugees staying in the Tripura State of India back to the country, an agreement was signed on the 9th day of March, '97 at Agartala of Tripura State between the Government and the Leaders of tribal refugees. In pursuance of that Agreement, the tribal refugees started coming back to the country since 28th day of March, '97. This process shall remain un-hindered and to that end all possible cooperation shall be given from the end of the Jana Samhati Samiti. After ascertaining the identity of the Internally Displaced Persons of the three hill districts, rehabilitation measures shall be undertaken through a Task Force.
2. After the signing the Agreement between the Government and the Jana Samhati Samiti and implementation thereof and rehabilitation of the tribal refugees and internally displaced tribals, the Government shall, as soon as possible, commence, in consultation with the Regional Council to be constituted under this Agreement, the Land Survey in Chittagong Hill Tracts and finally determine the land-ownership of the tribal people through settling the land-disputes on proper verification and shall record their land and ensure their rights thereto.
3. In order to ensure the land-ownership of tribal families having no land or lands below 2 (two) acres, the Government shall, subject to availability of land in the locality, ensure settling 2 (two) acres of land per family. In the event of non-availability of required land, grove-lands shall be tapped.
4. 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.

5. This Commission shall be constituted with the following Members:
 - f) Retired Justice;
 - g) Circle Chief (concerned)
 - h) Chairman/Representative of the Regional Council;
 - i) Divisional Commissioner/Additional Commissioner;
 - j) Chairman of the District Council (concerned).
6.
 - a) The tenure of office of the Commission shall be three years. But its tenure shall be extendible in consultation with the Regional Council.
 - b) The Commission shall resolve the disputes in consonance with the law, custom and practice in force in the Chittagong Hill Tracts.
7. The loans which were taken by the tribal refugees from Government agencies, but could not be properly utilized on account of the state of belligerency, shall be remitted along with interest.
8. 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.
9. The Government shall allocate additional finance on priority basis for the implementation of increased number of projects towards developments in the Chittagong Hill Tracts. The Government shall implement new Project on priority basis for the construction of required infrastructure for the development of the region and shall allocate necessary finance to this end. Keeping in view the environment of this region, the Government shall encourage the development of tourism facilities for the tourists, indigenous and foreign.
10. Quota reservation and stipend grant: The Government shall maintain the quota system for the tribals in respect of government service and in institutions for higher studies until their attainment of parity with other regions of the country. To the aforesaid end, the Government shall grant increased number of stipends for the tribal male and female students in the educational institutions. The Government shall provide necessary scholarships for higher education and research in foreign countries.

11. The Government and the Elected Representatives shall strive to uphold the characteristics of tribal creed and culture. The Government shall patronize and help the cultural activities of the tribes towards their efflorescence at national level.
12. The Jana Samhati Samiti shall, within 45 (forty five) days of the signing of this Agreement, submit lists of all its members to the Government including the armed ones, and the particulars of arms and ammunitions in its possession and within its control.
13. The Government and the Jana Samhati Samiti shall, within 45 (forty-five) days of the signing of this Agreement, jointly determine the date, time and place for deposit of arms. After the determination of the date and place for deposit of arms and ammunitions of the listed members of Jana Samhati Samiti, all sorts of security shall be provided for the return of the members of Jana Samhati Samiti as per list also of their family members to normal life.
14. The Government shall declare amnesty for those members who will deposit arms and ammunitions on the scheduled date. The Government shall withdraw all those cases which were lodged against them.
15. In the event of any person's failing to deposit arms within the specified time limit, the Government shall take legal action against such a person.
16. A general amnesty shall be given to all the members of the Jana Samhati Samiti after their return to normal life and a general amnesty shall also be given to all the permanent inhabitants connected with the activities of the Jana Samhati Samiti.
 - a) For the purpose of rehabilitating the returning members of the Jana Samhati Samiti, Taka 50,000/00 per family shall be given at a time.
 - b) After deposit of arms and return to normal life of all such members, including the armed ones, of the Jana Samhati Samiti against whom cases were filed, warrants of arrest were issued, 'hulias' were published or sentence was given on trial in absentia, as against them all cases shall be withdrawn, warrants of arrest and 'hulias' shall be called back and sentence given in absentia shall be remitted as early as possible. If any member of the Jana Samhati Samiti is in Jail, he too shall be set at liberty.
 - c) Similarly, after deposit of arms and return to normal life, no case shall be filed against or punishment be given to or arrest be made of any person merely on account of his/her being a member of the Jana Samhati Samiti.
 - d) The loans which were taken by such members of the Jana Samhati Samiti from Government Banks and Establishments, who could not have utilized such loan properly on account of the state of belligerency, shall be remitted with interest.

