



Asian Indigenous & Tribal Peoples Network

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The status of indigenous & minority children in Bangladesh

A submission to the United Nations Committee on the Rights of the Child's
on the consideration of the second periodic report of Bangladesh
Working Group of the Committee on the Rights of the Child
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1. Introduction

In December 2000, government of Bangladesh submitted second periodic report (CRC/C/65/Add.22) to the United Nations Committee on the Rights of the Child. The second periodic report provides little information about the status of the children belonging to most vulnerable sections of the society – “indigenous tribal peoples”¹ (herein after referred to as “indigenous peoples”), minorities, internally displaced persons and stateless people.

On the rights of the religious minorities, the government of Bangladesh states - “The measures taken to protect the right of Hindu, Buddhist, Christian and animist children to profess or practise their religion are described under article 14. No specific examples have come to light of children being denied this right” (page 83). Such simplistic explanation does not reflect the prevailing situation of indigenous and minority children – the one of extreme vulnerability because of their ethnic origins and religious beliefs.

The Dhaka based *The Daily Star* in its issue of 8 October 2002, summing up the human rights record of the present Bangladesh National Party (BNP) government for the first year reported, “since 10 October 2001, more than 500 instances of repression on the religious minority have taken place across the country. The figure excludes a series of attack on the Hindu community immediately after the October 1 general elections. Between January and August 2002, 442 incidents of communal attacks and repression on the minorities took place. More than 50 such incidents occurred every month during the period. As the government took no effective measures, many sought refuge in neighbouring India”.²

Earlier, the UN Special Rapporteur on the elimination of all forms of intolerance and of discrimination based on religion or belief (also known as Special Rapporteur on Religious Intolerance), Abdelfattah Amor, after his visit to Bangladesh in May 2000 reported, “women from minorities and ethnic communities were vulnerable to violence from outside their communities..... Hindu, Buddhist, and Christian women were obliged to endure a climate of insecurity, due to an increased risk that they would be assaulted (notably in the form of sexual harassment and rape). This increased risk stemmed from the repercussions, within Bangladesh, both of international events concerning their community (for example, the anti-Hindu attacks — which included a significant number of rapes — during the Ayodhya episode in India), and/or of the so-called honour question. With respect to the latter question, it appears to be established and common practice that attempts to subject, or commit violations against minorities and ethnic communities should take the form of threats, or actual assaults (in this instance rape) on the honour of women, who represent the honour of the whole community. This occurs, for example, within the context of conflicts, for the appropriation of property, etc. With regard to ethnic populations, during his consultations in the Chittagong Hill Tracts the Special Rapporteur was informed by non-governmental representatives of numerous

¹ . The “indigenous tribal peoples” is the term used by the Government of Bangladesh in the second periodic report, (page 81 under Article 30).

² . The Daily Star, October 08, 2002, <http://www.dailystarnews.com/200210/08/n2100801.htm#BODY3>

cases of attacks against the physical and moral integrity of women from ethnic populations, committed by the armed forces and non-ethnic Muslim populations during the period of armed conflict”.³

Even after the signing of the Peace Accord between the Jana Samhati Samiti and government of Bangladesh in 1997, the rape of the indigenous Jumma girls by the law enforcement personnel and the illegal settlers continue to take place regularly in the Chittagong Hill Tracts (CHTs). The indigenous and minority girls in other parts of Bangladesh also face similar situation. Impunity has been the single most important factor contributing to increasing incidents of rape of indigenous and minority girls. As the Special Rapporteur on Religious Intolerance noted the government of Bangladesh “appears more sensitive to the interests of Muslims”⁴. The biases of the administrative, political and judicial systems prevent access to equality and justice by indigenous peoples and minorities.

In its second periodic report, the government of Bangladesh only refers to discrimination against girl child under Article 2 without taking due note of the extreme vulnerability of the indigenous and minority girls. It merely excuses itself by stating, “In view of the absence of systematic national-level data collection mechanisms in many areas (especially the ‘Special protection’ areas), however, it has not been possible to include all the requested information.”⁵ Generalisation often fails to show actual status of the indigenous and minority children.

While children as individuals enjoy many of the rights provided under the United Nations Convention on the Rights of the Child, the enjoyment of such rights by the indigenous and minority children depends on the status of these groups as a whole in the society and in the country. As the case with Bangladesh, it is not economic poverty alone but poverty of fairness of the administrative, judicial and political systems, which sanctions violations of the rights of the indigenous and minority children with virtual impunity.

Suhas Chakma
Coordinator

³ . A/55/280/Add.2

⁴ . *ibid.*

⁵ . CRC/C/65/Add.22

2. Executive Summary

As the second periodic report (CRC/C/65/Add.22) shows the government of Bangladesh has taken very few measures to implement the Concluding Observations and Recommendations⁶ of the first periodic report of the government of Bangladesh. It has failed to withdraw its reservation to the Article 14 and Article 21 of the Convention on the Rights of the Child. If the continuing process of establishing a National Human Rights Commission in Bangladesh that started in April 1996 is any indication, the cabinet of the government of Bangladesh is unlikely to take a decision on the withdrawal of the reservation to the CRC.

The problems lie in the unwillingness of the government to identify the priorities or issues that require the most urgent attention either with regard to the implementation of the Convention on the Rights of the Child or promotion and protection of human rights in general. Rather than developing institutional safeguards or mechanisms such as the National Human Rights Commission for the promotion and protection of human rights in the country, the governments in Dhaka irrespective of their political ideologies or colour, have been more interested in adopting draconian laws and provide impunity to the law enforcement personnel.

While then Awami League led government adopted the draconian Public Security (Special Provision) Act, 2000; the present Bangladesh National Party led government passed the universally condemned Joint Drive Indemnity Act, 2003 on 23 February 2003 to provide impunity to the security forces from prosecution for their involvement in "any casualty, damage to life and property, violation of rights, physical or mental damage" between 16 October 2002 and 9 January 2003 during the Operation Clean Heart.⁷ More than 11,000 persons were arrested in the Operation Clean Heart, of which only about 2,400 were listed as alleged criminals. Approximately 44 people reportedly died during the operation, either in custody or immediately afterwards.⁸ Many of the victims were children as defined under the UN Convention on the Rights of the Child.

The indigenous children, especially in the Chittagong Hill Tracts, continue to face torture, rape, denial of freedom of association and assembly, violation of the right to life, denial of freedom of thought, conscience and religion etc. There are no juvenile detention centers in the CHTs and all arrested indigenous children are kept in police or army custody or in normal prisons with the adults. In addition, the government has not taken any measures to provide education in mother tongues of the indigenous peoples as provided in the Chittagong Tracts Peace Accord of 1997 or disseminate the Convention on the Rights of the Child in the languages of the indigenous peoples. The failure of the government of Bangladesh to provide any specific information on the implementation of the key provisions of the Chittagong Hill Tracts Peace Accord is a testimony to the failure of the Peace Accord.

⁶ . CRC/C/15/Add.74

⁷ . Suhas Chakma, "Unconstitutional measures", The Newstime, Hyderabad, 20 March 2003.

⁸ . *ibid.*

The Hindu minorities faced serious backlash after the 1st October 2001 general elections. On 27 November 2001 the Dhaka High Court, in response to a petition filed by a rights organisation, ordered the government to investigate the incidents and submit a report by 15 January 2002. Although, the government has reportedly submitted its reply at the end of 2002, until today no one has been prosecuted for these well-documented atrocities. On the other hand, repression against the Hindu minorities continues unabated. On 26 November 2002, Bangladesh Parliament passed an amendment to the Vested Property Return Act, 2001 allowing the government unlimited time to return the vested properties seized from the Hindus after identifying them as enemies!

Asian Indigenous & Tribal Peoples Network (AITPN) makes this submission to the Working Group of the United Nations Child Rights Committee to assist effective examination of the second periodic report of the government of Bangladesh in September 2003. In this regard, the government of Bangladesh should be requested to provide the following additional and updated information in connection with the consideration of the second periodic report:

Recommendations for requests to the government of Bangladesh for further additional and updated information

A. General measures of implementation

The government of Bangladesh should be requested to provide:

- Information about the specific measures being taken for the withdrawal of reservations to Article 14 and Article 21 of the Convention on the Rights of the Child;
- Reasons for non-implementation of the recommendations contained in the Committee's 1997 concluding observations (CRC/C/15/Add.74), in particular, what obstacles have hindered implementation and what measures are being undertaken to ensure their implementation in the near future;
- Information on the status of the bill for establishment of a National Human Rights Commission in Bangladesh and whether the proposed bill meets the Paris Principles on National Human Rights Institutions, specially "to ensure the **pluralist representation of the social forces (of civilian society)** involved in the promotion and protection of human rights.";
- Information on the existing mechanisms to monitor the implementation of the Convention on the Rights of the Child including the mandate to deal with individual complaints from children;
- Information on the number of children being held under "safe custody" as provided under the Suppression of Violence Against Women and Children Act, 2000 and budgetary allocations made for these "safe custody" centres;

- Information on the progress made in plans to establish a database or another system using child rights indicators that would gather information on the Convention's implementation keeping in mind the Committee's observation during the examination of first periodic report that "insufficient attention has been given to the matter of establishing an effective integrated system of data collection covering all children";
- Information on whether any measures have been taken to disseminate information on the principles and provisions of the Convention to children of indigenous peoples in their mother tongues, particularly in the Chittagong Hill Tracts;
- Information about the issues affecting children which the State party considers to be priorities requiring the most urgent attention with regard to the implementation of the Convention;

B: Children belonging to a minority or an indigenous group (Article 30)

As a follow up to the information provided in the second periodic report, the government of Bangladesh should be requested to provide the following information:

Indigenous children and the Chittagong Hill Tracts Peace Accord

- Information about the status on the establishment and functioning of the Land Commission to settle the land disputes;
- Total number of military/paramilitary camps in the CHTs and number of camps withdrawn so far pursuant to the 1997 CHTs Peace Accord for the reduction of military presence in the region;
- Detailed information about the involvement of Bangladesh army in the developmental activities in the CHTs;
- Information about the budgetary allocation made on the "the preservation of tribal culture and support for its expression at national level", especially for introduction of teaching in mother tongues and the measures being undertaken to develop the curriculum, recruitment and training of the teachers for the same;
- Information about the military role in selection of indigenous students for higher education under the quota system;
- Information about the free rations provided to the plain settlers in the CHTs, including percentages of these allocations derived from international sources;

- Information on the rehabilitation of the returnee refugees and internally displaced Jummas, in particular, by providing information on the implementation of the 20 Point Agreement signed with the refugees for their honourable return to Bangladesh and any special measures taken for the returnee refugee and IDP children;
- Information as to why the present CHTs Affairs Minister has been given the Status of Deputy Minister in violation of the CHTs Peace Accord;

The Hindu minority children

- A copy of the affidavit filed by the government of Bangladesh before the Dhaka High Court on the alleged atrocities perpetrated against the Hindu minorities after 1st October 2001 general elections and measures being taken to address these atrocities;
- Information about the number of Hindus who have been affected by the Enemy/Vested Properties Act and total area of lands (in terms of acres/hectares) seized from the Hindus under the Act;
- Information on the amendment to the Vested Property Return Act, 2001 passed on 26 November 2002 and whether there is any proposed time frame for implementation of the Act;
- Information on the decadal growth rate of Hindu population in Bangladesh from 1971 to 2001 vis-à-vis national growth rate of population;

The stateless Bihari Muslims children

- Information on the nationality status of the children born to the Bihari Muslims in Bangladesh, the steps being taken to grant their right to nationality (Article 7) and measures being taken to ensure that Bihari muslim children receive all the facilities and rights accorded to Bangladeshi children;

C. Data and Statistics

In addition to the information provided in the second periodic report, the government of Bangladesh should be requested to provide:

- disaggregated data (by gender, age, indigenous tribal peoples, minority groups, internally displaced persons, stateless people) covering the years 1998 to 2002 on the number and percentage (of the total national population) of children under 18 years living in Bangladesh;
- in light of article 4 of the Convention, provide additional aggregated data (by district) for 1998-2002, budget allocation, trends (in the national budget as

well as the budget for the Chittagong Hill Tracts Regional Council, Hill District Councils) for the implementation of the Convention, evaluating also the priorities for budgetary expenditures given to the following:

- a. Education including in mother tongue for the indigenous children (pre-primary, primary and secondary education);
- b. Health care (including different types of health services, primary health care, vaccination programmes, adolescent health care, malaria eradication programmes in the CHTs and other health services for children);
- c. Children with handicaps;
- d. Support to families and the protection of children who are in need of alternative care including the support of care institutions;
- e. Number of juvenile remand homes in Bangladesh and their locations for administration of juvenile justice

The government of Bangladesh should also be requested to indicate the percentages of these allocations derived from international sources.

- With reference to child abuse, including sexual abuse, provide disaggregated data for the period 1998-2002 (by age, gender and types of violations reported, ethnic origin and religious beliefs of the victims), on the:

- a. Number of cases of child abuse reported to police or social or other services;
- b. Number and proportion of victims that have received counselling assistance in recovery;
- c. Number of persons prosecuted for offences against children under the Suppression of Violence Against Women and Children Act;
- d. Number of law enforcement officials involved in these offences; and
- e. Number of children detained in “safe custody” under the Suppression of Violence Against Women and Children Act;

- Provide disaggregated data (including by gender, age, indigenous tribal peoples and minorities and urban/rural areas) for the years 1998 to 2002 in percentages of the relevant age groups on the:

- a. Rate of literacy below and over 18 years;

- b. Percentages of children enrolling in pre-primary, primary and in secondary schools; number and percentage of drop-outs;
 - c. Average ratio of teachers per children in classrooms, with an indication of any significant regional or rural/urban disparities, as well as the number of teachers from indigenous tribal peoples and number of teachers employed to teach in mother tongues;
- provide appropriate disaggregated data (including by gender, age, indigenous tribal peoples, minority groups and type of crime) on children violating the law for the last three years (1999-2001), including:
- a. The number of children who have allegedly committed a crime reported to the police;
 - b. Where applicable, the number of children held in pre-trial detention and the average duration of such detention;
 - c. The number of children sentenced by Courts;
 - d. The nature of sanctions (fines, detention, prison sentence, other) and the number of suspended sentences;
 - e. Where the sanction is deprivation of liberty, further specify the period of detention and the type (juvenile, adult or other) of detention facility (district wise) in which children are held;
 - f. The percentage of recidivism cases;
 - g. The number of reported cases of abuse and maltreatment of children that occurred during their arrest and detention; and
 - h. The number of juvenile remand homes, their locations and budgetary allocations.

