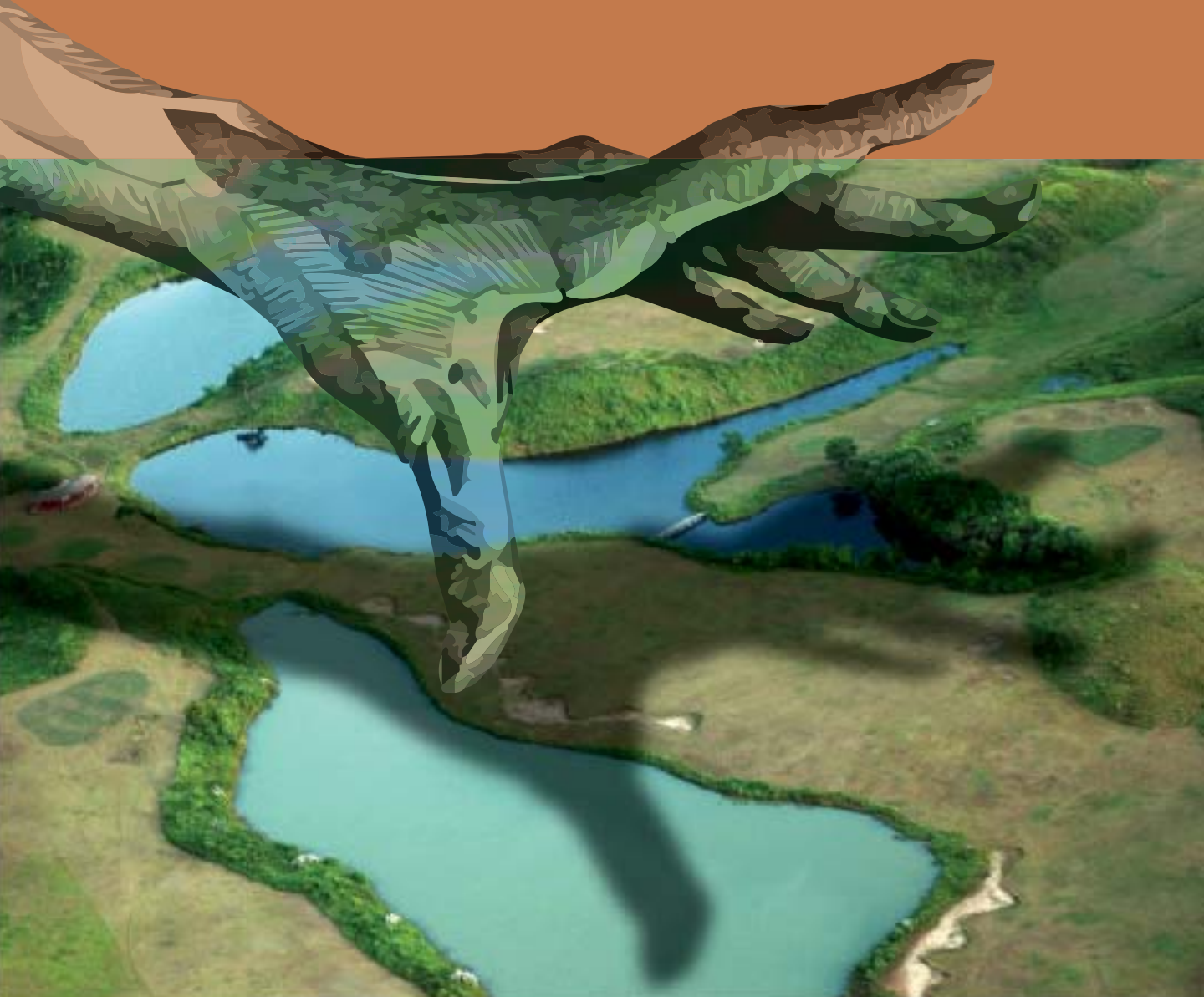


Alienation of the Lands of Indigenous Peoples

in the Chittagong Hill Tracts of Bangladesh



**Shapan Adnan
Ranajit Dastidar**

This book deals with the forcible takeover of the lands of the indigenous peoples of the CHT. Based on fieldwork research among both Pahari and Bengali groups, the book has four chapters, concerned with different aspects of the study. Chapter 1 introduces the research and describes how it was undertaken.

Chapter 2 deals with the CHT Accord of 1997 and the failure to implement most of its important clauses in a substantive manner. It also takes account of parallel social and demographic changes in the CHT occurring outside the framework of the Accord, the results of which may be very difficult, if not impossible, to reverse. Some of these trends bypass the provisions of the Accord and could potentially make it irrelevant.

Chapter 3 provides detailed analysis of the numerous mechanisms of land alienation in the CHT. The roles of different government and private agencies are analysed with empirical evidence, including sixteen case studies. Various Bengali interest groups are also found to be grabbing the lands of poor Bengali settlers, reflecting *intra*-ethnic and classed-based dimensions of land alienation. The growing significance of commercial land grabbing for rubber, timber and horticulture plantations, driven by profit-oriented capitalist production, is highlighted. These constitute elements of global land grabbing, indicative of 'accumulation by dispossession' under contemporary globalization and neoliberal capitalism.

Chapter 4 undertakes policy analysis concerned with the prevention of further alienation of Pahari lands as well as the restitution of their already occupied areas.

Alienation of the Lands of Indigenous Peoples in the Chittagong Hill Tracts of Bangladesh

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Preface

This exploratory research was commissioned by the CHT Commission, represented by its three co-chairs: Eric Avebury, Sultana Kamal and Ida Nicolaisen. It constitutes the first phase of an envisaged two-phase study of the causes of land alienation of the indigenous peoples of the Chittagong Hill Tracts (CHT) of Bangladesh. The work is part of the efforts of the CHT Commission to contribute to the just resolution of the land and ethnic conflicts of the region within the overall framework of the CHT Accord of 1997. It was felt that the identification and analysis of the factors and forces driving the land alienation of the indigenous peoples would help to devise policy options for restituting their occupied lands and preventing such land loss in the future.

We have been under no illusion that this would be an easy task, given the social and political realities of Bangladesh in general and the CHT in particular. The actual mechanisms through which various agencies and interest groups have been forcibly taking over Pahari lands involve very complex and sensitive issues. We have been guided by the concern that even though mere research would not be able to halt the relentless dispossession of the Hill peoples, our study should at least document and analyze the mechanisms through which it is taking place and make the findings available to all those who might be in a position to do so.

We have been able to deal with only the tip of the iceberg in relation to the mechanisms of land alienation at work in the CHT. A considerable part of the evidence that we collected could not be fully analyzed and pursued in greater depth due to constraints of time and resources. Our findings should therefore be treated as hypotheses regarding the mechanisms of land alienation based on preliminary analysis, which could be taken up for in-depth assessment and verification through further research.

We would like to acknowledge with thanks the support received from the Toyota Foundation through the good offices of Jumma Net, the British High Commission in Bangladesh, the International Work Group for Indigenous Affairs (IWGIA), and the Association for Land Reform and Development (ALRD) in making this study possible.

Much of this study was written up with the support of a visiting research fellowship (to one of the authors) at the University of Oxford,

under the auspices of its Contemporary South Asian Studies Programme (CSASP) in the School of Interdisciplinary Area Studies (SIAS). This was made possible by the interest and support of Professor Barbara Harriss-White, the Director of the Programme, which is gratefully acknowledged. Thanks are also due to Sarah Rankin, the Programme Administrator, for her help and support. Valuable comments and feedback on the findings of this study were provided by the participants at a seminar in Queen Elizabeth House (the Department of International Development of Oxford University).

We would like to put on record the invaluable support and coordination provided by Christina Nilsson and Hana Shams Ahmed of the secretariat of the CHT Commission all through the study and its publication. Thanks are also due to Tom Eskildsen of Jumma Net and Shamsul Huda of ALRD for their support to the study.

Our computer team, consisting of Mobarak Hossain, Md. Shamsul Hoque Shakil, Md. Sohel Rana and Swapan Banik, provided essential support services by transcribing the recordings of fieldwork interviews and discussions, as well as processing the text and maps of the report.

We are indebted to colleagues and friends for providing valuable inputs and feedback during the course of the study. Raja Devasish Roy and Sara Hossain reviewed the original research proposal. Meghna Guhathakurta provided important ideas in discussion. Written comments and editorial suggestions on the draft report were provided by Bruce Currey and Father R. W. Timm. Christina Nilsson edited the report and helped to remove some factual errors. Particularly invaluable have been the editorial and analytical comments provided by Sara Hossain on the draft report which helped to clarify many issues and improve the phrasing of the text. While it has not been possible to incorporate all their suggestions, we have accepted most of them and are grateful for the time and effort that they put in.

We would like to acknowledge with thanks the help, information and encouragement received from many friends, colleagues and respondents during the course of the study. These include, in alphabetical order: Adison Khisa, Bachha Khyang, Bhumitra Chakma, Bidhayak Chakma, Bimal Chandra Chakma, Brajendu Shekhar Chakma, Chanchumoni Chakma, Chand Roy, Ching Kew Roaza, Ching La Mong Chak, Goutam Dewan, Hemanta Tripura, Ilira Dewan, Kabita Chakma, Khandaker Azizur Rahman, Kirtinishan Chakma, Madhu Mangal Chakma, Mangal Kumar Chakma, Manju Lal Dewan, Mong Sa

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We have learnt much from those members of the IP who have been conducting research on their own into issues pertaining to the alienation of Pahari lands as well as the complex forces driving them. Without their help it would not have been possible for us to understand these issues and incorporate them in our findings. While we are indebted to them, it has been deemed advisable not to disclose their names at this juncture for their own safety. However, we hope to be able to acknowledge their contributions more fully when the situation becomes more favourable.

It should be stated that none of those whose contributions we have acknowledged above is responsible for any remaining errors and limitations of this study, for which we alone take responsibility as the authors.

As this study is part of a continuous research process, we would appreciate any comments and criticism from our readers and colleagues, which would serve to improve our future work and publications on this subject. Such feedback may be sent to our respective email addresses: amsa127@gmail.com and rana.dastidar@gmail.com

Shapan Adnan and Ranajit Dastidar

28 February 2011

Acronyms

ADB	Asian Development Bank
AL	Awami League
BDR/BGB	Bangladesh Rifles, subsequently renamed as Border Guard Bangladesh
BNP	Bangladesh Nationalist Party
CCC	Chittagong Hill Tracts Citizens' Committee
CHT	Chittagong Hill Tracts
CHTC	Chittagong Hill Tracts Commission
DC	Deputy Commissioner
fn.	Footnote
HDC	Hill District Council
HDLGC	Hill District Local Government Councils
IDP	Internally Displaced Persons
IP	Indigenous Peoples
JI	Jamaat-e-Islami
MPFLR	Movement for Protection of Forest and Land Rights in the CHT
OC	Officer in-Charge (of a police station)
PCJSS	Parbatya Chattagram Jana Samhati Samity
RC	Regional Council
RF	Reserve Forests
SB	Shanti Bahini
Task Force	Task Force for Rehabilitation of Returnee Refugees and IDP
UNO	Upazilla Nirbahi Officer
UPDF	United Peoples' Democratic Front
USF	Unclassed State Forests
VCF	Village Common Forests
VGf	Vulnerable Group Feeding
WB	World Bank

Alienation of the Lands of Indigenous Peoples in the Chittagong Hill Tracts of Bangladesh

SUMMARY

Shapan Adnan and Ranajit Dastidar

INTRODUCTION

This is an exploratory study of the causes of the alienation of the lands of the indigenous peoples (IP)¹ of the Chittagong Hill Tracts (CHT) of Bangladesh. It provides description of the mechanisms of land grabbing as well as some provisional explanations of the causal factors driving this process. At the outset, the impacts of the CHT Accord of 1997 in protecting the lands of the IP are assessed, along with the parallel changes taking place outside the framework of this peace treaty over 1997-2010 (Chapter 2).

