



An NGO supporting human rights and peace in the Chittagong Hill Tracts, Bangladesh

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Submission to the Human Rights Council
For the Universal Periodic Review, Bangladesh
Sixteenth Session
22 April 2013 - 3 May 2013
Submitted by Jumma Net

Attached is a submission to the Human Rights Council regarding the Universal Periodic Review of Bangladesh, focusing on the human rights issues of the indigenous Jumma peoples of the Chittagong Hill Tracts (CHT), Bangladesh from the perspective of a non-indigenous non-governmental organization in Japan working to promote the peace process and respect for human rights in the CHTs. The submission discusses the status of implementation of relevant recommendations to Bangladesh during its Universal Periodic Review by the Human Rights Council in February 2009.

Jumma Net is an international cooperation NGO established in Tokyo in 2002 to engage in advocacy work for conflict resolution and promotion of peace in the Chittagong Hill Tracts, Bangladesh. The organization aims to ensure that the marginalized indigenous peoples can live in peace, with their basic human rights protected and with opportunities to benefit from economic development.

Your attention would be most appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Tom Eskildsen".

Tom Eskildsen
Co-President
Jumma Net

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Executive Summary

This submission is an analysis of the status of implementation of recommendations to Bangladesh from the first Universal Periodic Review in February 2009 particularly relevant to the situation of indigenous peoples in the Chittagong Hill Tracts, Bangladesh.

A. Implementation of the CHT Peace Accord (Recommendation No. 35)

1. In 2009, the Government of Bangladesh asserted that most provisions of the 1997 CHT Accord had already been implemented, and that it was in the process of its full implementation, though in fact most of the most important provisions of the accord still had not been implemented. The government has still not indicated a time-bound roadmap for implementation of the accord, and has made only minimal progress in the last four years, as also pointed out by the Special Rapporteur assigned by the UN Permanent Forum on Indigenous Issues to investigate this matter¹. Specifically:
 - a. The accord promises the phased withdrawal of all temporary military camps from the CHTs, but still more than 300 such camps remain. Only 35 camps have been withdrawn in the last 4 years. De-facto military rule continues under “Operation Uttaran” which authorizes the army to intervene in civil administration and civilian affairs.
 - b. The CHT Accord and the resultant legislation (1998 Hill District Council Acts and 1998 Regional Council Act) stipulate that a wide range of autonomous powers are to be transferred to three Hill District Councils and the CHT Regional Council, but the most important subjects and functions have not been transferred: police (local), land and land management, tribal law and social justice, environmental protection and development, tourism, forestry, etc. The Hill District Councils are comprised of government appointees as no council elections have been held though required by the accord and related legislation. The Regional Council has been hindered from exercising its supervisory and coordinating role due to non-cooperation from the district administrations and non-adoption of its Rules of Business, etc.
 - c. Around three thousand returnee Jumma refugee families have been unable to return to their rightful lands and none of the more than 90,000 internally displaced Jumma families have been rehabilitated as promised, due to a stalemate in functioning of the Taskforce for rehabilitation of IDPs.
 - d. The Land Commission has been unable to resolve any land disputes as the government has not amended the 2001 Land Dispute Resolution Commission Act to conform to the CHT Accord.

e. Provisions to protect the “tribal-inhabited character of the CHT” remain on paper alone as in-migration and land-grabbing by non-indigenous people continue unabated.²

B. Combatting Violence against Women (Recommendation No. 21)

2. Though separate tribunals for cases of repression of women and children have been established in each of the three hill districts under the Prevention of Repression of Women and Children Act 2000, and a one-stop crisis center for victims of violence has been established in Chittagong city, women and girls victimized by rape and other gender-based violence continue to face nearly insurmountable obstacles to obtain justice, due to the slow legal process, lack of financial resources and legal aid, unwillingness of police or other authorities to accept cases, falsification of medical reports, social stigmatization, threats to accept out-of-court settlement and threats by perpetrators or those siding with them. As a result, rapists and other perpetrators of gender-based violence enjoy nearly total impunity.