3. General Measures of Implementation

Reservations to the Convention on the Rights of the Child

In addition to Article 21, Bangladesh has reserved its accession to the Article 14 of the CRC on the grounds that Islam does not permit conversion to other religions. This reservation takes away the rights of religious minorities and indigenous peoples who profess different religions and constitute about 13% of the total population in the country.

In the second periodic report, the government of Bangladesh provides little new information on the reservations or specific measures being undertaken for the withdrawal of the reservations.

Child/Human Rights Institutions: A gravy train in Bangladesh

In its concluding observations on 6 June 1997, the Committee on the Rights of the Child welcomed “the recent law to establish the post of Ombudsperson as well as the fact that a National Human Rights Commission is being set up.”⁹ It appears now that the welcome was premature.

In its second periodic report submitted in December 2000, the government of Bangladesh states, “There are concrete plans to establish a Human Rights Commission and the Office of Ombudsman”¹⁰.

The government of Bangladesh has turned the establishment of a National Human Rights Commission (NHRC) into a gravy train by taking assistance from national and international donors. The process of establishing the NHRC in Bangladesh started in April 1995 after then Prime Minister Begum Khaleda Zia of Bangladesh National Party (BNP) approved a project entitled “*Action Research Study on the Institutional Development of Human Rights in Bangladesh.*” The project was mandated to assess the need for a NHRC and make recommendations on its establishment. It was funded by the UNDP and the concerned officials have taken *de tour* of all the countries in the world having NHRC for studying their experiences etc.

The Bangladesh National Party lost the general elections held on 12 June 1996. The Awami League (AL) came to power. The Awami League government, which submitted the second periodic report to the Child Rights Committee, discussed the establishment of NHRC for five years but failed to adopt the law for establishment of the NHRC. However, the Awami League led government passed the draconian Public Security (Special Provision) Act, 2000. It also passed the Special Security Act, 2001 to provide

⁹ . CRC/C/15/Add.74

¹⁰ . CRC/C/65/Add.22

security to then Prime Minister Sheikh Hasina and her sister as daughters of the first Prime Minister of Bangladesh, Sheikh Mujibur Rahman.¹¹

In the general elections held on 1 October 2001, the Bangladesh National Party came to power after defeating the Awami League. The BNP's victory begun with organized backlash against the Hindu minorities. No one has been held responsible until today for these abuses. Nonetheless, on 10 December 2001, a cabinet committee headed by Moudud Ahmed, Minister of Law, Justice and Parliamentary Affairs, was formed to examine the prospect of setting up the NHRC. Yet, the NHRC bill could not be adopted.

On 17 October 2002, Bangladesh government called the army for "Operation Clean Heart" with a view to clean up the alleged criminals. This was the first time that the army were called since the successful pro-democracy movement in 1990. In the Operation Clean Heart, more than 11,000 persons were arrested, of which only about 2,400 were listed as alleged criminals. Approximately 44 people reportedly died during the drive, either in custody or immediately afterwards.¹² Many of the victims were children as defined under the UN Convention on the Rights of the Child. Kauser Mia, a 15-year-old boy detained by the police on 4 February 2003 on suspicion of involvement in a bomb blast, told a relative on 6 February that he had been beaten with sticks with a chair placed on his head, and had received electric shocks. His health deteriorated and he died in hospital on 15 February 2003.¹³

Instead of addressing such gross human rights violations, on 23 February 2003, Bangladesh Parliament adopted the Joint Drive Indemnity Act, 2003 to provide impunity to the security forces from prosecution for their involvement in "any casualty, damage to life and property, violation of rights, physical or mental damage" between 16 October 2002 and 9 January 2003 during the Operation Clean Heart.¹⁴

On 28 May 2003, Bangladesh Police has been further empowered to "shoot at sight", if the situation compels them to save their lives or to ensure safety and security of the people" as a part of its ongoing anti-crime drive.¹⁵ This provides opportunity for extrajudicial execution.

On 23 January 2003, it was reported that the cabinet committee formed in December 2001 had finalized the draft NHRC bill, and that it would be placed before parliament on 3 February 2003. As of 11 June 2003, the government has failed to establish the National Human Rights Commission.

Nothing reflects the lack of seriousness of the government of Bangladesh for promotion and protection of human rights than the process of establishing the NHRC.

¹¹ . The Public Security (Special Provision) Act, 2000 was allowed to lapse while Bangladesh National Party scrapped the Special Security Act 2002.

¹² . Suhas Chakma, "Unconstitutional measures", The Newstime, Hyderabad, 20 March 2003.

¹³ . <http://web.amnesty.org/report2003/bgd-summary-eng>

¹⁴ . Suhas Chakma, "Unconstitutional measures", The Newstime, Hyderabad, 20 March 2003.

¹⁵ . The Associated Press, 30 May 2003; <http://independent-bangladesh.com/news/jun/02/02062003pd.htm>

4. Specific Measures of Implementation

Article 1: Definition the child

The National Children Policy of Bangladesh defines boys and girls “under 14 years” as children.

The Committee on the CRC while examining the first periodic report expressed deep concern “at the lack of conformity of legislative provisions with respect to the various age limits set by the law and the lack of a definition of the child in the light of the Convention, inheritance, the age of criminal responsibility, which is set at too an age level, or the possibility to impose the death penalty and imprisonment to ordinary prisons on children between the ages of 16 and 18”. The Committee recommended, “the National Policy on Children be readjusted in order to cover all children including those between 14 and 18 years of age”.¹⁶

In its second periodic report, the government of Bangladesh states, “The Government is working to arrive at a uniform definition of a child.”

If the process of establishing the National Human Rights Commission is any indication, it may never arrive at a uniform definition of child.

Needless to say, the lack of uniform definition seriously hampers the rights of the child, especially in the administration of justice in clear violation of Bangladesh’s treaty obligations and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”).

Article 2: Honour rape of indigenous and minority girls

“It appears to be established and common practice that attempts to subject, or commit violations against minorities and ethnic communities should take the form of threats, or actual assaults (in this instance rape) on the honour of women, who represent the honour of the whole community.” – UN Special Rapporteur on Religious Intolerance after his visit to Bangladesh in May 2001.¹⁷

During the examination of the first periodic report, the Committee expressed concerns at “the insufficient steps taken to bring existing legislation into full conformity with the Convention, including in the light of the general principles of non-discrimination (art.2)”. The Committee also expressed concern that “insufficient attention has been given to the matter of establishing an effective integrated system of data collection covering all children.”¹⁸

¹⁶ . CRC/C/15/Add.74, 6 June 1997

¹⁷ . A/55/280/Add.2

¹⁸ . CRC/C/15/Add.74, 6 June 1997

The Committee recommended that “greater efforts are required to implement fully the provisions of article 2 of the Convention. Measures should be taken to combat traditional attitudes and stereotypes and sensitize the society, including through studies and campaigns, to the situation and needs of the girl child, children born out of wedlock, children living and/or working in the streets, child victims of sexual abuse and exploitation, children with disabilities, refugee children and children belonging to tribal minorities.”¹⁹

In its second periodic report, the government provides no information or data about the children of indigenous peoples, internally displaced persons, minorities and stateless Bihari Muslims. It merely excuses itself by stating, “In view of the absence of systematic national-level data collection mechanisms in many areas (especially the ‘Special protection’ areas), however, it has not been possible to include all the requested information.”²⁰

The children of indigenous peoples and Hindu religious minorities face systematic discrimination because of their ethnic origins and religious beliefs. In the context of the movement for right of self-determination of indigenous Jumma peoples in the Chittagong Hill Tracts of Bangladesh and identification of Hindu minorities as enemies under the Vested Properties Act, girls have been specific target of sexual abuse and violence. While a few First Information Reports (FIRs) have been registered against the rape of minority Hindu girls, no such FIRs could ever be registered in the Chittagong Hill Tracts because of the military as well as illegal settlers’ involvement in the rape of the indigenous Jumma girls.

a. Rape of indigenous Jumma girls of the Chittagong Hill Tracts

"In the construction of a nationalist cause rape has always played a central role for women as child bearers are considered important for the biological continuation of a nation; rape therefore is used systematically as a deliberate tactic to destroy or damage the enemy. In the CHTs too, rape has been inflicted upon the Hill women by Bengali security personnel and Bengali settlers" – stated noted Bengali intellectual Dr Amina Mohsin.²¹

Even after the signing of the Chittagong Hill Tracts Peace Accord, violence, especially rape and other forms of sexual abuse, against indigenous Jumma girls continues to be a common practice in the CHTs.

The rape of Jumma girls and violence against women in general have exponentially increased in the Chittagong Hill Tracts after population transfer of over 500,000 illegal settlers and militarisation of the region. While violence against women in Bangladesh in

¹⁹ . CRC/C/15/Add.74

²⁰ . CRC/C/65/Add.22

²¹ . Militarization and Human Rights Violations in the Chittagong Hill Tracts, by Amina Mohsin, International Peace Conference on the CHTs, Bangkok, February 1997.

general occurred for a variety of reasons – including the patriarchal framework of society that was responsible for domestic violence, indigenous Jumma women have been violated by people from other communities i.e. illegal settlers and the security forces, because of their ethnic origin.

Case 1: Rape of Miss Padma Devi Tripura, 7 years

On 19 January 2003, alleged Bengali plain settlers raped and killed Ms Padma Devi Tripura, a seven years old girl of Mr. Monpula Tripura of Panchari Upazila under Khagachari district. On the day of the incident, Ms Padma Devi went out of her house at noon and failed to come back by the evening. The anxious parents began to search for her with the help of relatives and neighbours as they did not find her in all possible locations. At last, the dead body was discovered at 10 p.m. near the roadside of the Logang Union Parishad office, not far from the victim's house.

After being reported the local police took away the body for post mortem and sent it to district hospital at Khagarachari. The victim's uncle, Mr Sonaram Tripura registered a police case under the Suppression of Violence Against Women and Children Act, 2002. However, the police failed to arrest the culprits.²²

Case 2: Rape of Miss Kalpana Chakma, 16 years

On 13 March 2002, two Muslim plain settlers, Mr. Mohammad Ruhul Amin and Mr. Mohammad Fazal Kader abducted Miss Kalpana Chakma (16 years) from Alikadam town of Bandarban. She was taken to East Feroz Shah Colony of Pahartali, Chittagong and gang raped for several days. Due to the vehement protest of the indigenous Jummas, the local authorities ordered the police to take action. The police rescued the girl and arrested Mr. Mohammad Ruhul Amin and Mr. Mohammad Fazal Kader. Later, the police released the rapists without any trial or punishment.²³

Case 3: Rape of Miss Lita Marma, 16 years

On 5 March 2002, Miss Lita Marma (16 years), the daughter of Mr. Shwi Chen Marma of Dulupara, Kaptai and a student of Class 10 of Chandraghona Paharika High School, was kidnapped by a group of illegal plain settlers in broad daylight in the presence of the police. Her brother, Mr. Shai Chen Marma filed a case with the Chandraghona Police Station against the abductors. The police rescued the girl from a Muslim home in the area but they did not arrest the kidnappers. Miss Lita Marma was raped for 14 days.²⁴

²². Prothom Alo, Chittagong, 21 January 2003, <http://www.prothom-alo.net/htmlnews/category.php?CategoryID=2&Date=2003-01-21>

²³ . <http://www.angelfire.com/ab/jumma/rapecase.html>

²⁴ . *ibid.*

Case 4: Rape of Miss Sanita Tripura (15 years) and others

On 21 May 2001, a group of Bangladesh army personnel raided an indigenous Jumma village, Bara Chandra Karbari Para at Matiranga under Khagrachari district at midnight and raped 3 Jumma women. The army mercilessly beat the villagers and injured 13 Jumma civilians including a one-year-old baby girl. The raped Jumma women were identified as (1) Mrs. Pubali Tripura (22 years), wife of Mr Bata Roy Tripura, (2) Ms. Sanita Tripura (15 years) and (3) Ms. Karandi Tripura, daughter of Mr Hari Mohan Tripura.

The one year old minor child of Mrs. Pubali Tripura was seriously injured when the army personnel chopped the child with a sharp knife during the gruesome incident.

The victims were later admitted to the Khagrachari Sadar Hospital.

The father of one of the victims tried filed a First Information Report in the Matiranga Thana²⁵. The police refused to register the case. Subsequently, a petition was filed before the Khagrachari court.²⁶ But no action was taken on the issue.

Case 5: Sexual harassment of Miss Mallika Tripura, 13 years

On 13 August 2000, at mid-night a group of Bengali youths led by Mr Ali Ajgar of Hafchari mouza, Guimara under Khagrachari district tried to kidnap Ms Mallika Tripura (13 years) of the same village. Ms Mallika Tripura's brother, helped by a Bengali, could apprehend Ali Ajgar and handed him over to local Bengali leaders. The local Bengali leaders, in turn, proposed to Ms Mallika Tripura's guardians to marry her to Mr Ali Ajgar, which they refused. Ms Mallika Tripura's sister filed a case against Mr Ali Ajgar and 10 associates. When a local Awami League leader was killed by dacoits in the following day, Ms Mallika Tripura's guardians and the Bengali who had helped them were falsely implicated in the murder of the Awami League leader. The police arrested them.²⁷

Case 6: Sexual harassment of Miss. Nidra Kusum Talukdar, 12 years

On 24 April 2000, Ms Nidra Kusum Talukdar (12 years), daughter of Mr Dayal Kanti Talukdar, a student of Shantipur Junior High School, Dighinala under Khagrachari district was sexually harassed and attempted to rape by a Muslim settler named Mr Saheb Ali, son of Mr Malek of Milanpur Guchha Gram (culster village) of Dighinala. The incident took place at a shop of Dighinala bazaar.²⁸

²⁵ . Thana means a police station.