The analysis of the mechanisms of land alienation is arranged in terms of a typology of the public and private agencies involved and the specific means used by them, such as state acquisition or forcible seizure of land (Chapter 3). These mechanisms are illustrated by evidence drawn selectively from the 1970s up to the present (2010). Sixteen case studies of varying length have been constructed to provide concrete instances of the land grabbing processes. The distinctive features of the land grabbing mechanisms emerging after the CHT Accord, compared to those in operation beforehand, are highlighted in conclusion. The analysis in this chapter also takes note of different types of responses of the Hill peoples to the forcible takeover of their lands. Among these are various forms of resistance that demonstrate their agency and resilience.

¹ In the present study, we have used the terms Indigenous Peoples (IP), Pahari, and Hill peoples interchangeably to designate all the ethnic minority groups of the CHT in a *collective* manner. The term 'Jumma people' has also been used by others for similar purposes.

On the basis of the analysis above, the study puts forward policy analysis and recommendations aimed at restituting the illegally occupied lands of the IP as well as preventing such land loss in the future (Chapter 4).

Objectives

The objectives of the study are as follows:

1. To describe the various mechanisms used to grab lands of the IP and explain the causal factors underlying these processes as well as the resultant conflicts between the various ethnic groups and social classes in the CHT.
2. To identify the factors constraining the implementation of the 1997 CHT Accord, particularly its provisions concerning restitution of the illegally occupied lands of the Hill peoples and securing their land rights in the future.
3. To appraise the performance of the Land Commission to date in terms of the roles specified in the CHT Accord and identify the factors that have constrained its capability to implement them, followed by policy recommendations to make it more effective.
4. To provide policy analysis and recommendations concerned with restituting the illegally occupied lands of the indigenous peoples of the CHT as well as ensuring protection against forced eviction from their lands in the future.
5. To suggest advocacy and lobbying activities that may be taken up by the Hill peoples as well as concerned support groups and networks to facilitate the restitution of the occupied lands of the IP as well as to protect their existing lands from further expropriation.

Methodology

The study is based firstly on primary data generated through fieldwork by the researchers, involving unstructured interviews and focus group discussions with respondents in the CHT as well as the cities of Dhaka and Chittagong. Secondly, it involves the content analysis of hundreds of secondary sources including legal documents, official reports and correspondence, applications and petitions, press reports, etc. These were collected in the field or provided by key informants. In addition, the study has been able to utilize information from the activities of the CHT Commission, based on its discussions with concerned individuals

and agencies, as well as documents submitted by them to the commission.²

Scope and Limits

Limits of time and resources did not allow this study to explore many issues in greater depth and provide a more comprehensive analysis of land alienation in the CHT. Its findings may be regarded as provisional, based on preliminary analysis. Furthermore, the contents have focused on the predominant pattern consisting of the lands of the IP being expropriated by Bengali interest groups and agencies of the state. However, there are also instances of land grabbing among Bengalis as well as the IP. The occurrence of such *intra-ethnic* and sometimes class-based land conflicts has been noted in context, but it has not been presently possible to provide in-depth treatment of these aspects.

THE CHT ACCORD AND PARALLEL DEVELOPMENTS

Chapter 2 provides a brief review of the implementation status of the CHT Accord as well as parallel processes during 1997-2010 affecting the political and ethno-demographic structure of the CHT. Most of the substantive clauses of the Accord, concerned with devolution of power to local self-government institutions of the CHT, viz. the Hill District Councils (HDC) and the Regional Council (RC), have remained unimplemented or addressed in an unsatisfactory manner. The Task Force for Rehabilitation of Returnee Refugees and Internally Displaced People (IDP) has been kept largely ineffective. The Accord had envisaged that the Land Commission would serve as a mechanism of resolving land disputes and restituting the illegally occupied lands of the IP. However, it was left in a dormant state until its reactivation in 2009. Paradoxically, since then the Commission has been manipulated by its incumbent Chairman in ways that undermine the land rights of the IP, provoking resistance by the latter and resulting in an impasse in its activities by the end of 2010. Despite official assurances and political rhetoric to the contrary, the current AL-led government has yet to provide a road map embodying its commitment to implement the Accord within a specified time-frame. Significantly, lack of

² This was made possible by the fact that one of the authors is a member of the CHT Commission who participated in its activities in Dhaka and the CHT and had access to the documents submitted to the commission.

implementation of the Accord has given rise to consequences that have facilitated the loss of Pahari lands, e.g. because the government has not transferred necessary powers to the HDC and RC as stipulated.

Furthermore, parallel developments during 1997-2010 have been changing the demographic, economic and political landscape of the CHT in ways that are likely to undermine the objectives of the peace treaty. As the cumulative changes in the socio-demographic composition and distribution of landed property in the CHT take root and become consolidated, it will become increasingly difficult for these long term processes to be reversed. Moreover, proposed policies of the government are likely to lead to the setting up of new institutions (such as the Strategic Management Forum) with authority over the CHT that bypass the provisions of the Accord, inclusive of the roles of the HDC and the RC. If realized, such policies would make the treaty increasingly non-implementable and irrelevant to the situation on the ground. Apprehensions have already been expressed about possible revision of the CHT Accord to suit the interests of Bengali social and commercial groups and agencies of the state at the expense of the IP, e.g. by legitimizing the occupation of Pahari lands illegally grabbed during the post-Accord period.

The brief review of the overall situation and trends in Chapter 2 indicates that, firstly, little substantive progress has been made in the implementation of most of the key clauses of the Accord concerned with resolving land disputes and restituting the illegally occupied lands of the IP. Secondly, Pahari lands and settlements continue to be the targets of forcible occupation by Bengali settlers and interest groups and state agencies. Thirdly, given these ongoing trends, it appears unlikely that such attempts to drive the IP off their lands will be stopped in the foreseeable future unless decisive steps are taken by the government, the Hill peoples and other concerned agencies.

MECHANISMS OF LAND ALIENATION

Chapter 3 begins with a brief review of the historical evolution of the system of landed property in the CHT indicating its distinctive features, which provides the basis for detailed analysis of the wide range of mechanisms of land alienation at work in the region.

Parallel Systems of Landed Property and Broad Forms of Land Grabbing in the CHT

The prevalent system of landed property in the CHT is characterized by legal pluralism in terms of the co-existence and parallel operation of three major types of land laws:

- (i) Formal laws which apply to Bangladesh as a whole
- (ii) Formal laws applying specifically to the CHT and the IP
- (iii) Customary laws and practices of the IP

Land rights based on each of these three systems overlap to varying extents, giving rise to instances of multiple titling and often conflicting legal rights on the same plot of land. These considerations also contribute to the fact that land grabbing in the CHT is based on getting actual *possession* of land on the ground, entailing the primacy of *de facto* over *de jure* rights at the operational level.

Within this complex framework of property rights, the acquisition or grabbing of land in the CHT has been taking place through many different processes, which can be grouped under four broad categories:

1. State acquisition of the private and common lands of the IP, converting these into state-owned lands.
2. Forcible occupation of the private and common lands of Paharis by Bengali interest groups and agencies, resulting in the conversion of these into the private property of the latter.
3. Privatization of Pahari common lands by individual members of the IP, converting these into their private property.
4. Acquisition of the lands given to Bengali settlers during the counter-insurgency by influential Bengali interest groups and commercial agencies.

Of these, the first two processes involve the loss of land rights by the IP to outside agencies and interest groups, while the third involves transfer of land rights *among* the Paharis themselves. In contrast, the fourth process pertains to the grabbing of land *among* Bengalis, mainly involving takeover of the land rights of ordinary settlers by powerful interest groups.

Large-scale occupation of Pahari lands took place during the time of the counter-insurgency and this state of affairs has persisted during the post-Accord period.

In addition to ongoing land losses, the land rights of the IP are also undermined by constraints to the *restitution of their already occupied* areas. This may be termed as a mechanism of 'land denial' as contrasted to land grabbing.

ACQUISITION OF CHT LANDS BY AGENCIES OF THE STATE

Some of the largest takeovers of Pahari lands in the CHT have been through acquisition by various agencies of the state. Among them, the Forest Department is by far the largest land grabber, followed by the security forces. In most cases, these state agencies activate formal land acquisition procedures mediated by the office of the Deputy Commissioner (DC). However, in some instances, these agencies have also taken over Pahari lands unlawfully, without following the required land acquisition procedures.

Procedures of State Acquisition of Land in the CHT

Unlike the rest of Bangladesh, land acquisition in the CHT is conducted under a law specific to the region, entitled the CHT (Land Acquisition) Regulation, 1958. This draconian law empowers the DC to use force to acquire the designated lands without even having to give prior notice to the concerned landowner. There is also no provision for appeal against land acquisition under this law.

Actual Influence of CHT Accord and the HDC Acts on Powers of the DC Office

The common article 64(1) of all three HDC Acts, endorsed by the Accord, explicitly specifies that without the prior approval of the concerned Council, no lands of the district can be settled, leased, sold, or transferred in any other way, by any agency, including the government itself. Even though the framing of the HDC Acts clearly empower these to override the power given by the CHT Regulation to the DC, in practice, the latter has continued to process land settlements and leases for Bengali interest groups from outside without obtaining the prior approval of the concerned HDC.

One of the few impacts of the HDC Acts has been a partial suspension of the issuing of formal land titles (*kabuliyat*) by the DC offices of the CHT. However, this has not prevented *de facto* land occupation from going on without involving the HDC. In practice, those grabbing land do not usually wait until they have been issued with *de jure* titles

(*kabuliyat*) by the land administration. Instead, they typically get hold of the land first to gain *de facto* possession and then apply for formal land settlement (this tendency is also encouraged by the provisions of prevalent land laws).

FOREST DEPARTMENT: LAND ACQUISITION FOR AFFORESTATION PROJECTS

Even though existing ('old') Reserve Forests already cover nearly one quarter of the area of the CHT, the Forest Department has been attempting to expand such state forests from the late 1980s. However, this involves a 'zero sum game' situation because establishment of *new* Reserve Forests (or other state-managed forests) necessarily entails the acquisition of the *common* or private lands of the IP living in the so-called Unclassed State Forest (USF) areas of the CHT. Since 1989, the cumulative total of lands in the CHT targeted for acquisition by the Forest Department has amounted to a staggering 218,000 acres. In addition, plans for creating *new types* of state forests (e.g. so-called 'Notified Forests') in the CHT have been floated recently and are likely to be formally approved during the course of 2011.