- e) Those of the returned members of the Jana Samhati Samiti, who were previously in the service of the Government or of government organizations, shall be reinstated to their respective posts and the members of the Jana Samhati Samiti and members of their families shall be given employment in accordance with their qualification. In this respect, government policy regarding relaxation of age-bar for them shall be followed.
 - f) Priority shall be given to the members of the Jana Samhati Samiti in giving bank loans on simple terms with a view to helping their self-employment generating activities such as cottage industries, horticulture, etc.
 - g) Education facilities shall be provided to the children of the members of the Jana Samhati Samiti and their certificates obtained from foreign Boards academic Institutions shall be treated as valid.
17. a) After the signing and execution of the Agreement between the Government and the Jana Samhati Samiti and immediately after return of the members of Jana Samhati Samiti to normal life, all the temporary camps of the army, the Ansars and the Village Defence Party (VDP), excepting the Border Security Force (BDR) and permanent army establishment (being those three at the three district headquarters and those at Alikadam, Ruma and Dighinala), shall be taken back by phases from Chittagong Hill Tracts to permanent cantonments and the time-limit shall be fixed for its purpose. In case of deterioration of the law and order situation, in time of normal calamities and for similar other purposes, Army Forces may be deployed under the authority of the civil administration in adherence to Law and Rules as are applicable to all the other parts of the country. In this respect, the Regional Council may, in order to get the required or timely help make requests to the appropriate authority.
- b) The lands and premises abandoned by the cantonments, the camps of the military and para-military forces shall be make over to their real owners or to the Hill District Councils.
18. Against all the posts of officers of all ranks and employees of different classes in government, semi-government, local government and autonomous bodies of the Chittagong Hill Tracts, the permanent dwellers of the Chittagong Hill Tracts shall be appointed, subject to priority being given to the tribals. But, in case of non-availability of a qualified person among the permanent dwellers of Chittagong Hill Tracts for any post, appointment may be made to such post on deputation from the Government or for a definite period.
19. A ministry on Chittagong Hill Tracts shall be established on appointing a Minister from among the tribals. The following Advisory Committee shall be constituted to lend support to this Ministry:

- 1) The Minister on Chittagong Hill Tracts;
- 2) The Chairman/Representative, Regional Council;
- 3) The Chairman/Representative, Rangamati Hill District Council;
- 4) The Chairman/Representative, Khagrachari Hill District Council;
- 5) The Chairman/Representative, Bandarban Hill District Council;
- 6) The Member of the Parliament, Rangamati;
- 7) The Member of the Parliament, Khagrachari;
- 8) The Member of the Parliament, Bandarban;
- 9) The Chakma Raja
- 10) The Bohmang Raja
- 11) The Mong Raja
- 12) Three non-tribal Members nominated by the Government from amongst the permanent residents of the three hill districts.

This Agreement is prepared in the aforesaid manner in Bengali language and executed and signed in Dhaka on Agrahayan 18, 1404 corresponding to December 2, 1997.

On Behalf of the Government of the
People's Republic of Bangladesh

Sd/Illegible
(Abul Hasanat Abdullah)
Convenor

National Committee on Chittagong Hill
Tracts, Government of Bangladesh

On Behalf of the inhabitants of Chittagong
Hill Tracts

Sd/Illegible
(Jyotirindra Bodhipriya Larma)
President

Parbatya Chattgram Jana Samhati Samiti



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