²⁶ . The Daily Star, Dhaka, 25 May 2001; The Independent, Dhaka, 29 May 2001.

²⁷ . <http://www.angelfire.com/ab/jumma/rapecase.html>

²⁸ . *ibid.*

Case 7: Rape of Miss Chenew Marma (13 years)

On 18 March 2000, five Marma people were returning from Chitmoram Buddhist Temple at Kaptai under Rangamati district. When they reached a cluster village of Muslim settlers, Tin Tehari under Manikchhari police station of Khagrachhari district, a group of settlers robbed them of their money and gold ornaments. The robbers also kidnapped Chenew Marma (13 years) and raped her. According to the victims, the following settlers were involved: 1) Mohammad Aziz, 2) Jamal, 3) Mohammad Ershad, 4) Mohammad Sirajul, 5) Mohammad Mofazzal, 6) Mohammad Jahangir, 7) Mohammad Shamsul Islam (all from Tin Tehari cluster village), 8) Mohammad Khorshed from Debpoa, 9) Mohammad Rafiq Mia, Jahangir's relative 10) Mohammad Mizan, and 11) a friend of Jahangir known as Lal Boarder Driver.²⁹

According to the UN Special Rapporteur Against Torture, on 23 March 2000, she was reportedly examined at Khagrachari Hospital and lodged a case against the rapists at the Manikchhari police station under the Children and Women Persecution Act. No investigation or arrest had reportedly been carried out.³⁰

Case 8: Rape of two Marma girls in Hathazari

On 30 December 1999, two Marma girls were kidnapped and raped by some Bengalee miscreants in Hathazari Police Station of Chittagong district. The girls are from Chiknachara village in the Hathazari Police Station.

The miscreants kept them confined for fifteen days. They were recovered on 15 January 2000. A case was filed with Hathazari Police station under section 9(c)/6/31/14 of Women and Child Repression Act but no action was taken.

Case 9: Rape of Miss Beshbala Tripura, 12 years

On 1 January 1999, a 12-years old girl, Mr Beshbala Tripura (alias Maya Rani), of Bailyachhara Joutha Khamar (collective farm) in Matiranga police station, Khagrachhari district, was raped by Mr Banar Ali, a plain settler. She was alone at home.³¹

b. Rape of the Hindu girls

Violence against Hindu girls including rape is not a new phenomenon in Bangladesh. However, in an attempt to drive them out and grab the lands, atrocities against the Hindus have increased manifold after the BNP and the Jamaat-I-Islamis came to power after 1 October 2001 general elections. The girls and women have been specific target.

²⁹ . *ibid.*

³⁰ . E/CN.4/2002/76/Add.1, 14 March 2002

³¹ . <http://www.angelfire.com/ab/jumma/rapecase.html>

Case 1: Rape of Miss Rita Rani Das



Ms Rita Rani Das (shown in the picture), a 8 years old Hindu girl was gang raped by alleged activists of communal Jamaat-E-Islami. Her village of Annada Prasad under Char Lal Mohan in Bhola district was attacked in October 2001. Ms Rita Rani ran for her life, but the Jammat-E-Islami activists caught her and gang raped.³²

Photo: Courtesy Mayer Dak

Case 2: Gang rape in Banskhali

**Below: Picture of Miss Uma Dey
(Courtesy: Human Rights Congress of Bangladesh Minorities-Dhaka)**



On 8 May 2002, around 12:30 at night, a group of miscreants numbering 30 to 35 burst into Aditya Ashram³³ at Palagram village under Shalpur Union No. 5, Banskhali police station of Chittagong district. They beat up the Principal of the Ashram mercilessly. As a result, the Principal became senseless. The residents of the Ashram climbed up in the roofs of the Ashram cottages in spite of the hurdles to save them from further attacks.

According to Mrs. Jhinu Dey miscreants dragged down her daughters, Ms. Uma Dey (12 years), a student of VIII grade and Ms. Rupna Dey (16) from the roof and brutally gang raped them in front of her 7 years old son, Rupan Dey. The miscreants were armed with deadly weapons and therefore, other residents of the Ashram were unable to rescue Ms. Uma Dey and Ms. Rupna Dey.³⁴

Case 3: Gang rape of Miss Rupali Rani Das

In the midnight of 11 September 2002, Mohammad Faruk, son of Ruhul Amin alongwith Mr Mohammed Abul Bashar, son of late Neazur Rahman and Faiz Ahmed from Char Laksmiganj village under Sonagazi police station of Feni district knocked the door of the

³². Courtesy: Mayer Dak, Calcutta, India: October 18, 2002; Volume 5, Issue 10

³³. *Ashram* means orphanage.

³⁴. Atrocities Against Minorities in Bangladesh, Visit to Banskhali, Chittagong, a *special Report by Rabindra Ghosh, Volunteer, HRCBM-Dhaka, Bangladesh*, 14th June, 2002

house of Mrs Bani Das, wife of Hara Lal Das under Bishnupur police station of Feni district.

After these miscreants threatened Ms Bani Das to force open the door, Mrs. Bani Das opened it. All of a sudden, Mohammad Faruk and Md. Abul Bashar jumped over Mrs. Kazali Rani Das and forcibly dragged her away to a nearby place and started raping her in front of her two minor daughters, Ms Shika Rani Das (10 years) and Ms Shima Rani Das (7 years). As a result of continuous rape, Mrs. Kazali Rani became unconscious. Thereafter Miss Rupali Rani Das was grabbed by the same terrorists and gang raped till she became unconscious.

During the rape of Mrs. Kazali Rani, her minor girls were crying, but nobody came forward for their rescue. The victims were ultimately taken to Feni Sadar Hospital for treatment on the next day. A medical Board was formed for the purpose of ascertaining the rape. It was reported that Dr. Sarwar Jahan and Senior Staff Nurse Shushila Barai confirmed to the reporter of daily "Janakantha" that the proof of rape was detected at the time of examination of both the sisters.

An FIR Number 4(9) of 2002 was registered with the police station but there were reports of extreme negligence by the Investigating Officer for following up the case for prosecution of the culprits.³⁵

Case 4: Gang rape of a minority girl in Kushtia

According to Bengali daily, *Janakantha*, on 2 November 2002, a 14 years old minority girl in the Daulatpur area of Kushtia was gang raped by Alauddin Mandal and Abdul Malik. The culprits brandished their guns at the parents and their daughter. Then, they grabbed the fourteen-year-old by force and took her away to some isolated grounds in the same vicinity where she was gang raped. The rapists later left the unconscious body of the girl there and the locals discovered her at dawn. The villagers took her to the Daulatpur Health Centre for medical treatment. Subsequently, the girl was kept in Daulatpur police station for her own safety. As the culprits came from influential families, the victim's family members were afraid to bring any charges against the two men.³⁶ But the police took no suo moto action despite keeping the victim.

Case 5: Rape of Ms Shilpi Rani Chakravorty (17 years)

Ms Shilpi Rani Chakravorty (17 years) daughter of Shymal Chakravorty of Akua village under Shibalaya Police Station of Manikganj District was gang raped on 27 of April 2003 by (1) Akkas Ali alias Aku Gazi, (2) Lutfar Pramanik, (3) Mannan, (4) Sahadad Hossain alias Khadu Sai and others of the same village. The culprits raided the house of Mr Chakravorty in the night.

³⁵. Human Rights Congress for Bangladesh Minorities, A Special Investigative Report on the minority repression at Feni and Netrokona district of Bangladesh, 17 October, 2002

³⁶. Daily Janakantha, Tuesday, November 5, 2002

In their statement to local human rights activists, it was stated that the victim's father was tied up with a tree. The victims' two brothers were tied up in another adjacent tree while the mother was locked inside a room. Then they started raping the victim till she became unconscious. The victim's mother while narrating the incident to the reporters stated that she even agreed to pay the ransom money of 50,000.00 Taka³⁷ after they took all of her clothes off too. But they did not stop. According to the mother, the culprits committed the pre-planned rape in order to push the family out of the village. The family owns about 12 Bigas of land. For a long time, Akkas Ali has been cultivating their land on agreed shared production basis (from the land). To grab the land of this family, Akkas Ali perpetrated the rape.³⁸

(Below: picture of Ms. Shilpi Rani Chakravorty (17 years) is seen in front of the Sub Inspector and a representative of a local human rights organisation; (Courtesy: Human Rights Congress of Bangladesh Minorities-Dhaka)



On 29 April 2003, a First Information Report No.25 was filed by Miss Shilpi Rani Chakravorty in Shibalaya police station against four rapists, namely, 1) Aku Gazi son of Late Akali Gazi 2) Lutfar Pramanik son of Navin Pramanik 3) Mannan son of late Tala Sheikh and 4) Khadu son of Oazuddin of Aroa village under Shibalaya police station of Manikganj district. Police

took the case against the four rapists and apprehended two rapists namely 1) Aku Gazi and 2) Khadu alias Shahadad Hossain. Other two accused were absconding.³⁹

c. Institutional discrimination against girl child

Despite the existence of laws to combat gender discrimination, a variety of reasons – including the patriarchal framework of society and the reluctance of the lawmakers, who are mostly men, to change the status quo –continue to perpetuate gender discrimination in Bangladesh.

³⁷ . Bangladeshi currency.

³⁸.Prothom-Alo, May 8th, 2003; <http://www.prothom-alo.net/htmlnews/category.php?CategoryID=4&Date=2003-05-08>) and investigative reports of Human Rights Congress of Bangladesh Minorities-Dhaka

³⁹.ibid.

Bangladesh ranks second in the world incidence of violence against women.⁴⁰ It often manifests itself in violent forms such as wife beating, rape, acid throwing, trafficking, sexual coercion and harassment, as well as verbal and psychological abuse. Women do not have equal inheritance rights, hold less than 10 per cent of directly elected seats in Parliament, and are yet to fill the civil service quotas allotted to them.⁴¹

Un-safe custody

‘Safe custody’ is a place where the women and children who are victims of crimes – such as rape, sexual assault, trafficking, kidnapping – and/or have no place to go under the circumstances are given temporary shelter and protection. The police often arrest people for suspected movement, without a warrant. Illiterate women, those in search of employment and children get lost, and end up in ‘safe custody’. The social construct is such that when a woman is raped, she, not the rapist, is the one who becomes the outcaste – a “useless” girl, who cannot marry, someone who brings “shame” to the family. Women and girls are randomly arrested for ‘indecent behavior’, particularly minors found during brothel raids. They are invariably sent to jail when produced before the court. The police have to produce all those arrested in court within 24 hours where the magistrate orders them to “safe custody”. For many girls the tragedy starts in this interim period, when they become victims of police brutality and sexual abuse⁴².

This form of custody purports to provide safety for those in danger of further assault, but in reality it is a form of punishment. There is reportedly no budget allocated to keeping women in ‘safe-custody’. So, they are kept with other prisoners and are treated as if they are charged with, or convicted for, an offence. They usually have to do other prisoners’ laundry to win a share of their ration. There is no legal basis in Bangladesh law for such custody to which women may be sent solely on the discretionary power of the judge. On the pretext of safe custody, Bangladeshi police can put women behind bars on the flimsiest pretext. They are often in custody for extended periods, during which the woman is often unable to gain release.

Case 1: Safe custody in jail after forced conversion of two minor Hindu girls to Islam

On July 25, 2002, two 15 years old Hindu girls, namely Miss Sushama Rani Malo and Miss Putul Rani Malo were kidnapped from their homes in Kulpaddy village under Madaripur district by some Muslims led by Imam of Madaripur Sadar Hospital Mosque, Dhaka and resident of the same village.

The guardians of the victims stated that after the kidnapping they were forced to sign an affidavit that the victims were 19 years of age and that the victims wanted to convert to Islam at their own will. Some Muslims particularly the supporters of Jamaat-E-Islami

⁴⁰. United Nations Family Planning Association “State of the World’s Population 2000” Report

⁴¹. UN, Chapter 6, “The Rights of Protection,” in *The Common Country Assessment Bangladesh 1999*.

⁴². <http://www.changemakers.net/journal/99april/reddy.cfm>.

Party of the same locality compelled them to swear an affidavit made by a Notary Public at Madaripur.

Afterwards, the victims escaped back to their parents' houses in the evening. On hearing the news that the two girls had gone back to their parents, Jamaat-E-Islamic supporters numbering about 250/300 surrounded the houses of the girls at about 11 P.M.

The criminals severely assaulted Arun Chandra Malo (26 years), brother of victim Sushama and kidnapped the girls again. It is worth noting that while the miscreants were kidnapping the girls from their houses, the police stood silent. The police also allowed organized processions to take place in the locality promoting violence and intolerance in the name of religion. The police and other authorities neither provided any type of protection to the girls and their grief stricken families nor did they even attempt to arrest the criminals. Instead, some police officials of Madaripur police station actually helped the miscreants in tactfully obtaining a "no objection certificate" from the guardians of the victim girls stating that they would not like to lodge any complaints with the police. Finally, two First Information Reports were registered with the Madaripur Police Station after the intervention of a local human rights activist.