There are instances in which the Forest Department has been found to use false reports about the areas to be acquired and/or bypass due processes of state acquisition in order to take over Pahari lands in the CHT. In one instance, the IP were able to gain the support of local army commanders against unlawful land grabbing by the Forest Department who reprimanded the latter (Case Study 1). In another instance, the affected IP gathered the courage to take concerted legal action against the Forest Department, which resulted in temporary stay orders of the court that prevented the immediate takeover of their lands (Case Study 2). The Movement for Protection of Forest and Land Rights (MPFLR) is reported to have played a crucial role in coordinating this instance of collective action by the IP through mass lawsuits against a government department. In another case, the Forest Department has formally agreed to return some of the acquired lands (by 'de-reserving' them) to the original inhabitants, even though there is no confirmation that this has been implemented as yet (Case Study 3).

Village Common Forests

IP communities face the continuous threat of losing the Village Common Forests (VCF or mouza forests) adjoining their homesteads because they do not have formal (common) title over them. This

apprehension has been deepened by recent attempts of the Forest Department to acquire VCF for afforestation projects by claiming that these are mere 'jungles' situated on state lands.

Another threat to the VCF arises from privatization by elite Paharis, including concerned Headmen and Karbaris in some instances. Such acts by some Pahari individuals has been accentuated by the lack of awareness of land rights among their fellows, as well as the erosion of traditional egalitarian and redistributive norms among the IP communities of the CHT.

INSTALLATIONS OF THE SECURITY FORCES

Taking over Pahari Lands Without following due Acquisition Procedures

During the counter-insurgency, the security forces often evicted Paharis from their lands to set up their own camps and installations without following due state acquisition procedures. They also acted similarly to seize Pahari lands for housing Bengali settlers brought in through the transmigration programme, disregarding the pre-existing land rights of the IP.

Formal Land Acquisition for Installations and Projects of the Security Forces

There has been massive land acquisition by various branches of the security forces for a seemingly unending list of installations in the CHT. The establishment and expansion of cantonments, camps and other facilities by acquiring Pahari lands began from the early 1970s and has been continuing ever since, up to the post-Accord period. Furthermore, the security forces are currently reported to be looking for lands to establish new commercial enterprises in the CHT, inclusive of tourism facilities. Within the CHT, acquisition of lands by security forces has been particularly excessive in Bandarban district, resulting in numerous appeals and protests by the IP. For instance, petitions by the affected IP have noted that even the 500 acres already acquired for the Ruma cantonment are *not fully utilized* (Case Study 4). They have therefore questioned the very justification of acquiring nearly 20 times that area (9,560 acres) for the expansion of that installation at the cost of evicting thousands of Pahari households from lands needed for their basic survival.

REDISTRIBUTION OF PAHARI LANDS TO BENGALI SETTLERS DURING THE COUNTER-INSURGENCY

In addition to acquiring Pahari lands for their own installations, the security forces collaborated with the civil administration in forcibly taking over Pahari lands and redistributing these to Bengali settlers as part of the counter-insurgency operations. This took the form of a two-pronged strategy of demographic engineering, undertaken by the state from the late 1970s. Firstly, Paharis were forcibly displaced from their lands by the security forces which thus became available for takeover by others. Secondly, approximately 400,000 Bengali settlers ('political migrants') were brought in from outside the CHT through a massive transmigration programme during 1979-85. They were initially housed in a transit facility in Chittagong city, where preparatory arrangements were made. Subsequently, they were forcibly placed on Pahari lands in the CHT under the supervision of military and civil officials disregarding the pre-existing land rights of the IP. The affected Paharis were in no position to oppose the takeover of their lands by settlers because the presence of the security forces made it futile and dangerous to do so. It is not surprising that the traditional land management officials of the IP, i.e. the Chiefs, Headmen and Karbaris, were deliberately kept out of the process of placing Bengali settlers on Pahari lands.

Continuation of the Counter-insurgency Strategy during the Post-Accord Period

There have been instances of new settlements of Bengali settlers being set up in the CHT by forcibly taking over Pahari lands even after the 1997 Accord, allegedly facilitated by the security forces and the civil administration. For example, in April 2008 and February 2010, violent arson attacks were made on the IP in Baghaihat-Gangarammukh by settlers, even though members of the security forces and civil administration were reported to be present in the vicinity. These attacks aimed to displace the Paharis from their homesteads and lands, so that these could be taken over by Bengali settlers. Reports of similar instances elsewhere in the CHT reflect the covert continuation of the counter-insurgency strategy of demographic engineering even up to the present.

Even though there are exceptional Bengali officials and government personnel who have acted fairly and helpfully towards the Paharis rather than being bent on evicting them from their lands, the security forces and civil administration *as a whole* have continued to operate with this counter-insurgency mentality in the CHT.

MANUFACTURE OF LAND TITLES FOR SETTLERS AND ITS CONSEQUENCES

Operation of the Special Settlement Zone

In order to grant formal land rights to the political migrants brought into the CHT during the counter-insurgency, the government set up a Special Settlement Zone and issued confidential circulars which included instructions for allotment of land to the settlers. The land settlement documents such as the titles (*kabuliyat*) issued to Bengali settlers under these circumstances were often manufactured hurriedly, bypassing the procedures specified in the CHT Regulation, often without ground survey and verification of the allotted lands. Pre-existing laws, property rights and land settlement procedures were deliberately and systematically flouted by government officials in order to attain the counter-insurgency objectives of redistributing Pahari lands to the in-migrating settlers, regardless of their prior rights.

Partial Return of the Political Migrants and their Replacement by Local Bengalis

Approximately 30-50 per cent of the Bengali settlers brought in through the transmigration programme are reported to have left the CHT within a few years because they could not locate or get possession of the lands on which they had been given settlement. However, their places were filled up by self-propelled Bengali migrants, mostly from nearby areas of the districts adjoining the CHT. These complex socio-demographic movements resulted in the *recomposition* of the Bengali settler population in the CHT by their areas of origin and modes of migration.

Parallel Process of Land Settlement for Self-propelled Bengali Settlers

The DC office and land administration also processed land settlement for these relatively 'local' and self-propelled Bengali migrants, in parallel to those for the political migrants brought in through the state-organized transmigration programme. The plots allotted to Bengali settlers during the counter-insurgency were termed R-Holdings ('Rehabilitation Holdings') in Bandarban. Significantly, even though some of the political and local migrants subsequently left the CHT, many of the land titles issued to both groups were transferred to other Bengalis through fictitious 'affidavits of sale', certified by corrupt functionaries of the DC offices.

Technical and Legal Defects of Land Titles given to Bengali Settlers

In any case, the land titles and other settlement documents manufactured for both political and local migrants under the exigencies of the counter-insurgency were characterized by various technical and legal defects, as follows:

1. Almost all of these titles or settlement documents lacked the Headman's recommendation, even though this was a universal practice in the land administration of the CHT.
2. Some titles or land settlements were given in the name of minors and, in some cases, even fictitious children.
3. The specification of boundary schedules (*chouhoddi*) of the allotted plots in the settlement documents was often imprecise, such that these were not easily or uniquely identifiable; in fact, these were often so vague that the same document could be used for making claims on land in several different localities.
4. In some of the applications for R-Holding, the name of the camps in which the migrants claimed to have been housed appear to be fictitious.

Furthermore, certain conditionalities were stipulated in the land settlement documents given to the Bengali settlers which were not fulfilled in many cases. For instance, the requirement for immediate mutation in the name of the new landholders (i.e. the settlers) and cultivation within three years of settlement could not often be met because of the uncertain circumstances of the counter-insurgency. A section of the migrants sold their settlement documents to others without obtaining permission from the DC office, as required. As such, many of the settlement documents given to the Bengali migrants during the counter-insurgency period were technically and/or legally invalid from the outset, or gradually became so as various conditionalities were violated.

Another kind of problem was created by the existence of several settlements on the *same plot of land* under different names, reflecting a state of *multiple titling*. In most of these cases, Bengali settlers had been given settlements on the registered or recorded lands of the Paharis, deliberately disregarding the prior rights of the latter, without concern for the long term consequences in terms of generating land conflicts.

INCREMENTAL LAND GRABBING BY BENGALI SETTLERS**Grabbing of Pahari Lands**

Once located in the CHT, many Bengali settlers used a range of different techniques for grabbing of Pahari lands. In some cases, they forged land settlement documents to justify their (illegal) occupation. In others, they simply occupied lands by force, given the backing of the security forces and the civil administration. Such incremental land grabbing by Bengali settlers has continued during the post-Accord period.

In some cases, groups of Bengali settlers have banded together to terrorize poor and uninfluential IP in order to seize their lands. This was evidenced in Naikkhong mouza of Bandarban inhabited by poor and largely uneducated Mro households unfamiliar with the external world beyond their forest settlements (Case Study 5). Given the indifference of the local administration and police to their plight, the affected Mro petitioned the national government and held a press conference at the nearest township to make their suffering at the hands of the land grabbers known to the general public. This strategy of resistance was partially successful. The situation and demands of the Mro received coverage from sections of the national and local press and activated one national NGO to give publicity to the situation.

Grabbing of Temple Lands

Bengali settlers are alleged to have encroached upon lands of religious temples, monasteries and orphanages of the IP in the CHT by forging land documents as well as forcible occupation. For instance, in Baghaihat-Gangarammukh, they repeatedly put up shacks inside the precincts of the local Buddhist temple (the Banani Maitri Banavihara) during 2008-10, and burnt down the temple itself at the time of the February 2010 arson attacks.

Grabbing of Fringe Lands

The seasonally submerged 'fringe lands' along the shores of the Kaptai Lake are very suitable for seasonal wet-rice cultivation. This has made these lands particularly attractive to in-migrating Bengali settlers who grabbed these from the Paharis through the use of force or fraud from the time of the counter-insurgency.

LEASING OUT OF 'KHAS' LAND FOR PRIVATE COMMERCIAL PLANTATIONS

The government began issuing private leases for commercial rubber and horticulture plantations on a large-scale during the counter-insurgency. The areas leased out were mostly taken from the common lands of the IP in the USF (Unclassed State Forest) areas that they had traditionally used for *jum* cultivation, grazing, hunting and gathering, and other purposes. However, their customary rights on these lands were not recognized by the DC office, which treated these as *khas* or state property and redistributed the lands to plantation leaseholders. The beneficiaries of the leases were mostly members of the influential Bengali elite who did not even reside in the CHT. The whole process amounted to a colossal exercise in privatization in which vast tracts of Pahari common lands were 'enclosed' through the use of state power and redistributed to absentee members of privileged classes of the dominant community. Furthermore, granting leases for private plantations (and other commercial enterprises) to non-resident Bengalis enabled the latter to circumvent the pre-existing legal restrictions on their holding of land rights in the CHT. This also served to attain a covert objective of the counter-insurgency strategy being pursued by agencies of the state.

Even though the CHT Accord specified that the leases of plots that had remained unutilized for more than ten years were to be cancelled, this clause was not implemented. Instead, DC offices in the CHT continued to issue new plantation leases during the post-Accord period. This process enabled many Bengali civil and military officials, as well as political leaders and professionals, to obtain plantation leases for themselves and their relatives and clients, covering more than 40,000 acres in Bandarban district alone.

Official Review of the Status of Plantation Leases in Bandarban

The findings of an official review of the status of leased plantations in July 2009, required by the Parliamentary Standing Committee for the Ministry of CHT Affairs, indicated that many leased plots had not yet been utilized to develop plantations and some had been sublet to others in violation of the lease contracts. Members of the Committee observed that distribution of the leases had been concentrated among allottees living at a common address (family members) and that powerful land

grabbers had been using these lease documents in an unscrupulous manner to evict the IP from their lands.