3. Between 1 August and 7 October 2012 alone, Jumma Net received reports of 4 rapes and 4 attempted rapes of Jumma women or girls, including rape of an 11 year old Tripuri girl allegedly by a police constable, and an attempted rape of a Jumma college student allegedly by an off-duty military officer. It is reported that Dighinala police station first refused to accept the case against the police constable, but rather offered 1000 taka to settle the matter. The officer was arrested and a case filed only after protests by the village head and the Tripura Student Forum. No reports of arrests have been received for the other cases. Such a situation has prevailed for many years, and appears to be worsening.³

C. Discrimination against members of minority religions (Recommendation No. 17)

4. The Bangladesh Constitution affirms the equality of all citizens regardless of race, color, sex or religion, and affirmative action policies such as quotas for higher education and civil service are implemented to a certain extent. The government asserts that it deals seriously with any allegations of discrimination. However, attacks on minority religious institutions and clergy are frequently reported, and serious efforts of the government to prevent or curb religious violence are not visible. Buddhist temples were burned down or destroyed during the August 2003 Mahalchari incident, April 2006 Maischari incident, the February 2010 Baghahat/Khagrachari incident and the April 2011 Ramgarh incident, despite the presence of military in the immediate vicinity. Most recently, at least 12 Buddhist temples were destroyed in Cox’s Bazaar District on 29-30 September 2012 by mobs angered by rumors of defamation of the Holy Koran on the internet.⁴

5. There are also disturbing reports of harassment/persecution of minority clergy by military personnel. Soldiers are reported to have destroyed a Buddhist meditation hut at Puriholachug hill in Majalong, Sajek Union, Rangamati district on 19 November 2009⁵; to have physically and verbally abused the chief priest of Ratnakur temple in Naniachar, Rangamati District on 21 May 2009⁶; to have prevented Buddhist monks at Ratnakur Buddhist temple from going for alms on 25 August 2010⁷; to have raided Sadhana Tila Buddhist Temple in Dighinala, Khagrachari District and confiscated bricks to be used for construction of the temple⁸; to have ransacked a Buddhist temple in Dulupara in Fatikchhari Union, Kaokhali Upazila, Rangamati on 18 February 2011⁹; and to have destroyed 9 meditation huts at Triratna Bana Sadhana Kuthir at Amtoli in Barkal-Jurachari border area in Rangamati on 26 October 2010¹⁰, to give but a few recent examples.

D. Culture of Impunity (Recommendation Nos. 10, 26)

6. The indigenous peoples of the CHTs have had a total of 1253 houses burnt down, 804 houses looted, 9 people killed or left missing, and more than 240 people injured in a series of 13 massive communal attacks perpetrated against them by Bengali settlers since the 1997 CHT Accord, including the above-mentioned August 2003 Mahalchhari incident, April 2006 Maischhari incident, the February 2010 Baghaihat/Khagrachari incident and the April 2011 Ramgarh incident.¹¹ Many indigenous people have also lost their ancestral lands as a result of these attacks. The disturbing truth is that these incidents have occurred in a highly militarized zone with 7 large cantonments and more than 300 military camps staffed by roughly a third of the total force of the Bangladesh military, as well as substantial paramilitary and law enforcement units. The authorities have been unable to give any plausible explanation why such incidents could recur with so little resistance from such massive numbers of “security forces” purportedly deployed to maintain law and order for the local people. Jumma Net has received dozens of first-hand reports of military personnel not only turning a blind eye to such violence, but actively instigating and participating in it. Despite repeated calls from human rights organizations for independent investigations and exemplary punishment, few independent investigations have been initiated, their findings have not been made public, and no known disciplinary action has been taken against responsible military or law enforcement personnel. Only a token few Bengali settlers involved in these communal attacks have been prosecuted. This has created a culture of impunity in which human rights violators need not fear retaliation from the authorities for acts of arson, looting, violence, land grabbing, religious persecution, gender-based violence, torture and other gross human rights violations against the indigenous peoples. Despite the government’s stated commitment to address these issues, it is not possible to see any improvement on the ground in the Chittagong Hill Tracts.