The following criminals were identified in the FIRs from the village of Kulpaddy under district of Madaripur:

1. Mohammad Fazlu Master
2. Ali Ahmed (Imam of Madaripur Sadder Hospital Mosque)
3. Zeaul Hoque
4. Nurul Islam (Manna)
5. Beauty Begum wife of Anowar
6. Shanty Begum wife of Sheikh Eskandar Ali
7. Happy Matabbar wife of Ismail.
8. Feroz
9. Shaheen
10. Hayeat Ali
11. Manu
12. Sumi Mullah
13. Badal Matabbar and others

The local human rights activist requested the Deputy Commissioner of Madaripur to hand over the minor victims to their legal guardians. But no such action was taken. Rather, they were transferred to Dhaka central Jail for safe custody.⁴³

⁴³. Human Rights Congress for Bangladesh Minorities, Thursday, September 12, 2002, HRCBM/Bang/UA_9_12_02/proection_1001

Case 2: Death and rape of Shima Chowdhury⁴⁴

Shima Chowdhury (18 years), a Hindu garment factory worker was walking with her boyfriend, Abdul Hafiz, in the afternoon of 8 October 1996 towards the village of Majidapura near Chittagong. Police personnel passing by arrested both on the grounds that a woman may not walk with a man to whom she is not married. There is no basis in Bangladesh law for arrest on such grounds.

They were both taken to the nearby Moghdi police camp, were held there until the afternoon of 9 October and were not produced before a court even though Article 33 of the Constitution of Bangladesh requires detainees to be seen by the court within 24 hours of their arrest. The couple was then transferred to Rauzan police station where they were held in separate rooms. Abdul Hafiz was sent to a cell and Shima was 'detained' in the office of the Officer-in-Charge (OC) of the police station. The OC claims that he had left at midnight, leaving his key with the duty officer Uttam Kumar Majumdar and that three other policemen entered the room after he left.

That night, Shima was allegedly gang raped by four policemen. Later she was placed in 'safe custody' in Chittagong central jail. She was not allowed to see her mother, and the court rejected applications by her mother and women's and human rights organisations for her release. According to a report by Amnesty International, the forensic department of Chittagong Medical College conducted tests and concluded on 15 October that on the basis of the evidence they had examined, Shima Choudhury had been raped.

When news of Shima's rape reached journalists and human rights activists, they rushed to see her but were denied access by the authorities. Shima was kept isolated from her family, her friends and human rights organisations. Meanwhile, the police told reporters that she was a prostitute and had been raped by her own boyfriend and not by police personnel. At this stage, after the hospital doctors verified the evidence of rape, police began an investigation and arrested four policemen: Uttam Kumar Majumdar, Gouro Karmakar, Sadek Ali and Abu Bashar. The case was allocated to the Criminal Investigation Department (CID) on 17 October. To the astonishment of human rights activists, the police implicated Shima's boyfriend as an accused as well.

Shima remained in detention or 'safe custody' at Chittagong Jail without access to any visitors. Completely isolated from the world outside, kept in a jail where her rapists were also held pending trial, she became very ill. According to local human rights groups, although a prescription was given to her for medication but the jail authorities did not provide her with any medicine. She died under mysterious circumstances on 16 February 1997, five days after the announcement of charges against the four policemen. A postmortem was carried out, but the police insisted that Shima's body be cremated. Muslims are buried, not cremated; Shima was entered as a 'Muslim' in the police records.

⁴⁴. <http://www.web.amnesty.org/ai.nsf/index/ASA130041997>.

The Bangladesh Women Lawyers' Association (BNWLA), which carried out its own investigation, raised strong suspicions that Shima, who was the only witness of the rape, may have been poisoned. They also raised the issue that Shima and her accused rapists had been kept in the same jail, allowing the accused to torment her through corrupt jail staff and by seeing to it that she was not given adequate medical treatment or support from outside the jail.

On 14 July 1997, the trial judge set free "for lack of evidence" the four policemen accused of raping Shima.

Law on custody

There is no such provision of safe custody in the Code of Criminal Procedure (CrPC), the Jail Code, or in other relevant laws. The CrPC however permits safe custody for any accused or convict who is of unsound mind under certain circumstances.⁴⁵ However, the provisions of this particular law are not applicable to persons bearing sound mental health. The Prevention of the Suppression of the Women and Children Act, 2000 was thus passed on 14th February 2000, wherein Section 31 of the new Act provides for safe custody of the people of sound mind.⁴⁶

The provision for safe custody in the new law evidently violates fundamental rights guaranteed under the Constitution and other international human rights instruments.⁴⁷ The Constitution of Bangladesh and the general penal laws of the country have incorporated the universally accepted principles of natural justice. This principle requires that nobody should be condemned unheard. It means that even if the concerned person is a criminal, s/he must be heard before s/he is punished. In violation of this principle the new law has made it crystal clear that the Tribunal is not required to take consent of the person for whose welfare the order is made. The Tribunal thus has the power to

⁴⁵. Section 466 (1) of the Code reads as follows: Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, whether the case is one in which bail may be taken or not, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before Magistrate or Court or such officer as the Magistrate or Court appoints in his behalf."

Section 466(2) of the Code says: "If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the Government."

⁴⁶. The section reads thus: "During the trial of any offence under Act, if the Tribunal deems it fit that a woman or child requires to be sent to safe custody, the Tribunal can order that woman or child to be sent to safe custody to be placed outside the jail, identified and run by the government authority or under the care of any individual or agency if the Tribunal deems it fit."

⁴⁷. The provision incorporated in section 31 of the Act violates the fundamental rights enshrined in article 31, 32 and 36 of the Constitution of Bangladesh and violates Article 3 of the Universal Declaration of Human Rights that ensures the right to liberty of every citizen of the globe.

send any woman or child to the safe custody if it thinks fit during the trial of any offence under the Act.

Also, situations may occur under which a girl or a woman may voluntarily seek state protection. The underlying philosophy of that custody must be to rehabilitate or to allow her a stepping-stone before she can reinstate herself or find a place in society for herself. However, while the new law, provides that the safe custody must be a place outside the jail, no efforts have made to ensure the same.⁴⁸

Article 6: The right to life, survival and development

While the government of Bangladesh in its second periodic report refers to “risk of death” of children (Article 6 to be read with article 19 respectively in page 15 and pages 30-34), the government fails to provide any statistics to the violation of the right to life. The reference to legal instruments only is inadequate.

Odhikar, a Dhaka based NGOs provided the following acts of violence against children in 2001.⁴⁹

Acts of Violence against Children in 2001

Months	Killed	Raped	Victims of Acid	Arrested	Suicide	Abducted	Trafficked
January	18	29	1	1	5	10	0
February	7	36	1	0	3	2	0
March	13	37	6	1	3	10	1
April	16	39	8	0	4	3	0
May	17	34	2	0	1	7	2
June	22	52	13	1	10	20	4
July	32	25	9	6	3	14	0
August	17	16	9	0	6	14	0
September	11	9	3	3	2	3	5
October	14	31	5	0	1	6	0
November	22	27	4	1	7	10	0
December	21	21	5	1	4	12	1
Total	210	356	66	14	49	111	13

⁴⁸. <http://www.dailystarnews.com/200103/11/n1031109.htm#BODY1>, Volume 3 Number 543 Sun. March 11, 2001

⁴⁹. Violence Against Children: The Scenario in Bangladesh, Odhikar, Dhaka, undated, available at: <http://www.odhikar.org/>

Indigenous children of the Chittagong Hill Tracts are more at risk of violation of the right to life as the army and other security forces use fire-arms without any provocation in violation of the UN Code of Conduct for Law Enforcement Officials.

Khagrachari killings

On 22 April 1999, Mr Putul Chakma, 19 years, son of Mr Bimolendu Chakma of village Babupara, Panchari, Khagrachari district and Mr Suramoni Chakma, 21 years, son of Mr Fagunchan Chakma of Kutukchhari under Rangamati district were shot dead by Bangladesh Police at Khagrachari in the Chittagong Hill Tracts.

On that day, the Chittagong Hill Tracts Hill Peoples Council organized a rally at the Khagrachari stadium. In clear violation of the UN Principles on the Law Enforcement Officials, the Bangladesh Police resorted to unprovoked firing to disburse the demonstrators, a majority of whom were students. Mr Putul Chakma received bullet injuries in the head and died on the spot.

More than 150 were reportedly injured including 16 years old Babul Chakma son of Mr Bimolendu Chakma of Babupara, Panchari Police station. He received bullet injuries in the head.⁵⁰

Killing of Dipon Chakma, 16 years at Babuchara:

At around 12:30 pm on Saturday, 16 October 1999, a weekly market day at Babuchara Bazaar under Dighinala Thana of Khagrachari district, one Bangladesh army personnel molested a Jumma girl named Ms Sulata Chakma at a corner of the market. She raised an alarm by shouting for help. When the indigenous Jummas protested, the said member of the Bangladesh army got infuriated and tried to hit the protesting Jummas with his rifle butt. Then the Jummas, who were gathered around the spot, intervened and beat up the army member. Another army personnel made an attempt to scare the Jummas away, but he was also beaten by the mob.

After about an hour and half, the army encircled Babuchara bazaar and attacked the civilian Jummas in retaliation. According to eyewitnesses, one army officer named, Md Harun of 12 East Bengal Regiment at Dighinala cantonment led the army and incited the Bengalee settlers to take revenge on the Jummas.

The army went on a rampage and attacked each and every indigenous Jumma at the Babuchara Bazaar. Women and children who were hiding inside the shops were dragged out and beaten up with wood sticks.

Among those killed was 15 years old Dipon Chakma. He was killed on the spot.⁵¹

⁵⁰. Asian Indigenous and Tribal Peoples Network, *Elusive Peace in the Chittagong Hill Tracts: Why are international monitors necessary for the Peace Accord?*, 23 March 2000

⁵¹. *Ibid.*

The Khagrachari District administration formed a three-member committee headed by the additional district magistrate to probe the incident at Babuchhara Bazar in Dighinala Thana. Its report was not made public.

Article 14: Freedom of thought, conscience and religion

The sponsored planned population transfer of over 500,000 plain settlers between 1979 and 1985 in clear violation of the Article 52 of Chittagong Hill Tracts 1900 Regulation⁵² and Article 49 of the Geneva Conventions⁵³ had devastating effects on the human rights and fundamental freedoms of indigenous peoples. The government provided inducements of five acres of hill land, four acres of mixed land and 2.5 acres of wet rice land in addition to money, free transport to reach to the Chittagong Hill Tracts (CHTs), free rations and protection from the security forces till date.⁵⁴

"Members of the government of Bangladesh had admitted that the entire policy of settlement had been a mistake and that it had compounded the agricultural problems of the area by increasing pressure on the land. While it must be recognized that Bangladesh was densely populated, solutions to its problems should not be sought in policies which were tantamount to invasion and which violated the human rights of minority groups, including their property rights, transforming them in many cases into landless plantation workers." - stated Mr Mario Jorge Yutzis, Country Rapporteur for Bangladesh while examining the 5th and 6th Periodic Reports of the government of Bangladesh to the

⁵² . Article 52 of the Chittagong Hill Tracts 1900 Regulation provides:

"Article 52. Immigration into the Hill Tracts:

"a) Save as hereinafter provided, no person other a Chakma, Mogh or a member of any hill tribe indigenous to the Chittagong Hill Tracts, the Lushai Hill, the Arakan Hill Tracts, or the State of Tripura shall enter or reside within the Chittagong Hill Tracts unless he is in possession of a permit granted by the Deputy Commissioner at his discretion.

b) No permit shall be valid for more than twelve months from the date of its grant.

c) Every person required by this rule to be in possession of a permit shall be bound to produce it on the demand of any Government officer, headman, Karbari or Bazar Chaudhuri, and on his failure to produce such permit such government officer, headman, Karbari or Bazar Choudhuri shall arrest him and forward him without delay to the nearest police officer or Magistrate."

⁵³. Article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949) states, "The occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies".

While Governments deny the "occupation of particular region" and the applicability of the Fourth Geneva Convention, the issues that prompted the Fourth Geneva Conventions transcend the issue of "occupation". The intention of the Fourth Geneva Convention is to prevent the abuse of human rights, and consequently the issue of historical sovereignty is irrelevant to the prohibition of the transfer of population transfer. According to International Commission of Jurists: "Much of the Convention, including Article 49, is declaratory of the pre-existing international law and such provisions in the Convention should be recognized as being of universal applicability and binding" (International Commission of Jurists, "Israeli Settlements in Occupied Territories", Review of the International Commission of Jurists, No 19, (35), December 1977).

⁵⁴ . Asian Indigenous and Tribal Peoples Network, Elusive Peace in the Chittagong Hill Tracts: Why are international monitors necessary for the Peace Accord?, 23 March 2000

United Nations Committee on the International Convention on the Elimination of All Forms of Racial Discrimination in August 1992.⁵⁵

The influx of over 500,000 settlers led to sharp increase of Muslims population in the CHTs and caused increasing conflicts. In a situation where the Islamic fundamentalists exploit the religious sentiments of the majority settlers, the religious freedom of the Jummas have been seriously curtailed. In many places in the CHTs, the security forces have prohibited selling of pork by the indigenous peoples.

According to information provided by the Ministry for Foreign Affairs to the UN Special Rapporteur on Religious Intolerance, the 1991 census found the following distribution of religions in Rangamati: 26,382 Muslims, 8,871 Hindus, 12,006 Buddhists, and 217 Christians. The same sources gave the following figures for the number of religious institutions in the Rangamati Municipal Area: 31 mosques, 8 mandirs⁵⁶, 10 Buddhist temples, 2 churches, 2 madrasahs, 4 orphan centres, 26 makhtabs, 5 Muslim graves, 3 burning yards, and 1 Christian grave⁵⁷.

The Special Rapporteur also found that “the State appears more sensitive to the interests of Muslims. For non-Muslim minorities and ethnic groups, this is reflected especially in obstacles encountered with respect to access to public-sector jobs, especially positions of responsibility, weaker financial support for the religious institutions of these communities, and the teaching of their religion in public schools.”⁵⁸

The Special Rapporteur further reported, “Those (indigenous peoples) consulted also explained that their communities were subject to covert pressure from Islamic non-governmental organizations, and even Muslim extremist groups seeking to convert them to Islam, notably in return for services or money. Certain representatives interpreted the financial assistance provided by the State for the construction of new madrasahs and mosques as a discriminatory policy favouring Islam, since, in contrast, indigenous religious institutions received meagre public subsidies”.