A more detailed analysis of the data from more than a dozen mouzas under Lama upazilla of Bandarban shows that nearly all the leaseholders were Bengalis, the vast majority of whom had residential addresses outside the CHT. Some of these plots were found to have been taken over from the original leaseholders by well-known private corporations, which had developed horticulture or rubber plantations on them.

Incremental Land Grabbing by Plantation Leaseholders

Like the settlers, many of the Bengali plantation leaseholders attempted to take over adjoining Pahari lands to expand the area under their control, indicative of a process of *incremental* land grabbing. Paradoxically, this propensity gathered strength after the Parliamentary Standing Committee for the Ministry of CHT Affairs called for the cancellation of unproductive leases in July 2009. This directive jolted into action negligent Bengali leaseholders who not only became hyperactive to put up the appearance of productive development on their leased plots, but also attempted to grab additional IP lands in the vicinity (Case Study 7). Even Bengali powerholders *without any leases* took advantage of the situation to grab Pahari lands and set up new rubber and fruit plantations. The unintended consequences of the lease cancellation order took the form of a *chain reaction of incremental grabbing* of Pahari lands in the proximity of the leased holdings. Furthermore, even though the leases of many plantation plots were initially cancelled, most of these were reinstated within a few months. The fact that these Bengali leaseholders were able to overturn the cancellation order of the Parliamentary Standing Committee indicates how powerful they are as an interest group.

LAND GRABBING BY COMMERCIAL INTEREST GROUPS

Commercial Land Grabbers and Dealers: Individuals, Companies and NGOs

A major emerging trend in the CHT during the post-Accord period has been land grabbing by commercial interest groups led by influential Bengali powerholders, inclusive of private corporations and 'business-oriented NGOs'. Some of these powerful commercial agencies have been seizing lands in order to re-sell these to private corporations, real estate dealers, etc. In effect, they are in the business of *selling possession* of

land, operating through *de facto* land markets, without the use of any formal titles or *de jure* rights.

Significantly, these commercial grabbers have been taking over not only lands of the IP but also those of ordinary Bengali settlers in the CHT (Case Studies 8 and 9). In some cases, these commercial agencies claim to have bought the lands that had been given by the state to in-migrants during the counter-insurgency, e.g. by purchasing the *kabuliyats* (titles) of settlers who had failed to get possession of their designated plots (e.g. allottees of R-Holdings). In other instances, they have produced fake documentation of 'purchase' of such plots from the original recipients. However, while these interest groups might have bought some of the settlers' titles, the area of land that they have actually taken over is reported to have been far greater. The titles gave them a certain kind of legal cover, but essentially they grabbed as much land as they could with their power and influence.

An increasingly dominant form of land grabbing in the CHT during the post-Accord period by Bengali powerholders and commercial interest groups is characterized by the explicit lack of concern for any legal 'justification' to lay claim on the lands that they are taking over. These groups do not even bother with obtaining titles and lease documents, but use sheer force, backed by their social and political connections to prevent the police and administration from intervening. They hire armed gangs to provide cover to hundreds of workers who are deployed to clear the grabbed lands, cut down trees and vegetation, and start new plantations. They also use a variety of other mechanisms, inclusive of bribery, to co-opt officials and induce Headmen to sign necessary papers. These distinct mechanisms are often used in a definite sequence, as elements of a multi-pronged and integrated strategy of land grabbing (Case Studies 10 and 11).

In some cases, the affected Paharis have attempted to resist such forcible occupation of their lands. However, they have been often unable to hold out in the face of violence and intimidation by the land grabbers, given the lack of protection from the local administration, police and political leadership (Case Study no. 10).

MANIPULATION OF CONNECTIONS WITH POLITICAL PARTIES

In some instances, local leaders of national political parties are themselves involved in grabbing lands of Paharis, since they are in a position to directly influence the police and administration. Case Study

11 illustrates how land grabbing has been facilitated by affiliation with a major political party and the leading organization of Bengali settlers in the CHT. In this instance, despite fair investigations by police officials as well as impartial orders by the judiciary, Bengali land grabbers with political connections have been able to manipulate the *state machinery as a whole*.

In some cases, Pahari leaders have attempted to put up resistance against these powerful Bengali interest groups by appealing to the highest levels of government. But, despite such attempts through all available avenues in accordance with due process, little action has been taken by the civil administration, the police, or local military commanders to protect the land rights of the IP. On the contrary, the concerned authorities have shown blatant disregard for the illegal use of violence and intimidation by Bengalis with political connections to take over Pahari lands. Despite a small number of honourable exceptions, this kind of systematic disregard for land rights of the IP as well as considered inaction against Bengali land grabbers has generally characterized the role of the civil administration and security forces in the CHT.

PRIVATE LAND GAINS BY GOVERNMENT OFFICIALS

Given the facilitating role played by government officials in land grabbing by Bengali commercial and political interest groups, it is not surprising to find that a section of them have been involved directly in such processes. Some of the military and civil officials posted to the region are alleged to have used their official power and personal influence to obtain formal land settlements and leases, as well as to purchase *kabuliyats* (titles) issued to Bengali settlers during the counter-insurgency.

Case Study 12 indicates the ways in which a Bengali official has misused his position and violated land laws of the CHT in order to amass land from both the Paharis and Bengali settlers. In this instance, land grabbing has taken place across both ethnic and class divides. Case Study 13 cites sale deeds which indicate that a coterie of Bengalis, including an incumbent official of the civil administration and his wife, have bought a substantial number of R-Holdings from Bengali settlers, which have been allegedly deployed in commercial operations for private gains.

VIOLENCE AND VIOLATION OF HUMAN RIGHTS AS MEANS OF LAND GRABBING

Violence and Violation of Human Rights as an Instrument of Counter-insurgency

Human rights violations in many forms have been used repeatedly to evict the Hill peoples of the CHT from their lands. During the counter-insurgency, provocation by Bengali settlers, sometimes with the backing of the security forces and civil administration, had led to arson attacks, physical assaults, as well as communal riots and full-blown massacres. As the IP were forced to flee, their vacant lands and homesteads were grabbed by the settlers. Use of such Machiavellian techniques to grab Pahari lands has continued to be reported during the post-Accord period.

Sexual Violence against Pahari Women

During the counter-insurgency, rape and other forms of sexual violence on Pahari women were used as mechanisms of pressurizing their families and communities to leave their homesteads, making it easier to grab Pahari lands. Incidents of rape and sexual violence on Pahari women have not stopped during the post-Accord period, and are alleged to have been a contributory factor in the continuing seizure of lands of the IP.

DISTRESS SALE OF LAND UNDER PRESSURE AND INTIMIDATION

‘Distress’ or constrained sale of land by Paharis constitutes the *terminal stage* of longer processes driven by multiple factors which converge to this common outcome. The antecedent factors in the different trajectories leading to distress sale of land can vary considerably, as follows.

Encirclement and Harassment

A critical factor pressurizing the IP to sell out their lands has been gradual encirclement of their homesteads and cultivable plots by Bengali settlers moving in and getting hold of the lands in the surrounding area. Such processes have taken place in many parts of the CHT as the result of increasing Bengali migration and have been typically associated with harassment of the IP by newcomers. Such pressures have made it gradually impossible for the remaining Paharis to live on in their own settlements, compelling them to sell out.

Sale of Land Rights to Resolve Outstanding Debt

Distress sale of land rights to settle outstanding debt has been one of the oldest mechanisms of alienation of Pahari lands in the CHT. It continues to be a significant factor resulting in their land loss in current times.

Pressure of Litigation leading to Distress Sale

Litigation is an instrument widely used for harassing and pressurizing Paharis until they let go of their lands. Bengali settlers and commercial agencies have typically lodged false cases against Paharis in order to compel them to sell their lands. Correspondingly, litigation has been widely used by the Forest Department to harass and put pressure on Paharis, with the aim of compelling them to surrender their lands for afforestation projects. Furthermore, litigation has also been used by the land grabbers to legitimize illegal land gains.

USE OF FRAUD AND FORGERY TO MANIPULATE LAND RECORDS

Many types of forgery, involving illegal modification of titles, tenurial contracts and other land records, have been used for fraudulent transfers of Pahari lands to others. Such mechanisms cynically exploit the simplicity of the IP as well as their lack of knowledge and experience about formal law, land rights and legal contracts. Bengali settlers have often made forged land settlement documents and used these to justify fraudulent claims on Pahari lands. Furthermore, with the growing role of commercial land grabbers, a huge and powerful industry involved in forgery and fraudulent manipulation of land records has emerged in the CHT. The use of forged documents to grab Pahari lands has been going on unchecked partly because the 'Land Department' has not yet been transferred from the jurisdiction of the DC office to that of the HDC, as per the Accord (Chapter 2).

LIMITATIONS AND CORRUPTION OF HEADMEN AND KARBARIS

Growing instances of self-interest and corruption among Headmen and Karbaris constitutes a disturbing ancillary factor contributing to the alienation of Pahari lands. Some Headmen and Karbaris have forsaken their traditional roles as custodians of the land rights of the IP and made private settlements (or leases) on common lands that they had previously shared with the rest of their communities. In other instances, Headmen are reported to have taken bribes for giving their recommendations for transfer of the common lands of their

communities to Bengalis from outside (Case Study 15). Some Headmen and Karbaris are alleged to be operating as land dealers who buy cheap from ordinary Paharis and resell at a profit to outsiders. Such activities are likely to have facilitated the capability of commercial agencies and powerholders, noted above, to get hold of land settlement documents to justify their grabbing of Pahari lands.

CONSTRAINTS TO RESTITUTION OF FORCIBLY OCCUPIED PAHARI LANDS

As distinct from ongoing loss of land, the IP have also been affected by 'land denial' resulting from constraints to the *restitution* of their lands that are illegally occupied by Bengali settlers and other agencies. Most Pahari refugees and IDP have been unable to get back possession of their own lands after the counter-insurgency, because they do not have sufficient influence to get the administration to evict those occupying them. The situation has been exacerbated by the unhelpful role of the Land Commission which was supposed to have dealt with these issues (Chapter 2).

ADMINISTRATIVE CONSTRAINTS ON THE RECORDING AND RECOGNITION OF PAHARI LAND RIGHTS

There has been a long-standing impasse in processing land settlement applications and issuing of titles to the IP by the DC office. This has effectively denied them legal protection and security of their holdings, encouraging the forced occupation of their lands by Bengali settlers and commercial operators. Furthermore, land administration functionaries are reported to frequently block applications of the IP for mutation of land records (e.g. following inheritance or land transfer) on the grounds of minor variations or mistakes in the spelling of Pahari names in land titles and records.

DIFFERENCES IN LAND GRABBING BEFORE AND AFTER THE CHT ACCORD

During the counter-insurgency, grabbing of Pahari lands had taken place within certain parameters defined by the interaction between state power and the Pahari resistance. However, after the Accord, with the disbanding of the Shanti Bahini, the CHT was literally thrown open to land grabbing by Bengali interest groups, which no longer had to fear armed opposition. A whole range of mechanisms of land grabbing emerged during the post-Accord period, based on the use of force and fraud.