E. Ratification of ILO Convention 169 (Recommendation No. 2)

7. The Government of Bangladesh has not taken any steps to ratify ILO Convention 169, claiming that it is fulfilling its obligations under ILO Convention 109 and that the “tribal” peoples of the CHTs are enjoying most of the provisions of ILO Convention 169 through implementation of the CHT Accord. Unfortunately, basic principles of ILO 169 such as the right to self-determination, guarantees of participation in decision-making in activities affecting indigenous territories, and prior consultation regarding policies or legislation affecting indigenous peoples have not been upheld. For instance, the Forest (Amendment) Act, 2000 and the Forest (Amendment) Act, 2012, the Wildlife (Preservation) Act 2012 and the Small Ethnic Group Cultural Institutes Act 2010 have been passed without the consultation with the CHT Regional Council as required by the CHT Accord.¹²

F. UN Special Procedures (Recommendation No. 12)

8. The Government of Bangladesh rejected the HRC recommendation to issue and implement an open invitation to all special procedures, claiming that it was “fully cooperating” with the special procedures and was in the process of finalizing arrangements for some visits. Unfortunately, the Special Rapporteur on the rights of Indigenous Peoples has not received any positive response to his request for its consent to a visit Bangladesh, and there appears to have been no follow-up on his request to receive additional information in relation to the results of the investigations and any actions taken against those responsible for human rights with regard to the February 2010 Baghaihat/Khagrachari incident.¹³

G. Recommendations

9. In light of the above, Jumma Net recommends as follows to the Government of Bangladesh:
- a. To announce a time-bound roadmap for full implementation of the CHT accord during the tenure of the present government, with particular emphasis on the following:
 - i. Withdrawal of all temporary military camps and of “Operation Uttaran.”
 - ii. Amendment of the CHT Land Dispute Resolution Commission Act as per the CHT Accord and the recommendations of the CHT Regional Council to enable the Land Commission to function properly.
 - iii. Rehabilitation of all returnee Jumma refugees and internally displaced people.
 - iv. Election of the three Hill District Councils and transfer of all remaining subjects to them.
 - v. Framing of the Rules of Business of the CHT Regional Council and issuance of directives to the district councils and administrations to respect the supervising and coordinating

role of the Regional Council.

- b. To extend an open invitation to the Special Rapporteur on the rights of Indigenous Peoples and other special procedures.
- c. To bring an end to the culture of impunity by announcing a “zero tolerance” policy regarding official complicity with rape, religious persecution and other human rights violations.
 - i. Any military, law enforcement or civil officials found perpetrating, condoning or neglecting to prosecute human rights violations should be given exemplary punishment, and should be prohibited from participating in UN peacekeeping missions.
 - ii. Impartial commissions should be established to investigate major incidents of violence against indigenous peoples, and the results should be made public.
 - iii. Funding for official legal aid services should be increased, and legal aid organizations and other humanitarian organizations should be allowed to assist victims of human rights abuses without undue interference.

¹ E/C.19/2011/6

² Report on the Status of Implementation of the CHT Accord, PCJSS, April 2011 (<http://www.pcjss-cht.org/CHT%20Accord/Report%20on%20Impln%20of%20CHT%20Accord%20%28April%202011%29.pdf>)

³ CHT Commission Press Statement, 27 August 2012; chtnews.com News Updates No. 59, 64, 72, 77, 78, 81, 90, 108.

⁴ Daily Star, October 1, 2012

⁵ chtnews.com, News No. 198/2010, December 25, 2010

⁶ Kapaeeng Foundation E-mail Alert, 24 May 2009

⁷ PCJSS Year Report 2009, p. 27

⁸ chtnews.com, News No. 198/2010, December 25, 2010

⁹ chtnews.com News No. 22/2011, February 18, 2011

¹⁰ chtnews.com News No. 152/2010, October 27, 2010

¹¹ <http://www.pcjss-cht.org/At%20A%20Glance%20%281999-2011%29.php>

¹² <http://www.thedailystar.net/forum/2010/september/secularism.htm>

¹³ <http://unsr.jamesanaya.org/list/communications-cases-examined>