Al-Rabita, a Saudi government funded NGO, is the main Islamic missionary organization in the region. Backed by the military, it is entrusted with the task of Islamisation of the CHTs. It often denies medical assistance unless people convert to Islam. It has an Islamic centre at Alikadam. It has offices in Rangamati and Longudu where it also maintains a hospital.⁵⁹

⁵⁵. CERD/C/SR.942.

⁵⁶ . Hindu temples.

⁵⁷ . A/55/280/Add.2

⁵⁸ . *ibid*.

⁵⁹. Amena Mohsin, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts, Bangladesh*, The University Press Limited, Dhaka, 1997.

Case 1: Attack on the Buddhist temple at Babuchara

“Following an altercation between indigenous people of the Jumma tribe, which had arisen after a Bengali soldier had molested a Jumma woman on 16 October 1999, the army — assisted by around 150 Bengali civilians — attacked the Jumma of Babu Chara Bazar at Dighinala Thana/Khagrachari, leading to the deaths of three members of the indigenous population. The assailants also proceeded to sack the Buddhist temple of Benuban, attacked monks, and damaged statues of the Buddha. Even though a commission of enquiry had been set up, and some victims compensated, this particular incident had created a genuine feeling of insecurity among lay and religious members of the indigenous community in the Chittagong Hill Tracts, who were faced with an army and a police force consisting entirely of Muslim Bengalis.”⁶⁰

Case 2: Grabbing of the lands of Pagodas and cremation grounds at Cox’s bazaar

The indigenous Rakhaine people (also known as Marmas) in the Cox’s bazaar area have been facing problems in freely conducting their religious ceremonies and worshipping because of the land grabbing by the Muslims. Approximately 30,000 people of the Rakhaine community live dispersed in Teknaf, Cox Bazaar, Khurushkul, Maheshkhali, Choufaldandi, Ramu, Habrang, Chakoria and various other localities. They are the constant target of abuse and oppression by the majority Muslims.

The Nakhrudong Jadi (pagoda) was built approximately 150 years ago on top of Jadi Hill in Cox Bazaar. In the last few years, hundreds of houses have been built on all sides of the pagoda, sparing only the stairway to the pagoda on the hilltop in order to grab its land.

The Theikeyangdong Jadi (pagoda) built approximately two hundred years ago on top of a hill in Baidyerghona near the Nakhrudong Jadi, was earlier destroyed. The Muslims kept leveling the hillside around the pagoda until the pagoda collapsed and fell down 400 feet from the top of the hill. Some one thousand five hundred Rakhaine people and other Buddhists of the locality used to carry out their religious ceremonies and worshipping at this pagoda.

Mr. Sharif Badsha, Mr. Ramija Begam and Mr. Manirul Islam have illegally grabbed the land of the Theikeyangdong Jadi (pagoda).

According to the Rakhaine Buddhist Welfare Association the majority Muslims have not only taken the land of two old historical pagodas, but also several acres of land belonging to a hundred years old pagoda on top of a hill in Lot Ukhiyaghona area along the Ramu-Naikhyengchari road, as well as the cremation grounds below it. They have also appropriated a cremation ground in Naitangpara in Teknaf, the central cremation ground at Rakhainpara village in Choufaldandi, the cremation ground at Dakkhin Rakhainpara

⁶⁰. A/55/280/Ad.2

village in Maheshkhali, and three acres of land belonging to the cremation ground at Rakhainpara village in Madhukhali, Hayrang.⁶¹

Case 3: Obstruction of construction of Buddhist temple and violence against indigenous Chakmas at Ukhia para

According to the Bangladeshi local newspapers, local Muslims who enjoy the support of the ruling coalition of Bangladesh National Party and Jammat-E-Islami have perpetrated a series of atrocities on the indigenous Chakmas of Madarbania situated in the Ukhia subdistrict of Coxbazaar. Some 50 Chakma families live in the village, maintaining their subsistence by selling forest products, fishing and engaging in small scale farming in the rocky soil. The families had even constructed a reasonably big temple in the neighborhood for community worship.

A cyclone that ravaged the locality in 1994, however, destroyed the temple. Owing to lack of funds at that time the indigenous Chakma community could not rebuild the temple. They moved their place of worship to a smaller temple that they built in some other area in the village. The plot of land where the cyclone hit temple once stood fell vacant for a few years. Neighborhood kids however made use of the vacant land to play soccer. However, it quickly became a bone of contention and the centerpiece of a dispute once the Chakmas decided to rebuild the destroyed temple.

A local Muslim opposed the Chakmas with a view to grab the plot of land from the Chakmas. On 11 September 2002, the Chakmas proceeded to lay the foundation of a temple structure on this plot of land. Word spread quickly in the neighbourhood. Soon some 150-200 local Muslims armed with sticks and rods assembled at the site to obstruct the laying of the foundation structure. The ensuing clash that was fought with rods, sticks and scythes resulted in the death of a local Muslim, Abdullah. Murder charges were filed against 22 Chakmas implicating them for the death of Abdullah.

Since the entire Chakma menfolk were implicated in the murder of Abdulah, they all fled the village out of fear of getting arrested. With the menfolk gone, brutalities were heaped on Chakma women. Many of them were raped or molested. A case has been filed relating to cruelty to women and children.⁶²

Article 15: Freedom of association and peaceful assembly

The right to freedom of association and assembly is often denied in the Chittagong Hill Tracts, especially if the freedom of association is exercised in the context of protesting against human rights violations

⁶¹ . Prothom Alo, Chittagong, 7 November 2002.

⁶² . Dainik Janakantha, Dhaka 18 September 2002

Khagrachari Killings

On 22 April 1999, Mr Putul Chakma, 19 years, son of Mr Bimolendu Chakma of village Babupara, Panchari, Khagrachari district and Mr Suramoni Chakma, 21 years, son of Mr Fagunchan Chakma of Kutukchhari under Rangamati district were shot dead by Bangladesh Police at Khagrachari in the Chittagong Hill Tracts.

On that day, the Chittagong Hill Tracts Hill Peoples Council organized a rally at the Khagrachari stadium. In clear violation of the UN Principles on the Law Enforcement Officials, the Bangladesh Police resorted to unprovoked firing to disperse the demonstrators, a majority of whom were students. Mr Putul Chakma received bullet injuries in the head and died on the spot.

More than 150 were reportedly injured including 16 years old Babul Chakma son of Mr Bimolendu Chakma of Babupara, Panchari Police station. He received bullet injuries in his head.⁶³

Article 37: The right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment

The government of Bangladesh in its second periodic report refers to the legal legislation prohibiting torture.

But, a number of laws in Bangladesh create the conditions, which facilitate torture. The most commonly used of these is Section 54 of the Code of Criminal Procedure (Act V of 1898). Section 54 enables the police to arrest anyone without a warrant of arrest and keep them in detention for up to 24 hours on vaguely formulated grounds.

Section 54 of the Criminal Procedure Code provides that:

"54.-(1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest-

first, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

thirdly, any person who has been proclaimed as an offender either under this Code or by order of the [Government];

⁶³. Asian Indigenous and Tribal Peoples Network, Elusive Peace in the Chittagong Hill Tracts: Why are international monitors necessary for the Peace Accord?, 23 March 2000

fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property [and] who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly, any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly, any person reasonably suspected of being a deserter from [the armed forces of [Bangladesh;]]

seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of Bangladesh, which, if committed in Bangladesh, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in Bangladesh;

eighthly, any released convict committing a breach of any rule made under section 565, sub-section (3)

[ninthly, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specified the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition."]

In addition, any person arrested by the police can be detained for up to 24 hours under Section 61 of the Code of Criminal Procedure (Act V of 1898) [as modified up to September 1993]. At the end of this period, the detainee should be either released or produced before a magistrate - either to be formally charged with a criminal offence or to be remanded in custody for further investigation. According to reports from many sources, detainees arrested by the police are usually offered the option to buy their release through a bribe.

As Amnesty International recently reported, "There is reportedly a lack of due diligence by magistrates in exercising their powers. They do not scrutinize the case to ensure that there are objective and legitimate grounds for remand, and do not record the reasons for ordering further remand in police custody - although this is a requirement under section 167 of the Code of Criminal Procedure."⁶⁴

There are persistent reports that magistrates do not take allegations of torture seriously, and rarely seek an investigation of these allegations. Often, they do not even record them.

⁶⁴ . Amnesty International, BANGLADESH: Urgent need for legal and other reforms to protect human rights, AI INDEX: ASA 13/012/2003 16 May 2003

Exact statistics on the number of people arrested under Section 54 are not available, partly due to the fact that the detention of many detainees who are released after the payment of a bribe is never recorded.⁶⁵

In all cases of detention under Section 54 of the Code of Criminal Procedure reported to Amnesty International, the detainees claimed that they had been tortured and that torture began from the moment of their arrest.⁶⁶

Militarisation and torture of children in the CHTs



Although Article 17 of the Chittagong Hill Tracts Peace Accord provided immediate withdrawal of “all temporary camps of army, Ansars and village defence force in Chittagong Hill Tracts excepting Bangladesh Rifles (BDR) and permanent cantonments (three in three district headquarters and in Alikadam, Ruma and Dighinala)”, only 31 camps of the estimated 520 temporary camps have been withdrawn so far.⁶⁷

After the signing of the Peace Accord, the government launched “Operation Uttaran”. It continues to conduct military operations through out the CHTs. The order issued in 1973 to impose military administration in the CHTs remains in effect at present, having never been withdrawn.⁶⁸

Indigenous children continue to be subject to torture and other inhuman and degrading treatment.

Case 1: Arrest and torture of Mr Dipankar Talukdar (16 years) and Mr Sunirmal Dewan (18 years)

On 9 May 2001, the army of S Ben army camp under Island army zone in Kaptai under Rangamati district conducted an operation at Dhulyatali area under Kaptai upazila of Rangamati district. In this operation, the army rounded the house of one Mr Swapan Chakma and arrested 16 years old, Mr Dipankar Talukdar, son of Smriti Bhushan

⁶⁵ . *ibid.*

⁶⁶ . *ibid.*

⁶⁷. The Indigenous World 2001–2002, International Work Group for Indigenous Affairs, Copenhagen, Denmark, page 317.

⁶⁸. Bushra Hasina Chowdhury, Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord, Programmes in Arms Control, Disarmament and International Security, University of Illinois, December 2001.

Chakma and 18 years old Mr Sunirmal Dewan, son of Jyotimoy Dewan. They were subjected to serious torture and were falsely implicated in connection with extortion of money.⁶⁹

Case 2: Arrest and torture of Mr Ripan Tripura, 16 years and Mr Karnadas Tripura, 18 years

On 22 January 2002, the army of Kukichara camp beat up Mr Ripan Tripura, 16 years, son of Shubhadhan Tripura and Mr Karnadas Tripura, 18 years, son of Rupsing Tripura while collecting donation for observation of Swaraswati⁷⁰ puja at Kukichara area under Khagrachari Sadar Upazila. The victims were admitted at Khagrachari hospital with serious condition.⁷¹

Case 3: Arrest and torture of Mr Milan Chakma, 16 years

On 17 November 2002 at 1.00 a.m. the army of the Rangamati brigade arrested a Pahari Chatra Parishad (Hill Students Council) member, Mr Milan Chakma, 16 years, son of Mr Joy Laskhan Chakma from Tribal Adam under Ramgamati Municipality, Chittagong Hill Tracts. He was falsely accused in connection with the alleged terrorist activities. He was brutally tortured in army custody and handed over to the police later. He was given detention for 2 months without any evidence.⁷²

Article 40: Administration of juvenile justice

As stated above, arrest, detention and torture of indigenous Jumma children is a commonplace. But there are no juvenile detention centers in the Chittagong Hill Tracts consisting of Khagrachari, Bandarban and Rangamati district. The juvenile detainees are kept in police or army custody or in prisons with other adult detainees/prisoners.

A majority of them are arrested under Special Powers Act, 1974 or Section 54 of the Criminal Procedure Code.

Case 1: Arrest of Suvashish Chakma, 17 years old

Suvashish Chakma, a student in Khagrachari Government College, was arrested at the Khagrachari bus stand on 28 April 1998. He was charged under Cr.P.C. 54 and produced before the Magistrate Court the same day. The court ordered that his detention be extended and remanded him to the Khagrachari District Jail.

On 30 April 1998 the District Magistrate issued a 30 detention order under the SPA. The detention grounds alleged that Suvashish Chakma is a leader of the Pahari Chatra Parishad and that he is opposed to the peace accord between the Bangladesh government

⁶⁹ . An updated Report on the situation CHT, Jana Samhati Samiti, 7 June 2001

⁷⁰ . Sawarashti puja is a religious festival for the goddess of learning.

⁷¹ . Situation CHT as of 2 February 2002, Jana Samhati Samiti, Rangamati, Chittagong Hill Tracts

⁷² . Situation in CHT, Jana Samhati Samiti, 15 December 2002

and the Jana Sanghati Samity. The grounds further alleged that he was intentionally creating problems between the Bengali people and the indigenous hill people, and that he was attempting to oust Bengalis from the CHTs in order to achieve full autonomy for the CHTs. The grounds stated that Suvashish Chakma was attempting to extort money from people at the bus stand when he was arrested. Suvashish Chakma has admitted that he is opposed to the peace accord but he has denied using violence or extortion to express his views. Suvashish Chakma has further asserted that he has a constitutional right to express his opposition to the peace accord and therefore his beliefs cannot form a ground of detention under the SPA.

On 18 May 1998, the Senior Assistant Secretary of Security in the Home Ministry issued an order that approved Suvashish Chakma's detention under the SPA and extended it for three months. The order took effect 30 May 1998 one day after the original detention order had expired.