Significantly, the growing use of violence and fraud by commercial interest groups has been driven by the need for getting hold of *large and consolidated* tracts of land for deployment in profit-oriented enterprises. Compared to earlier periods, these agencies have been making use of litigation and influence over the administration to a much greater extent for seizing lands to meet the growing needs of *capitalist forms of production* in the CHT (such as commercial rubber, fruit and timber plantations).

OVERVIEW OF LAND GRABBING IN THE CHT

As of 2010, there are many different agencies involved in grabbing lands in the CHT. These include the Forest Department, the civil administration, the security forces, business corporations, commercial NGOs, plantation leaseholders, political leaders, land dealers, settlers, etc. The IP of the CHT are thus facing simultaneous threats on multiple fronts, with many different groups and agencies forcibly occupying their lands, using a whole range of distinct mechanisms.

Land grabbing in the CHT by commercial agencies and powerholders reflects a complex trend. It involves grabbing of the lands of not only the IP but also those of ordinary Bengali settlers. The overall pattern subsumes both *inter-ethnic* and *intra-ethnic* land grabbing, propelled by the forces of growing capitalism and privatization.

The loss of land rights of the IP is integrally related to the power relations and political contentions characterizing the CHT, subsuming both ethnic and class conflicts. The antecedent forces driving the grabbing of Pahari lands cannot be fully explained without explicitly taking account of the political economy and political demography of the region. However, time and resource constraints have not allowed us to provide a more comprehensive and integrated analysis of the entire chain of causation driving land alienation processes in the CHT.

POLICY ANALYSIS AND RECOMMENDATIONS

Despite the post-conflict situation formally prevailing in the CHT after the Accord, the civil administration and security forces continue to operate largely with a counter-insurgency mindset. Correspondingly, the major national political parties give priority to Bengali interests over the needs of the IP, reflective of the powerful hold of hegemonic nationalism and ethnic discrimination. Realistically speaking, it is likely to be very difficult to implement policies concerned with securing the land rights of

the IP through an unwilling and often hostile bureaucracy as well as political leaders with ambivalent attitudes and uncertain commitment.

Nonetheless, even within this authoritarian and ethnically biased order, it is worthwhile to put forward policy options for consideration by enlightened decision-makers within the government, donor agencies, public interest organizations, pro-people NGOs, advocacy networks, the media, etc. Furthermore, strengthening of the agency and resilience of the IP, already manifested in their past resistance, could play a crucial role in the struggle to defend their land rights in the future.

Objectives of Policy Analysis

The policy analysis and options put forward by this study (Chapter 4) address the following broad objectives pertaining to the land rights of the IP of the CHT:

1. To resolve land disputes aimed at restitution of the already occupied lands of the IP.
2. To prevent further grabbing of Pahari private and common lands.
3. To ensure that the rights of the IP to private and common lands are formally recognized and protected by the state.

GENERAL CONSIDERATIONS FOR RESOLVING LAND CONFLICTS IN THE CHT

Resolution of land disputes in the CHT with the objective of protecting the land rights of the IP is a massive and complex task, for which adequate advance preparations need to be made. Dispute settlements procedures require fair and clear rules for making decisions on complex land conflicts, particularly when involving multiple titles and rights in the context of legal pluralism. As a guiding principle, it is proposed that wherever there are multiple titles or settlements on the same plot of land, the one which *originated earlier in time* should be considered as being legally valid.

The policy analysis and recommendations put forward by this study deal with the various mechanisms of land alienation noted above. These policy options are too numerous and detailed to be summarized here, but the specific issues addressed by them are listed below.

PROCEDURES FOR RESOLUTION OF LAND CONFLICTS IN THE CHT

Reorienting the Land Commission and enhancing its capability

Rectification of the Land Dispute Resolution Commission Act of 2001

Rules of Business of the Land Commission

Acceptability of the Land Commission Chairman to All Ethnic Groups

Operationalizing the Land Commission

Assessment of the performance of the Land Commission

Alternatives to the Land Commission for resolving land conflicts

Operationalizing the traditional land laws and customs of the Hill peoples

STATE ACQUISITION OF LAND AND COMPENSATION PROCEDURES**ROLE OF THE DC OFFICE AND LAND ADMINISTRATION****ROLE OF THE FOREST DEPARTMENT**

Land acquisition by the Forest Department for afforestation projects

Social Forestry Projects

Village Common Forests

ROLE OF DEVELOPMENT INTERVENTIONS

Land acquisition procedures for development agencies and projects

Public consultations with the IP to elicit their genuine preferences

Road construction in the CHT

ROLE OF THE SECURITY FORCES

Land acquisition by the Security Forces

Discontinuation of operations aimed at displacing IP from their lands

LAND SETTLEMENT PROCEDURES

Manipulation of Special Settlement Zone Titles including R-Holdings

Land Settlements for the IP

LAND LEASING PROCEDURES

Land Leases for Rubber and Horticulture Plantations

Dealing with cancellation of leases and their reinstatement

ROLE OF POWERHOLDERS AND COMMERCIAL INTEREST GROUPS**TOURISM ENTERPRISES**

ROLE OF BENGALI SETTLERS

VIOLENCE AND HUMAN RIGHTS VIOLATIONS

Inter-ethnic violence and communal riots

Sexual Abuse and Violence

ENHANCING THE CAPABILITIES OF HEADMEN AND KARBARIS

THE PEACE ACCORD AND LAND RIGHTS OF THE IP

The Regional Council and the Hill District Councils

Role of the Task Force for Rehabilitation of Returnee Refugees and IDP

Sequencing of the land survey and settlement of land disputes

Revision of the CHT Accord?

IN-MIGRATION AND VOLUNTARY WITHDRAWAL OF BENGALI SETTLERS

Limiting in-migration of Bengali settlers

Voluntary withdrawal of Bengali settlers from the CHT

ROLE OF POLITICAL NEGOTIATIONS BETWEEN THE IP AND BENGALIS

CHANGING THE MINDSET OF GOVERNMENT OFFICIALS

ROLE OF THE GOVERNMENT OF BANGLADESH

General policy orientation towards the CHT and land rights of the IP

The CHT Accord and the Government's Electoral Manifesto

Constitutional Recognition of the IP and the Peace Accord

Implementation of International Conventions on Indigenous Peoples

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MOBILIZATION AND RESISTANCE BY THE IP

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Appealing to the higher courts of the formal judiciary

Legal measures for strengthening land rights of the IP

Legal Assistance for the IP

Coping with reactions of land grabbers dislodged from occupied

Pahari lands

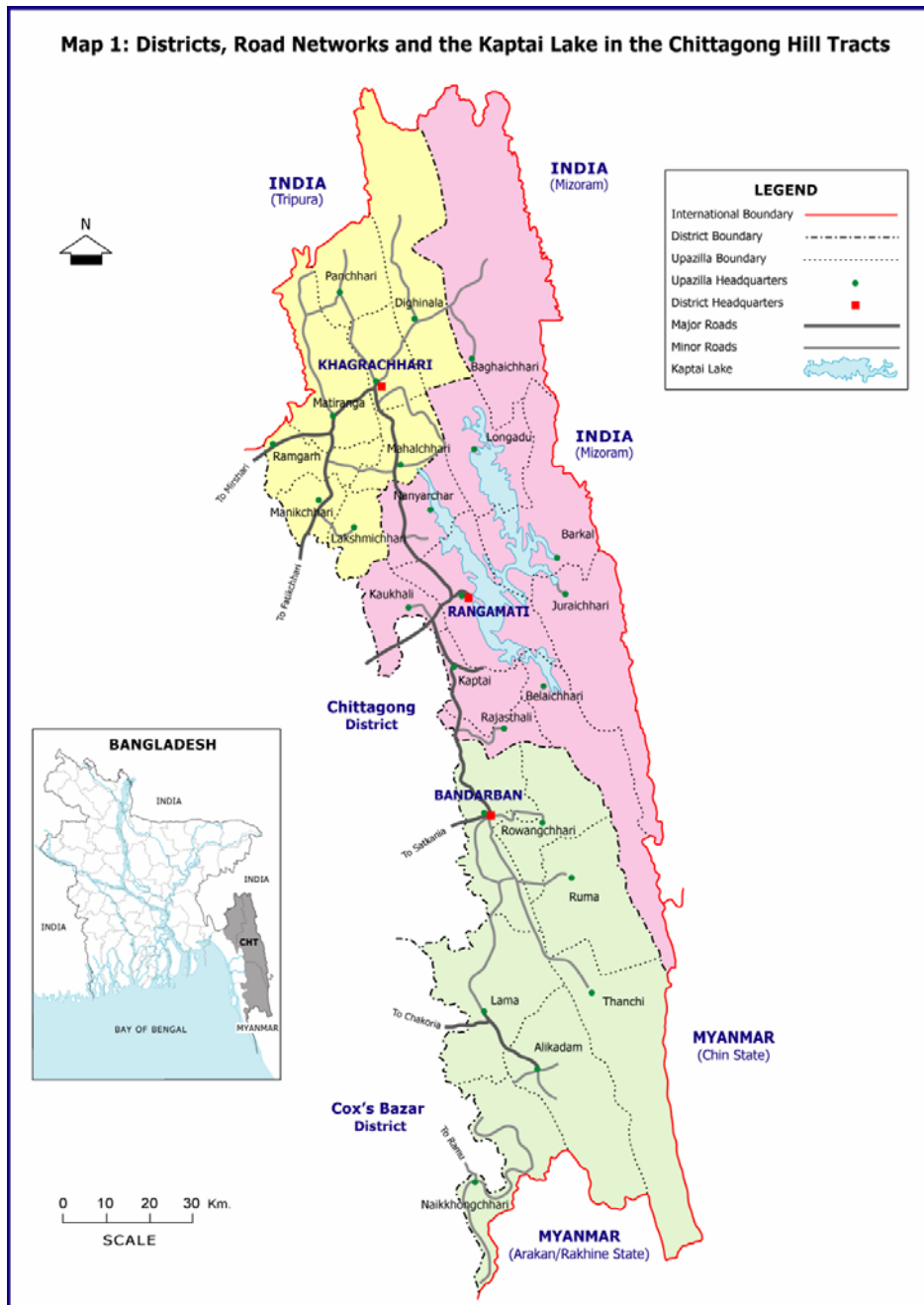
MOBILIZING SUPPORT FROM MAINSTREAM PUBLIC OPINION

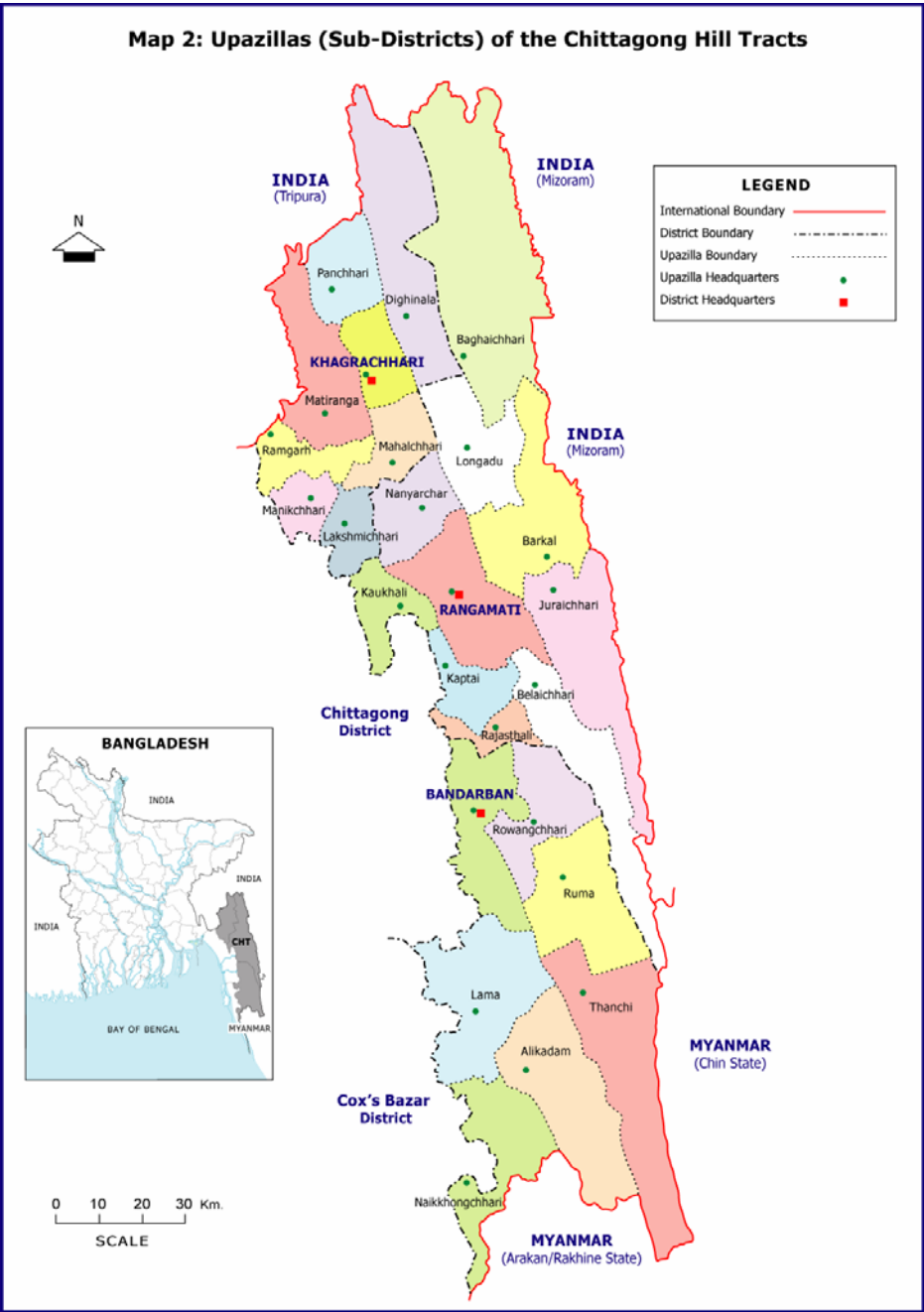
- Informing and sensitizing mainstream public opinion
- Voices from mainstream Bengali society in support of Pahari needs
- Broad-based demands for constitutional recognition of the IP
- Dealing with Bengali interest groups in the CHT

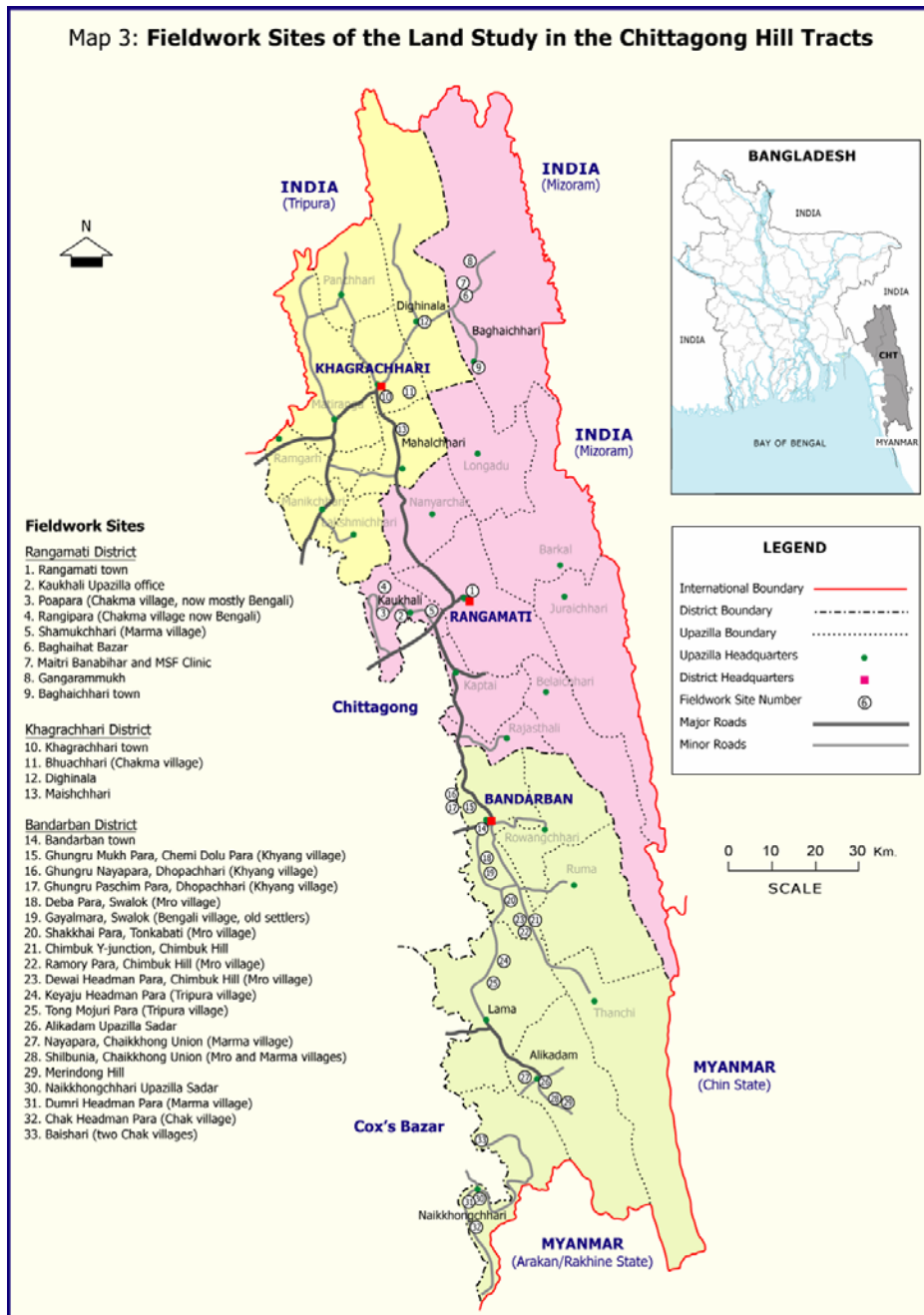
MOBILIZING INTERNATIONAL PUBLIC OPINION**ROLE OF THE MEDIA: SUPPORT AND PUBLICITY****ADVOCACY ACTIVITIES AT HOME AND ABROAD**

- Coordination between national and international advocacy activities
- International networking for regional stability and economic growth

POLICY RESEARCH INITIATIVES BY THE IP**COMPUTERIZED DATA-BASES****INDEPENDENT RESEARCH AND MONITORING OF CRITICAL TRENDS
IN THE CHT**







CHAPTER 1

INTRODUCTION TO THE STUDY

This is an exploratory study of the causes of the alienation of the lands of the indigenous peoples (IP) of the Chittagong Hill Tracts (CHT) of Bangladesh.¹ It provides description of the mechanisms of land grabbing as well as some provisional explanations of the causal factors driving such processes. At the outset, the impacts of the CHT Accord of 1997 in protecting the lands of the IP are assessed, along with the parallel changes taking place outside the framework of this peace treaty over 1997-2010 (Chapter 2).

The analysis of the mechanisms of land alienation is arranged in terms of a typology of the public and private agencies involved and the specific means used by them, such as state acquisition or forcible seizure of land (Chapter 3). These mechanisms are illustrated by evidence drawn selectively from the 1970s up to the present (2010). Sixteen case studies of varying length have been constructed to provide concrete instances of the land grabbing processes. The distinctive features of the land grabbing mechanisms emerging after the CHT Accord, compared to those in operation beforehand, are highlighted in conclusion.

The analysis in Chapter 3 also takes note of different types of responses of the Hill peoples to the forcible takeover of their lands. Among these are various forms of resistance that demonstrate their agency and resilience.

¹ The research has been commissioned by the CHT Commission (CHTC), which operates according to the following mandate: "To promote respect for human rights, democracy and restoration of civil and judicial rights in the CHT in Bangladesh, including examination of the implementation of the CHT Accord of 1997. The CHT Commission will build on the work by the first CHT Commission (1990-2001). The CHT Commission is composed of concerned experts from inside and outside Bangladesh".

On the basis of the analysis above, the study puts forward policy analysis and recommendations aimed at restituting the illegally occupied lands of the IP as well as preventing such land loss in the future (Chapter 4).

THE CHITTAGONG HILL TRACTS OF BANGLADESH

As shown in Map 1, the CHT lies in the southeastern part of Bangladesh, adjoining its international boundaries with India (the states of Tripura and Mizoram) and Burma (Myanmar). Within Bangladesh, the districts physically contiguous with the CHT are Chittagong, Cox's Bazar and Feni. Formerly, the CHT was a single unified district, but administrative reorganization in recent decades has led to its division into the three districts of Khagrachhari, Rangamati and Bandarban, as shown in Map 1. Furthermore, these districts have been divided into various sub-districts (upazilla or thana), which are shown in Map 2.

The CHT has a number of features which distinguish it from the rest of Bangladesh. Its hilly and forested terrain is suitable for 'jum' or swidden cultivation. Along with hunting and gathering in the forests, swidden farming gives the economy, society and material culture of the CHT many distinctive features compared to the plain lands of the country. The social organization of production related to these occupations has also shaped the customary land laws and management practices of the IP in the CHT which are very different from the formal land laws in the rest of Bangladesh, as elaborated further below.²

The Indigenous Peoples of the CHT

The CHT is inhabited by indigenous peoples (IP) consisting of ethnic minority groups whose appearance, languages, and cultural traditions are markedly different from those of the Bengali-speaking people who constitute the overwhelming

² Adnan (2004).

majority of the country's population. There are further differences *among* the IP in terms of the material culture and social organization of distinct ethnic groups (Adnan 2004: 10-11).

Depending on the bases of classification, 12 or more different ethnic groups have been distinguished among the IP of the CHT by various scholars. The most numerous are the Chakma, the Marma and the Tripura, in that order. Among the other groups are the Mru (or Mro), the Tanchainghya, the Bawm (or Bom), the Khumi, the Khyang, the Lushai (or Mizo), the Pankho, the Chak (or Sak).³ Some scholars also regard the Riang, the Murang and the Kuki as distinct ethnic groups of the CHT.⁴

Several terms have been used in different contexts to refer to these various ethnic groups as a whole. Among these is the notion of the 'Jumma' people, advocated by the Parbatya Chattagram Jana Samhati Samity (PCJSS) – the party which led the armed struggle against the state until the signing of the Peace Accord. In the official documents, laws, and regulations pertaining to the CHT, these groups have been historically referred to as the 'Hillmen', 'tribals' or *jumiya* (swidden-cultivator). In common parlance, they are often termed Pahari - a Bengali word which means hill dwellers. A number of social and political organizations of the IP of the CHT have used the terms 'Hill' or 'Pahari' to describe themselves.⁵ In the present study, we have used the terms Indigenous Peoples (IP), Pahari and Hill peoples interchangeably to refer collectively to all the ethnic minority groups of the CHT.⁶

³ Brauns and Loffler (1990: 34) and Roy (1994: 11; 1998b: 3).