Case 2: Arrest of Motilal Chakma (15 years), Tungya Chakma (13 years), Pradip Chakma (13 years) and Gorik Chakma (14 years)

On 12 July 2000, a group of army personnel led by Liet. Col. Mohammad Abdul Firoz Chowdhury (20 Field Artillery) from Lakshichari zone raided the village of Morachengi under Khagrachari district at about 11 p.m.

The soldiers searched the houses and harassed the innocent people. They also arrested five villagers and handed them over to the police later. They arrested persons were Anil Chakma (25 years) son of Rabindra Chakma; Motilal Chakma (15 years) son of Rabindra Chakma; Tungya Chakma (13 years) son of Morachya Chakma; Pradip Chakma (13 years) son of Ranjan Mohan Chakma and Gorik Chakma (14 years) son of late Punnyo Sen Chakma.

They were arrested under false and fabricated charges. All of them were transferred to Khagrachari district jail.⁷³

Article 28: Education, Leisure and Cultural Activities

Indigenous peoples across Bangladesh face discrimination in education system. They are struggling to preserve their cultural identities.

Denial of education in mother tongues

Indigenous peoples are not taught in their mother tongues. Bangla is the main language of instruction in schools, colleges and universities. For any child of primary school age, being taught in a language of which they have very little knowledge or understanding is demoralizing and is one of the reasons for high drop-outs.

⁷³. News Letter, Hill Watch Human Rights Forum, Dhaka, Bangladesh, September 25, 2000

The 1997 Chittagong Hill Tracts Peace Accord provided for introduction of mother tongues at primary level. But, the medium of instruction in all the educational institutions of CHTs and other tribal areas continues to remain Bangla.⁷⁴ No specific resource allocation has been made to prepare the curriculum or train the teachers for teaching in mother tongues.

On 19 March 2003, the Hill Students Council submitted a memorandum to the Prime Minister's Office demanding to introduce primary education in the mother tongue of the indigenous peoples, to delete "derogatory remarks" against their national identity from the textbooks, to introduce special hill quota in all public services by removing the CHTs quota and to include "real political history" of the Chittagong Hill Tracts in textbooks and also the history of all indigenous peoples of the country.⁷⁵

In addition, the curriculum is prepared for the Bengali plains. As part of the government's overall scheme to bring indigenous peoples culture into the mainstream, the curriculum is entirely oriented to the dominant Bengali model, allowing no space for the religious values, ideas and aspirations of hill tribal culture. Conformity to the Bengali 'norm' lies at the heart of the lessons, which are themselves communicated by approximately 95% Bengali teachers, with some schools having no indigenous teachers at all.⁷⁶

An independent study conducted by Care Bangladesh⁷⁷ shows that the literacy rate in the CHTs is lower than the national average.

The following table shows the literacy rates for the three districts:

District	Percentage Literacy rate
Rangamati	36.5%
Khagrachhari	24.5%
Bandarban	23.8%
National Average: 33.8%	CHTs Average: 29.280/0

Source: Shurwadi (1995), BBS and UNICEF (1994)

The study states, "The actual educational situation is far worse than reflected by these statistics. Although there appear to be a good deal of government primary schools, in reality the schools are run down or non-existent and many of the teachers are absent or have never actually visited the school. The main problem with the access to education in remote areas is that it is difficult to find teachers to go to the postings. Teachers are not employed from the locality. There are problems when teachers from one tribal/indigenous

⁷⁴. Humayun, R. "Tribal Children Face Language Problem", *Daily Star* (Bangladesh), 7/1/1998.

⁷⁵ . The Independent, Dhaka, 20 February 2003

⁷⁶ Chittagong Hill Tracts Commission (CHTC), *Life is not Ours: The Report of the Chittagong Hill Tracts Commission*, 1991.

⁷⁷. Ina Hume, Background Study for a Household Livelihood Security Assessment in the Chittagong Hill Tracts, Bangladesh by Care Bangladesh, February 1999.

community are posted to a school in a village of another community. Language is a barrier in education in the CHTs. Many of the tribal languages are distinct from each other and Bengali. This means that the children find it difficult to learn in a language other than their mother tongue..... The drop out rate at present is very high. Rates as high as 22% have been reported⁷⁸, however these have been unjustified.”

Military interference in education

Until today, indigenous students require no objection certificate from army for admission to universities and other institutions of higher education.⁷⁹ The quota system reserved for the indigenous students is directly controlled by the military.

Article 24: Health and Health Services⁸⁰

There is a severe lack of health facilities in the Chittagong Hill Tracts. The most deprived areas are remote with poor communications. In these cases it is difficult for the local authority to recruit doctors for these remote Thana health complexes. There is a real shortage of doctors, and the average number of vacant posts in the three hill districts is approximately 60%.⁸¹

The number of facilities available to population ratio for each district is as follows:

Rangamati District

Population: 401,388
Hospital: 13 (one hospital for every 30876 people)
Clinics: 49 (one clinic for every 8191 people)
Maternity: 3 (one maternity clinic for every 133796 people)
Health and Family Planning: 39 (one for every 10,292 people)

Kharachari District

Population: 329,923
Hospitals: 5 (one for every 65,984 people)
Union Health Centres: 10 (one for every 32,999 people)
Health and Family Planning: 13 (one for every 25,378 people)

⁷⁸ *Discussion Oil Access to Social Infrastructure and Human Development: A Situational Analysis of Chittagong Hill Tracts, Bangladesh.* J 998, Dr Mahfuzul Haque.

⁷⁹ The Indigenous World 2001–2002, International Work Group for Indigenous Affairs, Copenhagen, Denmark.

⁸⁰ Ina Hume, Background Study for a Household Livelihood Security Assessment in the Chittagong Hill Tracts, Bangladesh by Care Bangladesh, February 1999.

⁸¹ Ina Hume, Background Study for a Household Livelihood Security Assessment in the Chittagong Hill Tracts, Bangladesh by Care Bangladesh, February 1999.

Bandarban District

Population: 203,569

Hospital: 1 (one for every 203,569 people)

Clinics: 7 (one for every 29,081 people)

Health indicators

The following table shows the rates of mortality, child delivery by trained people, malnutrition and diarrhoea among children in the Chittagong Hill Tracts.

District	Mortality (per 1000)		Child delivery (%)		Malnutrition (%)		Prevalence of Diarrhoea (%)	
	Under 5	Infant	Trained person	Non trained person	Boys	Girls	Boys	Girls
Bandarban	162	111	10.6	89.4	4.3	5.3	11.9	8.4
Khagrachari	147	101	8.1	91.9	1.8	6.4	4.3	8.5
Rangamati	146	100	9.1	90.9	4.2	2.0	10.6	8.1
National Average	134	77	12.7	87.3	6.2	9.3	12.7	11.2

The table indicates that under five year old and infant mortality rate is higher in all three districts than the national average. Bandarban has the highest rates of child mortality of all three districts.⁸²

The data also shows that there is a far higher rate of child delivery by non-trained people than by trained people. The average for all three districts is 90.7% as compared to the national average 87.3%. This indicates that the child mortality rate in the Chittagong Hill Tracts could be reduced by some basic training in child delivery.⁸³

The percentage of malnutrition in boys and girls in the three hill districts varies from district to district. In Bandarban there is slightly more malnutrition among girls; in Khagrachari there is over twice as much malnutrition among girls and in Rangamati there is over twice as much malnutrition among boys. According to the national average indicators there is more malnutrition among girls.⁸⁴

The prevalence of diarrhoea among girls and boys is similar in Rangamati and Bandarban, with boys suffering more than girls. However, in Khagrachari district there is almost twice as much diarrhoea among girls. In the rest of Bangladesh the prevalence of diarrhoea is slightly less in girls.

⁸². Ina Hume, Background Study for a Household Livelihood Security Assessment in the Chittagong Hill Tracts, Bangladesh by Care Bangladesh, February 1999.

⁸³. Ibid.

⁸⁴. Ibid.

The data indicates that in terms of health Rangamati is better off than the other two districts. In Khagrachari the prevalence of malnutrition and diarrhoea and malnutrition is far higher in girls than in boys.

The study reported the most prevalent disease in the CHTs is malaria. 30% of cases in the CHT are malaria.

Present Health Conditions: Malaria Menace

According to *The Daily Star* of 30 November 2002, malaria claimed the lives of 1,778 people and affected over 1.1 million people in the Khagrachari district in last 11 years. According to official records, over 150 people died of malaria and 85,447 inflicted with the disease in 2002 alone. Statistics provided to the journalists showed that highest 394 people died of malaria in 1994 while the lowest 43 in 1996.⁸⁵

During the first half of 2002, Malaria broke out in an epidemic form in the Chittagong Hill Tracts, claimed lives of 242 people and affected about 1,12,000 others. Health department sources said, children and women were the worst affected and the victims died within 24 hours of the attack. The treatment was seriously hampered due to shortage of doctors and insufficient supplies of medicine.⁸⁶

According to hospital sources, in Khagrachhari about 94 people died of malaria in eight upazila hospitals and private clinics by July 2002. About 33,000 others were afflicted with the disease and they got treatment from different hospitals and private clinics.⁸⁷

Eighty one people died in 10 upazilas of Rangamati and 42,000 others were affected during the same period. In Bandarban about 67 people died in seven upazilas. During the period about 37,000 people were affected with the disease.⁸⁸

Food security and nutrition: The plight of the internally displaced Jumma children

According to the government of Bangladesh Task Force on Refugees in the CHTs, there are still 128,364 internally displaced families throughout the region, of which 90,208 were classed as 'tribal' and 38,156 'non-tribal' i.e. the illegal plain settlers who had displaced indigenous Jumma peoples from their homes in the first place. Failing to qualify for government rehabilitation ration packages, the majority of Internally Displaced Persons continue to suffer starvation conditions, with little or no access to any kind of service.

⁸⁵ . Daily Star, Regional News, Volume 3 Number 1150 Sat. November 30, 2002

⁸⁶ . The Daily Star, Dhaka, 9 July 2002

⁸⁷ . *ibid.*

⁸⁸ . *ibid.*

In 1998, a Jumma NGO based in Dhaka, Taungya, reported 40 deaths among the Internally Displaced Jummas in Langadu thana and Baghaichhari thana in Rangamati district due to malnutrition and lack of medical facilities.⁸⁹

At the 17th Working Session of the Working Group on Indigenous Populations, an indigenous representative stated: *“Most of these displaced people are now living in remote and inhospitable hill and forest areas without a decent livelihood and with no access at all to health-care facilities from the government or other agencies. Many of these people have suffered from severe malnutrition, diarrhoea, dysentery and malaria... The condition of the children, mothers of infants and elderly persons is especially acute.”*⁹⁰

In 1992, the Ministry of Environment and Forest issued a series of gazette notifications to create more reserved forests in the CHTs for re-forestation and environmental protection. The total area was 220,000 acres; between 1996-98 approximately half of this area had been declared as reserve forest. The impact on indigenous peoples is severe as this includes small farmers' registered holdings, homestead, farmlands in the process of registration, and forest and grazing commons held in accordance with customary law.⁹¹ The government of Bangladesh's expansion of 'Reserve Forest' areas in the CHTs also adds to the IDP population, and brings the land crisis to new levels of desperation. Almost the entire Khyang tribe has been evicted without compensation or assistance under this scheme, with tens of thousands of others also at risk.

Amnesty International reported in February 2000 that "IDPs reportedly continue to have little access to farming lands, non-farm dwellings, safe drinking water and sanitation facilities, healthcare and education. The economic rehabilitation of the IDPs has not yet begun in earnest."⁹²

Free Rations for the settlers

Today, 3,055 repatriated families (25%) are still unable to reclaim their land, with 40 entire villages occupied by Bengali settlers refusing to leave. Many families remain in Refugee Transit Camps, where three years have passed without any progress in their cases. Food provision has become a serious problem, and government of Bangladesh assistance will soon finish. This is in sharp contrast to Bengali settlers living in cluster villages, who have been receiving food rations ever since they arrived. In Khagrachari district alone, where the majority of refugee transit camps are

⁸⁹ . Taungya Newsletter Issue 1, Year 1, January 1999

⁹⁰ . Statement of Trinamool, a NGO based in the Chittagong Hill Tracts.

⁹¹ . Indigenous Issues, 03/2003, Asian Indigenous and Tribal Peoples Network, January 2003.

⁹² . Bangladesh- Human rights in the Chittagong Hill Tracts, 13/001.2000; www.web.amnesty.or/ai.nsf/print/ASA

located, there are 80 Bengali villages holding 26,262 families, all of whom continue to receive free rations.⁹³

The distribution of free rations only to the settlers has direct impact on the health and nutrition of the children of indigenous tribal peoples.

⁹³ . Thomas Fenny, *The Fragility of Peace in the Chittagong Hill Tracts, Bangladesh*, Forced Migration Review 11, Oxford Refugee Studies Centre, United Kingdom.

5. Article 30: Non-Implementation of the CHTs Peace Accord



“There was a consensus that peace and security at home are essential prerequisites for poverty reduction. The development partners encouraged that this should include follow up of the Chittagong Hill Tracts Peace Accord.” – Bangladesh Development Forum in its press release on 15 March 2002.⁹⁴

In its second periodic report, the government of Bangladesh refers to the Chittagong Hill Tracts Peace Accord the following terms of the Peace Accord:

- the establishment of a Regional Council (comprising the Councils of the three Hill Districts) as the coordinating and supervisory body of the Hill Tracts
- the settlement of land disputes
- the allocation of additional funds by the government and implementation of development projects – especially enhancing infrastructure – in the Hill Tracts
- a reduction in the military presence in the Hill Tracts
- the preservation of tribal culture and support for its expression at national level
- the expansion of educational stipends for tribal students
- education for children of PCJSS members and acceptance of academic certificates obtained while refugees in India
- a compensation package (including a substantial lump sum payment) for returning tribal families
- the establishment of a Ministry of Chittagong Hill Tracts Affairs.”