⁴ Mohsin (1997: 12).

⁵ For example, both the PCJSS and the UPDF have front organizations titled the Pahari Chhatra Parishad (Hill Students' Council) and the Hill Women's Federation.

⁶ The term Jumma peoples has also been used in other contexts to refer to the IP of the CHT as a whole.

UNDERLYING CONSIDERATIONS AND RATIONALE

Given the existence of an already sizeable stock of reports and books on the CHT, the rationale for undertaking this new research was based on the following considerations. Firstly, it was felt necessary to provide a systematic analysis of the multiple and complex causal factors underlying the alienation of the lands of the IP, as well as the ways in which such mechanisms were related to the ethnic and political conflicts of the region. Secondly, these mechanisms and relations needed to be situated in the context of significant changes in the socio-economic and demographic landscape of the CHT since 1997, inclusive of policy interventions in general and (the extent of) implementation of the CHT Accord in particular. Thirdly, it was necessary to document the *agency* of the Hill peoples in the face of land grabbing and ethnic domination, as manifested in distinct forms of resistance and social movements, for the formulation of policy options for the future.

Furthermore, a realistic analysis required policy options to be based on an adequate understanding of the complex power relations and land alienation mechanisms characterising the CHT. Thus, we took account of not only legal and market-based forms of land transfers, but also *illegal* mechanisms of seizing Pahari lands used by private interest groups and agencies of the state. In some instances, different mechanisms of land grabbing were deployed sequentially by the same agency in accordance with an integrated strategy. We also tried to ascertain whether the mechanisms of land alienation had changed significantly over time because of shifts in circumstances and the balance of forces, particularly between the pre-Accord and post-Accord periods.

Faced with the continuing loss of lands as well as diminishing access to the forested areas essential for their survival, the Hill peoples have attempted to protect their remaining lands while also trying to gain (or regain) rights to lands and forests. These

efforts involved resistance to not only land grabbing but also 'land denial', meaning obstructions to the gaining or regaining of land.⁷

The fact that the IP were in a disadvantageous position in relation to the state machinery and the dominant ethnic group (the Bengalis) meant that their resistance usually took the generic form of the 'weapons of the weak'.⁸ However, such resistance was not necessarily covert and evasive, but often involved forms of *open* confrontation or non-cooperation with the state and Bengali interest groups, making use of constitutional forms of opposition and protest, wherever feasible.⁹ The Hill peoples have also demonstrated their capability to undertake advocacy and policy research to protect their lands, without depending on any external agency. Such responses of the IP during the post-Accord period may be regarded as constitutional sequel to their struggle against the state and its security forces during the counter-insurgency (see below), which had involved overt and armed resistance.

Given the formally post-conflict conditions of the CHT, the policy analysis undertaken for this study is based on several considerations. Firstly, it is necessary to specify appropriate and realistic mechanisms of settling land disputes, particularly those arising from the illegal and/or forcible occupation of Pahari lands during the counter-insurgency as well as the post-Accord periods.¹⁰ Institutions such as the Land Commission specified in the Accord are concerned with removing illegal occupiers and restituting the original lands to the Hill peoples. However, provision of adequate compensation and alternative lands are

⁷ Cf. Borras and Franco (2010) and Adnan (2011).

⁸ Vide Scott (1985, 1986), Adas (1986) and Kerkvliet (1986; 1990).

⁹ There have been comparable instances of non-violent confrontation and overt resistance by the poor peasantry in other parts of Bangladesh such as Pabna and Noakhali (Adnan 2007; 2011).

¹⁰ The counter-insurgency programme against the Hill peoples began in 1976 and was formally brought to an end through the CHT Accord of 1997 (Mohsin 1997: 167-170; Roy 1997: 168, 1998b; Adnan 2004: 26-34).

also options that need to be kept in mind, given the irreversible nature of some of the changes affecting the CHT (see below). Secondly, it is deemed essential to devise *preventive* strategies aimed at strengthening the land rights of the IP, such that these would not be easily vulnerable to forcible expropriation in the future.

These considerations call for formulation of suitable policies and programmes by the government and donor agencies as well as public interest and legal aid organizations, pro-people NGOs, and concerned advocacy and activist groups.

However, the Hill peoples of the CHT have the right to choose the most suitable options for regaining possession of their already occupied lands and prevent further land grabbing in the future. Consequently, the policy analysis and recommendations of this study are primarily addressed to them.

OBJECTIVES

Following from the considerations above, the broad objectives of this study are as follows:

1. To describe the various mechanisms used to grab lands of the IP and explain the causal factors underlying these processes as well as the resultant conflicts between the various ethnic groups and social classes in the CHT.
2. To identify the factors constraining the implementation of the 1997 CHT Accord, particularly its provisions concerning restitution of the illegally occupied lands of the Hill peoples and securing their land rights in the future.
3. To appraise the performance of the Land Commission to date in terms of the roles specified in the CHT Accord and identify the factors that have constrained its capability to implement them, followed by policy recommendations to make it more effective.
4. To provide policy analysis and recommendations concerned with restituting the illegally occupied lands of the indigenous

peoples of the CHT as well as ensuring protection against forced eviction from their lands in the future.

5. To suggest advocacy and lobbying activities that may be taken up by the Hill peoples as well as concerned support groups and networks to facilitate the restitution of the occupied lands of the IP as well as to protect their existing lands from further expropriation.

TIMETABLE, APPROACH AND METHODOLOGY

The study was initiated during the last week of March, 2010.¹¹ Fieldwork activities in the CHT were undertaken separately by the two researchers. Taken together, their field visits took place during April, May, June and September of 2010. The locations of the fieldwork sites are schematically shown in Map 3. Collection of secondary data including relevant documents continued up to December 2010. This overlapped partially with data processing, analysis and report writing from October 2010 to February 2011. The draft report circulated at the end of February was edited and revised on the basis of feedback from colleagues during March-April 2011.

The research design is based on the approaches of political economy and political sociology and attempts to provide an *interpretive* analysis of the relations of expropriation and resistance between the concerned groups and institutions. The objectives of the study required us to understand interactions between the IP and land grabbing agencies through various mechanisms and processes, both legal and illegal. The evidence for this kind of analysis could not have been obtained through questionnaire-based sample surveys of individual households, because *relationships and interactions between* households, as well as social groups and classes, had to be captured for analysis. Consequently, we adopted a *qualitative* approach in order to identify and analyse particular mechanisms and

¹¹ This was soon after the violent attacks against the Hill peoples in the Baghaihat-Gangarammukh area and Khagrachhari town in February, 2010.

processes of land alienation as well as instances of resistance to these.

Among the fieldwork respondents were individual members and leaders of the IP who had experienced loss of their lands through different mechanisms, inclusive of illegal or forcible methods of acquisition. Discussions were also held with representatives of various concerned institutions in the CHT, including various Pahari social and political organizations, regarding the causes and processes of land alienation. In order to maintain a balance in the sources of data, we also held discussions with different Bengali interest groups, including settlers' associations, the civil administration, lawyers, journalists, teachers, social activists, and other professional groups. Some interviews and group discussions were held in the major cities of Dhaka and Chittagong when key respondents from the CHT were available in these locations. All interviews and group discussions were unstructured and open-ended, so as to enable respondents to talk freely about their own concerns and priorities in an unconstrained manner. We found this approach valuable because it often enabled respondents to provide totally unanticipated insights and perspectives, which might not have been forthcoming within a more rigid and structured format.

In addition to our own research activities, we attended various seminars, workshops and meetings in Dhaka that were concerned with land rights of the IP in the CHT and related issues. The discussions and papers circulated on these occasions provided valuable inputs into the study. Informal discussions outside these gatherings with the Pahari participants also provided significant insights into the processes and mechanisms of land alienation.

The primary data obtained through interviews, group discussions, formal seminar presentations and informal discussions were supplemented by collection of a variety of secondary data sources. These included books, journal articles, press clippings, agency reports, land titles and registration documents, land records registers, correspondence between

official agencies and concerned individuals, unpublished written materials provided by key informants, etc. A number of anonymous reports and documents on sensitive issues were also made available to us by respondents. Parts of the research findings presented here are therefore based on confidential sources, which have been checked for reliability as far as possible.

Apart from these standard research methods, a separate stream of data and insights from (unplanned) 'participatory research' became available to the study through one of the researchers in his capacity as a member of the CHT Commission.¹² His participation in several missions of the CHT Commission provided the opportunity for formal discussions in Dhaka with government ministers, civil and military officials, political leaders, as well as representatives of donor agencies and other organizations. Furthermore, during field visits of the Commission to the CHT, discussions were held with representatives of the local military and civil administration, the CHT Regional Council, the Hill District Councils (HDC), the Land Commission and the Task Force for Pahari refugees and IDP (see below). In addition, discussions were held with key organizations of the IP including the PCJSS, UPDF, CHT Citizens' Committee (CCC or *Nagorik Parishad*) and the Movement for the Protection of Forest and Land Rights (MPFLR) in the CHT, as well as various professional groups consisting of journalists, lawyers, NGO leaders and activists. During its field visits to all three districts, the CHT Commission also held separate meetings with representatives of various Bengali professional groups, inclusive of the Sama Adhikar Andolan, the leading association of Bengali settlers and businessmen in the region.

During these missions and field visits, the CHT Commission received a large number of petitions and documents related to land conflicts and the activities of the Land Commission,

¹² Shapan Adnan is a member of the CHT Commission and has taken part in several of its missions in Bangladesh inclusive of field visits to the CHT during 2008-10.

submitted by both Pahari and Bengali groups. Some organizations in the CHT made available their own publications as well as relevant documents and press clippings from their archives. Many ordinary Paharis and Bengalis spontaneously gave testimonies and documents pertaining to their land problems to the CHT Commission, in the belief that this might somehow serve to change policies and realize their claims. It is most unlikely that such discussions and documentary evidence would have been made available if this study had been confined to conventional data collection techniques. In this sense, this mode of participatory research provided unique access to documents, testimonies and insights on the mechanisms of land grabbing in the CHT that would not have been available otherwise.