Apart from the return of more than 60,000 Jumma refugees who fled to neighbouring India to escape from atrocities, the government of Bangladesh provided little information on the implementation of the key provisions of the Peace Accord.

Land Commission

The government-sponsored illegal population transfers of over half a million plain settlers and land grabbing by these illegal settlers and military is the root cause of the conflict. The Peace Accord provided for establishment of a Land Commission to resolve the land disputes within three years. However, between 1997 and 2001, then Awami League government did little to set up a Land Commission. One day before handing over power to the caretaker government prior to the 2001 general elections, the Awami League

⁹⁴ . Bangladesh Government and Development Partners Emphasize Good Governance and Quicker Reforms, <http://lnweb18.worldbank.org/news/pressrelease.nsf/673fa6c5a2d50a67852565e200692a79/60927023b53f52af85256b7d0057d8da?OpenDocument>,

government passed the CHTs Land Dispute Settlement Commission Act, 2001. The government did not even consult the CHTs Regional Council.⁹⁵

Indigenous Jumma peoples have rejected the CHTs Land Dispute Settlement Commission Act, 2001, among others, because of (i) the arbitrary powers of the Chairperson to provide final judgement in the event of lack of consensus among other members; (ii) the exclusion of Jumma refugees who returned to the CHTs under the 1992 repatriation agreement from the ambit of the Land Commission; and (iii) the exclusion of the internally displaced Jummas from the scope of the Act. These provisions undermine the CHTs Peace Accord.⁹⁶

The other members of the Land Commission have yet not been appointed. The current BNP government has shown little interest to amend the anomalies of the Land Dispute Settlement Commission Act, 2001 or setting up the Land Commission.

Reduction of military presence

Article 17 (a) of the Peace Accord states: “Immediately with signing and executing the agreement between the government and the Parbattya Chattagram Jana Samhati Samiti (PCJSS) and with the members of the PCJSS coming to normal life, all temporary camps of army, ansar and village defence force in Chittagong Hill Tracts excepting Bangladesh Rifles (BDR) and permanent cantonments (three in three district headquarters and in Alikadam, Ruma and Dighinala) will be gradually brought back to the permanent places and a deadline for this will be fixed.”⁹⁷

However, only 31 camps of the estimated 520 temporary camps have been withdrawn so far.⁹⁸

While the government may have genuine security concerns, ordinary Bangladesh Police could tackle the prevailing situation in the CHTs. More so, when the Article 17 also provides that “The members of the armed forces can be deployed under due rules and procedures in case of deterioration of law and order situation and in times of natural calamities or like other parts of the country under the control of the civil administration.” As the Operation Clean Heart shows the government can call the army if it so wishes.

Instead of withdrawing the military, the government launched “Operation Uttaran”. The military continue to conduct operations through out the CHTs. The order issued in 1973

⁹⁵ . <http://www.unpo.org/news/news2002dec/chittagong-dec02.htm>

⁹⁶ . The Indigenous World 2001–2002, International Work Group for Indigenous Affairs, Copenhagen, Denmark, page 317.

⁹⁷ . <http://www.bangladeshgov.org/pmo/agreement/agreeme1.htm>

⁹⁸ . The Indigenous World 2001–2002, International Work Group for Indigenous Affairs, Copenhagen, Denmark, page 317.

to impose military administration in the CHTs remains in effect at present, having never been withdrawn.⁹⁹

In addition, in violation of Section 64 of the Peace Accord, the government had also allocated a total of 1,56,552 acres of land for military purposes after the signing of the Accord, respectively, 9,560 acres for establishment of Ruma Armed Forces Garrison in Bandarban district, 183 acres for expansion of Bandarban Brigade headquarters, 30,446 acres for establishment of Artillery Training Centre, 26,000 acres for establishment of Air Force Training Centre, 72,000 acres for reserved forestation and 18,333 acres as lease by District Commissioner. These lands were allotted without any consultation with the Regional Council.¹⁰⁰

The army had already occupied large areas of lands prior to the signing of the Accord. Article 17(b) of the Accord provides that “The lands to be abandoned by military or para-military camps and cantonments will be either returned to the original owners or to the hill district councils.” As the government failed to withdraw the camps, many indigenous peoples could not get back their lands.

Unless the CHTs is fully demilitarised through withdrawal of the army as provided in the Peace Accord, the civil society could neither grow nor development activities could be undertaken without hindrance.

Rehabilitation of returnee Jumma Refugees and Internally Displaced Jummas

About 43,000 Jumma refugees returned to CHTs from Tripura State of India after the signing of the Peace Accord. In addition, about 60,000¹⁰¹ indigenous peoples were internally displaced between 1992 and 1997. They include people whose neighbours were massacred and whose homes were burnt down during military operations. The settlers confiscated their lands and in many instances obtained false official certificates of ownership.

In addition to returning the land under the CHTs Peace Accord, the government further agreed to “ensure leasing two acres of land in the respective locality subject to availability of land of the landless tribals or the tribals having less than two acres of land per family. However, groveland can be allotted in case of non-availability of necessary lands.”

⁹⁹. Bushra Hasina Chowdhury, *Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord*, Programmes in Arms Control, Disarmament and International Security, University of Illinois, December 2001.

¹⁰⁰. Bushra Hasina Chowdhury, *Building Lasting Peace: Issues of the Implementation of the Chittagong Hill Tracts Accord*, Programmes in Arms Control, Disarmament and International Security, University of Illinois, December 2001.

¹⁰¹. Bangladesh– Human rights in the Chittagong Hill Tracts, 13/001.2000; www.web.amnesty.or/ai.nsf/print/ASA

The government took no initiatives to provide cultivable land or groveland. About 40 villages of returnee refugees are still under the occupation of the plain settlers. Over 3,000 families did not get back their own land.¹⁰²

Rather than rehabilitating the returnee Jumma refugees and Jumma IDPs, then Awami League government identified the illegal settlers – who had displaced indigenous Jumma peoples from their homes in the first place – as “internally displaced persons”. As a result, the Government CHTs Task Force on IDPs estimated the number of IDPs as of July 2000 at 1,28,000.¹⁰³ The present Bangladesh National Party government has also failed to appoint a Chairman of the Task Force. It however provides free rations only to the illegal settlers.

Guided illegal settler oriented development:

The CHTs Accord urges the government to “give preference to the eligible tribal candidates” in appointing the Chairman of the CHT Development Board (CHTDB). The BNP government however appointed Abdul Wadud Bhuiyan, a Member of Parliament from Khagrachari, as chairman of the Board. Under Bhuiyan’s leadership, the CHTDB has been undertaking settler-oriented development programmes and the flow of illegal settlers into the CHTs have increased manifold. In fact, Bhuiyan reportedly sought to issue orders to provide free rations only to the settlers. When the Deputy Minister for the CHTs Affairs, Mani Swapan Dewan refused to toe the line on the issue of providing free rations only to the settlers, he was divested of his portfolio although he remained minister. As Prime Minister Khaleza Zia decided to keep CHTs Affairs Ministry under the Prime Minister’s Office in clear violation of the Peace Accord, the Deputy Minister for the CHTs Affairs has become a show-piece meant for international donors.¹⁰⁴

The military oriented development in the CHTs

Even after the CHTs Peace Accord, the military forces continue to engage in major developmental activities of the CHTs. For example, the Army Engineer Construction Battalion has constructed the road from Dighinala to Marishya (19.5 km) in November 1999 and has been constructing the road from Chimbuk to Thanchi (53.7 km).¹⁰⁵ The army has expressed interests to develop the roads in the CHTs.

The involvement of national and international road construction companies in the CHTs poses a threat to security and financial interests of the army, in particular, the Army Engineer Construction Battalion. Indeed, if the security situation remains “dynamic”, it is only the Army Engineer Construction Battalion that can provide security for road constructions. In the prevailing situation in the CHTs, it may not be difficult to hire vigilante groups or mercenaries to create disturbance to justify military presence. The

¹⁰². <http://www.unpo.org/news/news2002dec/chittagong-dec02.htm>

¹⁰³ New Country Profile on Internal Displacement in Bangladesh, June 2001; www.idpproject.org

¹⁰⁴. Article D(1) of the Peace Accord provides “A Ministry on Chittagong Hill Tracts Affairs will be set up appointing one minister from the tribals”.

¹⁰⁵. <http://www.bangladesharmy.info/national/rehab.htm>

army only does not pose a threat to development programmes but their involvement in the development of the CHTs will be catastrophic as their development activities are undertaken for purely military purposes.

No Democracy for the indigenous peoples

Since their establishment in 1989, the only elections to the Hill District Councils of Khagrachari, Rangamati and Bandarban were held in May 1989 under then regime of military dictator General H M Ershad. The so-called democratic governments of Bangladesh National Party and Awami League on the other hand appointed their party members as chairpersons of the District Councils, depriving the people of the CHTs of the opportunity to participate in governance.

No elections have been held to the Regional Council either since its formation in 1999.

On 1 January 2003, the High Court of Bangladesh ordered to hold elections to the three Hill District Councils by 13 March 2003, rejecting the government's petition for extending the Councils' terms by another six months.¹⁰⁶ Until today, elections to the District Councils and Regional Councils have not been held. While the decision of the High Court is a step in the right direction to bring an end to the unconstitutional and undemocratic "Dhaka selected regimes" in the District Councils and the Regional Councils, government should exclude the non-permanent residents of the CHTs from the voter lists before holding the elections.

¹⁰⁶. Jugantar, Dhaka, 3 January 2003.

6. Article 30: Persecution of minority Hindus

In the second periodic report of the government of Bangladesh states:

“Rights of Religious Minorities

The measures taken to protect the right of Hindu, Buddhist, Christian and animist children to profess or practise their religion are described under article 14. No specific examples have come to light of children being denied this right.”

The simplistic explanation on the rights of minorities by Bangladesh government fails to reflect the status of minority children – the one of extreme vulnerability against abuses. This despite that discrimination against the Hindus in Bangladesh is not a new phenomenon.

Conversion from Islam to Christianity in particular is met with hostility and often results in the loss of inheritance. In most cases converts are beaten, denied water from village wells, or even thrown out of the villages. For example, if the new Christian convert was a farmer, he loses his ancestral or inherited farm. This is the case with most farms in Bangladesh¹⁰⁷. Converting from Islam to any other religion is therefore treated as apostasy - an offence.

Hindus as enemies of Bangladesh under the Vested Properties Act:

The Hindus have suffered discrimination and harassment since the 1947 Partition of India. In 1965, following the Indo-Pakistan war, then Pakistan Government introduced the Enemy Property (Custody and Registration) Order II of 1965. The Defence of Pakistan Rules identified the minority Hindus in then East Pakistan as enemies and dispossessed them of their properties.

After independence from Pakistan, the President of Bangladesh, Sheikh Mujibur Rahman in his Order No. 29 of 1972 changed the nomenclature from Enemy Properties Act (EPA) to ‘Vested Property Act’ (VPA). The repression of minorities however did not end – this, in spite of the fact that Bangladesh’s liberation war was an antithesis of the 1947 Partition that took place on religious lines. Linguistic and cultural similarities also do not seem to have induced efforts to ensure equal treatment of the country’s Hindu minority.

Rather Clause 2 of the Order stated, “Nothing contained in this Order shall be called in question in any court.” In fact, one of the reasons for Sheikh Mujibur Rahman’s continuation of the VPA was the forcible takeover of Hindu-owned lands by Awami League leaders during the Pakistani regime, and opposition to the repeal of the EPA.

The consequences of the continuation of the VPA have been devastating. The Association for Land Reform and Development (ALRD), a Dhaka-based NGO, estimates

¹⁰⁷. <http://www.persecution.com/link/09opportunity.asp>

that a total of 10,48,390 Hindu households have been affected by the Vested Properties Act, and estimates that 1.05 million acres of land have been dispossessed. About 30 percent of the Hindu households (including those that are categorised as missing households) or 10 out of every 34 Hindu households are the victims of the VPA/EPA. These estimates, although based on various plausible assumptions, should be considered as sufficiently indicative of the gravity of the situation.¹⁰⁸

The Hindu minority suffers under Governments of both the Awami League and the Bangladesh National Party. The Ain O Salish Kendra (ASK), a prominent Bangladeshi NGO, in its report *'Power, Safety and the 'Minorities': A Brief Report'* states, "[i]n 1999, about 29 cases of forceful occupation of land and property of the Hindu community have been reported in different newspapers ... In the Sunamgonj district out of 21,000 acres of vested property land 16,000 acres have been illegally occupied; likewise in the Mymensingh district out of 29,722 acres of vested property land, 28,000 acres of land and 300 houses (vested property) have been occupied by one influential person... It matters little if the party is in power or in opposition. In 1995, 72 per cent of all vested property was acquired by members of (the) Bangladesh National Party (BNP); and in 1998, 44 per cent was acquired by the Awami League and 32 per cent by the BNP."

Because of such atrocities, hundreds of thousands of Hindus have fled from Bangladesh and have taken shelter in neighbouring States of India. According to ALRD, "the implementation of Enemy Property Act\Vested Property Act has accelerated the process of mass out-migration of Hindu population from mid 1960s onward. The estimated size of such out-migration (missing Hindu population) during 1964-1991 was 5.3 million, or 538 persons each day since 1964, with as high as 703 persons per day during 1964-1971. If the above estimates are close to reality, then it would not be an exaggeration to conclude that the Enemy/Vested Property Acts acted as an effective tool for the extermination of Hindu minorities."¹⁰⁹

Attacks after 2001 parliamentary elections

In the weeks following the 1 October 2001 general elections, Bangladesh witnessed an outburst of systematic attacks on the minority Hindu community across the country, in addition to attacks on activists of the freshly ousted Awami League.

By 8 October 2001, at least 30 people had been killed and more than 1,000 others injured. Their houses were torched, ransacked and in many cases seized, women were raped, and temples were desecrated.¹¹⁰

The Hindu-dominated areas in Barisal, Bhola, Pirojpur, Satkhira, Jessore, Khulna, Kushtia, Jhenidah, Bagerhat, Feni, Tangail, Noakhali, Natore, Bogra, Sirajganj,

¹⁰⁸. Political Economy of the Vested Property Act in Rural Bangladesh by Association for Land Reform and Development, Dhaka, 1997.

¹⁰⁹. Ibid.

¹¹⁰ . Attacks on Hindu minorities in Bangladesh, Human Rights Features, Voice of the Asia Pacific Human Rights Network, 12 December 2002.

Munshiganj, Narayanganj, Narsingdi, Brahmanbaria, Gazipur and Chittagong were the worst hit.¹¹¹

Many Hindu families have reportedly fled their homes and sought refuge in areas considered 'safe.' The Bangladesh Observer reported that at least 10,000 people of the minority community from Barisal district had left their homes following attacks by activists of the fundamentalist Jamaat-i-Islami party and had taken shelter in neighbouring Gopalganj district, the electorate of the former Prime Minister Sheikh Hasina. Many others fled to the Indian states of Tripura and West Bengal.¹¹²

Meanwhile, on 27 November 2001 the High Court, in response to a petition filed by a rights organisation, ordered the government to investigate the incidents and submit a report by 15 January 2002. It issued notice to the government as to why it had not taken action against those responsible for the attacks on minorities. Earlier, on 24 November 2001, the Court had ordered the government to explain why it had not taken steps to halt post-election attacks and harassment of minorities.

On 9 April 2001, the Parliament of Bangladesh passed the Vested Properties Return Act, 2001. It was passed after being referred to the Parliamentary Standing Committee on Ministry of Land for cursory scrutiny. The law was an exercise in political tokenism before the general elections. It also does not adequately address the issue. This is reflected in the UN Special Rapporteur's report.

"It appears, however, that this bill would present serious problems. According to the non-governmental sources, the bill provides that properties legally vested under the ownership of the Government and those declared to be enemy or vested property after 16 February 1969 will not be considered as vested property after the said period. Most Hindu property, however, was declared vested property after that date. The bill also states that the proprietorship status of the vested property will not be challenged if the property was transferred to the Government, a government institution, or to a private individual, has been sold or has been handed over permanently by the government at the directives of a court. It will not even be possible to challenge such cases in court... Lastly, the bill provides that in the event of the decease of the original owner, rights of inheritance shall apply in accordance with Hindu religious personal laws. Hindu women would therefore be automatically excluded from inheritance, since Hindu religious personal laws do not accord any rights of inheritance to women."¹¹³

Under the Vested Properties Return Act, the government was tasked to prepare a list of vested property holdings by October 2001, and claims were to have been filed within 90 days of the publication date. No further claims were to be accepted after that period expired. The government is yet to publish the list of vested properties.¹¹⁴

¹¹¹ . *ibid.*

¹¹² . *ibid.*

¹¹³ . A/55/280/Add.2

¹¹⁴ . Suhas Chakma, *The issue of illegal migrants*, The Pioneer, New Delhi, 2 May 2003.

On 26 November 2002, the Parliament passed an amendment to the Vested Property Return Act allowing the Government unlimited time to return the vested properties. The properties were to remain under the control of Deputy Commissioners until a tribunal settles ownership. The amendment also gives the Deputy Commissioners the right to lease such properties until they are returned to their owners. The government claimed that this provision would prevent the properties from being stolen.¹¹⁵

¹¹⁵ . *ibid.*

7. Article 7: Bihari Muslim children – No Nationality

During the Partition of India in 1947, around one million Muslims from Bihar had moved to what became East Pakistan. In 1971, many joined the Pakistani militia or collaborated with the Pakistani army. At the end of the 1971 Indo-Pak war, the Bihari community found itself up against the full force of a fervent and triumphant Bengali nationalism. The Biharis came to be seen as symbols of West Pakistan domination, and therefore, as traitors.

Post-independence, the Biharis were rendered stateless. Many fled to save themselves from the anti-Bihari frenzy. Those who remained were tormented, terrorised and shoved into 66 squalid camps in Bangladesh. These camps are scattered across Dhaka, Chittagong, Saidpur, Rangpur, Khulna and other districts. These transit camps have become their home, where they have been living in subhuman conditions for the last 30 years. Lack of water and sanitation facilities has made these camps breeding grounds for epidemics.

Although Pakistan had agreed to take back the Biharis under the August 1973 repatriation accord, it was slow in giving clearance. In 1974, a tripartite agreement was signed between India, Pakistan and Bangladesh for a second phase of repatriation. Nearly 170,000 Biharis moved to Pakistan under these agreements but Pakistan interpreted the categories of 'non-Bengalis' set out in the agreement restrictively and did not take back all the Biharis. Between 1977 and 1979 nearly 9,900 Biharis repatriated to Pakistan followed by another 4,800 in 1982. In 1993, Pakistan accepted 53 Bihari families before protests both from within the ranks of the governments and the local population halted the process.¹¹⁶

Since neither country is prepared to accept full responsibility for them, the Biharis are stateless in Bangladesh. The government of Bangladesh in the Presidential Order No 16 of February 28, 1972 declared the properties owned by Biharis as abandoned, and appointed the State as the custodian. The illegal occupants of these properties have now become owners of these 'abandoned' properties.¹¹⁷

According to the United Nations Convention on the Reduction of Statelessness (1959) and international precedents, every "Bihari is entitled to Bangladeshi citizenship and Bangladesh cannot deny it." The High Court Division of the Supreme Court has accepted this position. The court in its verdict in a case involving one "Bihari" in 1984 stated that: 'the mere fact that he filed an application for going over to Pakistan cannot take his citizenship'. The Biharis however have yet to be granted citizenship.¹¹⁸

¹¹⁶. "Bihari Muslims stateless in Bangladesh– UNHRC"– www.rediff.com/news/2000/nov/15unhrc.htm

¹¹⁷. Shirking Space: Minority Rights in South Asia– SAFHR

¹¹⁸. *ibid.*

The children have restricted access to education.¹¹⁹ Only five camps out of 61 have schools run by the Stranded Pakistanis General Repatriation Committee (SPGRC). In some camps, the community runs its own primary school. But most children live off their daily wages. Most of them find it difficult to find work even though the Biharis are willing to work for half wages. Biharis children also face difficulties in getting admission to colleges and universities.¹²⁰

The children who are born to the Biharis lack nationality and continue to be deprived of their rights.

¹¹⁹ States, Citizens and Outsiders– The Uprooted Peoples of South Asia – Tapan K.Bose and Rita Manchanda (SAFHR).

¹²⁰ Ibid.

8. Conclusions and recommendations

The second periodic report of the government of Bangladesh is economical with the truth about the actual status of the children in Bangladesh.

The government of Bangladesh has taken little measures to develop institutional safeguards such as establishment of a National Human Rights Commission consistent with the Paris Principles on National Human Rights Commission. Rather, the government of Bangladesh provides impunity to the security forces. While the general citizenry of Bangladesh enjoy little rights, indigenous tribal peoples and minorities are in a more disadvantageous position because of the biases of the administration, political system and the judiciary.

In order to properly examine the second periodic report of the Government of Bangladesh, it should be requested to provide the following additional and updated information in connection with the consideration of the second periodic report:

Recommendations for requests to the government of Bangladesh for further additional and updated information

A. General measures of implementation

The government of Bangladesh should be requested to provide:

- Information about the specific measures being taken for the withdrawal of reservations to Article 14 and Article 21 of the Convention on the Rights of the Child;
- Reasons for non-implementation of the recommendations contained in the Committee's 1997 concluding observations (CRC/C/15/Add.74), in particular, what obstacles have hindered implementation and what measures are being undertaken to ensure their implementation in the near future;
- Information on the status of the bill for establishment of a National Human Rights Commission in Bangladesh and whether the proposed bill meets the Paris Principles on National Human Rights Institutions, specially "to ensure the **pluralist representation of the social forces (of civilian society)** involved in the promotion and protection of human rights.";
- Information on the existing mechanisms to monitor the implementation of the Convention on the Rights of the Child including the mandate to deal with individual complaints from children;
- Information on the number of children being held under "safe custody" as provided under the Suppression of Violence Against Women and Children Act, 2000 and budgetary allocations made for these "safe custody" centres;

- Information on the progress made in plans to establish a database or another system using child rights indicators that would gather information on the Convention's implementation keeping in mind the Committee's observation during the examination of first periodic report that "insufficient attention has been given to the matter of establishing an effective integrated system of data collection covering all children";
- Information on whether any measures have been taken to disseminate information on the principles and provisions of the Convention to children of indigenous peoples in their mother tongues, particularly in the Chittagong Hill Tracts;
- Information about the issues affecting children which the State party considers to be priorities requiring the most urgent attention with regard to the implementation of the Convention;

B: Children belonging to a minority or an indigenous group (Article 30)

As a follow up to the information provided in the second periodic report, the government of Bangladesh should be requested to provide the following information:

Indigenous children and the Chittagong Hill Tracts Peace Accord

- Information about the status on the establishment and functioning of the Land Commission to settle the land disputes;
- Total number of military/paramilitary camps in the CHTs and number of camps withdrawn so far pursuant to the 1997 CHTs Peace Accord for the reduction of military presence in the region;
- Detailed information about the involvement of Bangladesh army in the developmental activities in the CHTs;
- Information about the budgetary allocation made on the "the preservation of tribal culture and support for its expression at national level", especially for introduction of teaching in mother tongues and the measures being undertaken to develop the curriculum, recruitment and training of the teachers for the same;
- Information about the military role in selection of indigenous students for higher education under the quota system;
- Information about the free rations provided to the plain settlers in the CHTs, including percentages of these allocations derived from international sources;

- Information on the rehabilitation of the returnee refugees and internally displaced Jummas, in particular, by providing information on the implementation of the 20 Point Agreement signed with the refugees for their honourable return to Bangladesh and any special measures taken for the returnee refugee and IDP children;
- Information as to why the present CHTs Affairs Minister has been given the Status of Deputy Minister in violation of the CHTs Peace Accord;

The Hindu minority children

- A copy of the affidavit filed by the government of Bangladesh before the Dhaka High Court on the alleged atrocities perpetrated against the Hindu minorities after 1st October 2001 general elections and measures being taken to address these atrocities;
- Information about the number of Hindus who have been affected by the Enemy/Vested Properties Act and total area of lands (in terms of acres/hectares) seized from the Hindus under the Act;
- Information on the amendment to the Vested Property Return Act, 2001 passed on 26 November 2002 and whether there is any proposed time frame for implementation of the Act;
- Information on the decadal growth rate of Hindu population in Bangladesh from 1971 to 2001 vis-à-vis national growth rate of population;

The stateless Bihari Muslims children

- Information on the nationality status of the children born to the Bihari Muslims in Bangladesh, the steps being taken to grant their right to nationality (Article 7) and measures being taken to ensure that Bihari muslim children receive all the facilities and rights accorded to Bangladeshi children;

C. Data and Statistics

In addition to the information provided in the second periodic report, the government of Bangladesh should be requested to provide:

- disaggregated data (by gender, age, indigenous tribal peoples, minority groups, internally displaced persons, stateless people) covering the years 1998 to 2002 on the number and percentage (of the total national population) of children under 18 years living in Bangladesh;
- in light of article 4 of the Convention, provide additional aggregated data (by district) for 1998-2002, budget allocation, trends (in the national budget as

well as the budget for the Chittagong Hill Tracts Regional Council, Hill District Councils) for the implementation of the Convention, evaluating also the priorities for budgetary expenditures given to the following:

- f. Education including in mother tongue for the indigenous children (pre-primary, primary and secondary education);
- g. Health care (including different types of health services, primary health care, vaccination programmes, adolescent health care, malaria eradication programmes in the CHTs and other health services for children);
- h. Children with handicaps;
- i. Support to families and the protection of children who are in need of alternative care including the support of care institutions;
- j. Number of juvenile remand homes in Bangladesh and their locations for administration of juvenile justice

The government of Bangladesh should also be requested to indicate the percentages of these allocations derived from international sources.

- With reference to child abuse, including sexual abuse, provide disaggregated data for the period 1998-2002 (by age, gender and types of violations reported, ethnic origin and religious beliefs of the victims), on the:

- a. Number of cases of child abuse reported to police or social or other services;
- b. Number and proportion of victims that have received counselling assistance in recovery;
- c. Number of persons prosecuted for offences against children under the Suppression of Violence Against Women and Children Act;
- d. Number of law enforcement officials involved in these offences; and
- e. Number of children detained in “safe custody” under the Suppression of Violence Against Women and Children Act;

- Provide disaggregated data (including by gender, age, indigenous tribal peoples and minorities and urban/rural areas) for the years 1998 to 2002 in percentages of the relevant age groups on the:

- a. Rate of literacy below and over 18 years;

- b. Percentages of children enrolling in pre-primary, primary and in secondary schools; number and percentage of drop-outs;
 - c. Average ratio of teachers per children in classrooms, with an indication of any significant regional or rural/urban disparities, as well as the number of teachers from indigenous tribal peoples and number of teachers employed to teach in mother tongues;
- provide appropriate disaggregated data (including by gender, age, indigenous tribal peoples, minority groups and type of crime) on children violating the law for the last three years (1999-2001), including:
- i. The number of children who have allegedly committed a crime reported to the police;
 - j. Where applicable, the number of children held in pre-trial detention and the average duration of such detention;
 - k. The number of children sentenced by Courts;
 - l. The nature of sanctions (fines, detention, prison sentence, other) and the number of suspended sentences;
 - m. Where the sanction is deprivation of liberty, further specify the period of detention and the type (juvenile, adult or other) of detention facility (district wise) in which children are held;
 - n. The percentage of recidivism cases;
 - o. The number of reported cases of abuse and maltreatment of children that occurred during their arrest and detention; and
 - p. The number of juvenile remand homes, their locations and budgetary allocations.