However, it should be noted that fieldwork activities during CHT Commission visits could not always be carried out freely because of constraints imposed by the local civil and military administration. On many occasions in the CHT, interviews and group discussions had to be held under the direct surveillance of security forces and intelligence agencies, or in an atmosphere of intimidation generated by the threat of such surveillance. Such conditions made Pahari respondents in particular nervous and careful about what they stated in public. In some cases, Bengali civil servants also appeared visibly concerned by the presence of intelligence personnel who might report on them. Security and intelligence officials often entered and took notes inside - or just outside - the room in which our discussions were being held. On some occasions, our Pahari respondents had to face a barrage of questions from the phalanx of police and intelligence agents as they entered or left the meeting.¹³ On one occasion, a government official (UNO) insisted on coming in and being present during our

¹³ One such experience in Khagrachhari town is outlined in the press release of the Mission of the CHT Commission (2010b), conducted in September, 2010. Such visible surveillance and pressure was experienced during meetings of the Commission in Bandarban town, but to a much lesser extent in Rangamati town.

discussion with affected Hill peoples and then proceeded to intervene and disrupt the proceedings.¹⁴

These facts of surveillance and intimidation have obvious implications for the quality and accuracy of the data obtained from discussions held by the CHT Commission, particularly with Pahari respondents in the CHT. While the nature of possible distortions due to such factors cannot be precisely assessed, it is likely to have led to the *understatement* (rather than exaggeration) of respondents' grievances against the state and the security forces. This is because the chances of any possible reprisal would be lower if they spoke in a careful and guarded manner in the presence of security and intelligence officials rather than being outspoken. In contrast, most discussions with Pahari respondents in Dhaka and Chittagong cities were free of any visible intimidation and surveillance. Such unconstrained discussions also enabled us to adjust for possible distortions in the responses of Pahari informants who were subject to surveillance during our fieldwork in the CHT.

In view of these considerations, the real names of many Pahari respondents have not been stated in this study because of concern for their safety. In some cases, it has also been felt necessary to not reveal precise details of their location (e.g. villages). However, Paharis in public life, as well as those whose names already appear in documents available in the public domain, such as court proceedings and correspondence and memoranda submitted to official authorities, have been named in this study.

To summarize, the study is based firstly on primary data generated through fieldwork by the researchers, involving unstructured interviews and focus group discussions with respondents in the CHT as well as the cities of Dhaka and Chittagong. Secondly, it involves the content analysis of hundreds of secondary sources including legal documents, official reports and correspondence, applications and petitions,

¹⁴ This happened during a discussion of the CHT Commission with local respondents in the Baghaihat area in June 2010.

press reports, etc. These were collected in the field or provided by key informants. In addition, the study has been able to utilize information from the activities of the CHT Commission, based on its discussions with concerned individuals and agencies, as well as documents submitted by them to the commission.

SCOPE AND LIMITS OF THE STUDY

On the basis of the research design and methods specified above, the study provides a preliminary assessment of the features of the various land grabbing mechanisms affecting the IP as well as their attempts at resistance, and puts forward appropriate policy options. However, the limited time and resources available to this study did not allow us to undertake in-depth research to confirm the preliminary analysis and conclusions.¹⁵

Furthermore, it should be noted that this is *not* intended to be a *comprehensive* study of the political, economic or ethnic conflicts in the CHT. Nor is it a study of *all* aspects of land rights and land management in that region. Rather, it has a *limited* focus on the causal factors and proximate mechanisms of the alienation of the lands of the Hill peoples in the context of broader political, economic and demographic trends. Correspondingly, the study does *not* provide policy analysis of *all* major issues affecting the CHT, but concentrates on policy options for restituting illegally occupied lands of the IP and preventing further alienation of their lands.

Even within this narrowly defined scope, the issues pertaining to land contentions in the CHT are so complex and wide-ranging that a comprehensive and in-depth treatment has not been possible. Not all acts of land seizure are *inter-ethnic*, even though such conflicts remain predominant in the CHT. Instances of *intra-ethnic* land conflicts *among* the IP or Bengalis, often based on class interests, reflect a growing trend. In fact, land grabbing

¹⁵ This exploratory study was originally conceived as the preliminary phase of a two-phase research undertaking. The conclusions and policy analysis put forward by the present study could be tested and confirmed through further research.

has become big business in the CHT today and it is continuously expanding in ever more complex forms, with little concern for the law and property rights.

Lastly, this is not a fully-fledged academic study, even though the arguments and conclusions are based on rigorous analysis and assessment of empirical evidence. Rather, it is intended to be an operational document for everyday use by those concerned to deal with the land conflicts of the CHT and protect the lands of the IP. The following pages are aimed at a popular readership and try to explain technical and legal issues in simple language, avoiding as far as possible the heavy artillery of academic jargon.¹⁶

LAYOUT

A quick overview of the current implementation status of the CHT Accord and parallel developments is provided at the outset, focusing upon key clauses of the agreement for securing the land rights of the IP (Chapter 2). This is followed by detailed analysis of the causes and mechanisms of the alienation of the lands of the IP, beginning with the role of the state and public agencies and moving on to the role of private sector agencies and interest groups (Chapter 3). On this basis, policy analysis and recommendations for restitution of the occupied lands of the IP and preventing further alienation are put forward in terms of the possible roles of the concerned agencies (Chapter 4). These policy options are addressed to the government and general public of Bangladesh, the IP of the CHT and their representatives, donor agencies, the CHT Commission, pro-people NGOs, advocacy groups, and all other organizations and networks at home and abroad concerned with securing the land rights of the Hill peoples.

¹⁶ However, more detailed information on the theoretical underpinnings and empirical basis of this study can be made available, if necessary.

CHAPTER 2

IMPLEMENTATION OF THE CHT ACCORD AND PARALLEL TRENDS DURING 1997-2010

This chapter briefly outlines the current implementation status of the *CHT Accord* (popularly known as the Peace Accord) between the Government of Bangladesh and the PCJSS (Parbatya Chattagram Jana Samhati Samity), the organization that had led the armed struggle of the IP of the CHT.¹ The treatment is selective rather than comprehensive and focuses on aspects of this peace agreement that bear upon the resolution of land conflicts arising from the illegal occupation of Pahari lands. Furthermore, some of the key parallel trends affecting the political and ethno-demographic structure of the CHT during 1997-2010 are assessed. Their impacts on the land holdings of the IP as well as the implementation of the Accord are noted.

Following from the above, the discussion in this chapter is organized in terms of the following sections:

1. The CHT Accord of 1997
2. Implementation status of the CHT Accord
3. Parallel developments in the CHT during 1997-2010
4. Overall trends and future prospects

THE CHT ACCORD OF 1997

The Accord was signed between accredited representatives of the Government of Bangladesh and the PCJSS on 2 December

¹ The PCJSS was founded by Manabendra Narayan Larma on 7 March 1972. After his assassination in 1983 by a dissident faction, leadership of the PCJSS and its armed wing, the Shanti Bahini, passed on to his younger brother, Jyotirindra Bodhipriya Larma, popularly known as Shantu Larma.

1997.^{2 3} It specified procedures for the surrender of the members of the rebel IP organization, the PCJSS, and its armed wing, the Shanti Bahini (SB), along with the de-commissioning of their arms.⁴ The agreement included provisions for repatriation of the IP refugees in India, as well as rehabilitation of the internally displaced Paharis. To this end, a Task Force was set up by the Accord.⁵ The Government promised general amnesty and rehabilitation facilities to the PCJSS/SB members returning to normal life. By and large, clauses of this kind were implemented soon after the signing of the peace agreement.

However, the Accord included many other critical clauses that have not yet been substantively implemented by the government. Among these were a set of measures concerned with resolving land disputes and securing the land rights of the IP. These included recognition and recording of the land rights of the Paharis, cancellation of illegal leases and settlements given to non-residents of the CHT, and the setting up of a Land Commission to resolve all disputes pertaining to lands that had been “illegally settled and in respect of which illegal dispossession has taken place”.⁶

In addition, the CHT Accord redefined the status and powers of the erstwhile Hill District Local Government Councils (HDLGC)

² GoB and PCJSS (1997). The document is composed in Bengali and its full title can be translated as: *Accord between the National Committee Concerning the Chittagong Hill Tracts instituted by the Government of the People's Republic of Bangladesh and the Parbatya Chattagram Jana Samhati Samity*. It is signed and executed by Jyotirindra Bodhipriya Larma (popularly known as Shantu Larma), Chairman of the PCJSS, and Abul Hasnat Abdullah, Convenor of the National Committee on the CHT of the Government of Bangladesh. (Adnan 2004: 33-34)

³ In the CHT Accord of 1997, the sections are arranged in terms of the Bengali alphabet, i.e. Ka, Kha, Ga, Gha, etc. For present purposes, these have been converted into Roman characters in the same sequential order, i.e. A, B, C, D, etc. Relevant clauses of the treaty have been specified within square brackets in the main text, as relevant.

⁴ See GoB and PCJSS (1997), Section D.

⁵ GoB and PCJSS (1997), Clause D-1.

⁶ GoB and PCJSS (1997) Clause D-4.

and re-named these as Hill District Councils (HDC).⁷ It declared that a new body called the Regional Council (RC) would be established with the remit to supervise and coordinate the HDC in the three districts of the CHT and look after issues pertaining to the region as a whole.⁸ The government also committed itself to enact or amend all necessary laws, statutes and conventions as early as possible, so as to make the legal and administrative framework consistent with the CHT Accord and thereby facilitate its implementation.⁹ Furthermore, a three-member “Implementation Committee” was established “to monitor the process of implementation of this agreement”.¹⁰

Despite its many positive features, the status of the CHT Accord, and the measures and procedures it specified, were not without limitations and problems. The agreement was not backed by any constitutional guarantee or provision, making it susceptible to potential violation and modification by subsequent regimes coming to power.¹¹ A brief document of this nature could hardly be expected to deal adequately with the deep-rooted problems of land alienation and ethnic conflict afflicting the people of the CHT.

Overall, the Accord incorporated a number of agreements that resulted in a formal redistribution of power between the national government and the district and regional councils of the CHT, involving partial delegation of authority to the latter by the former in specific subject areas. However, the extent of ‘devolution of power’ was quite limited, and the decisions made by the Regional Council and the three Hill District Councils

⁷ GoB and PCJSS (1997), Sections B and C. Cf. Adnan (2004: 32).

⁸ Established by the Regional Council of the Chittagong Hill Tracts Act No. 12 of 1998 (GoB 1998d).

⁹ In particular, the government agreed to rectify any anomalies arising between (a) the CHT Regulation of 1900 and related laws, ordinances, etc. and (b) the Local Government Council Acts of 1989. This was to be done through appropriate legal measures on the advice and recommendations of the Regional Council. GoB and PCJSS (1997), Clauses A-2 and D-11.

¹⁰ GoB and PCJSS (1997) Clause A-3.

¹¹ Roy (1998b).

clearly remained subject to the agreement, if not approval, of the national government, which retained control of the purse strings and had the final say on all substantive matters.¹² Most crucially, the responsibility for implementation of the treaty rested effectively with the national government, rather than the somewhat nominal 'Implementation Committee' tasked with monitoring progress in the realisation of the treaty. The government was thus in a position to dictate the pace and nature of implementation (or, for that matter, non-implementation) of the specific terms that had been agreed in the Accord.

Despite these limitations, the Accord was welcomed by the bulk of ordinary Paharis who were weary of war and conflict and wanted the provisions of the agreement to be fully implemented as soon as possible.

However, soon after it was signed, the CHT Accord was opposed by some breakaway sections of the PCJSS/SB, inclusive of elements of its 'front associations' among students, women and other sections of the Hill peoples.¹³ The main reason for such opposition was the view that the provisions of the peace agreement fell far short of meeting the needs and grievances of the Hill peoples. The Paharis opposed to the Accord congregated under the banner of the United People's Democratic Front (UPDF).¹⁴ However, leaders of the UPDF have recently stated that they are willing to support the implementation of the Accord despite its limitations.¹⁵

Another faction of the PCJSS, which has broken away in the course of 2010, continues to support the implementation of the

¹² GoB and PCJSS (1997), Clauses B-21 and C-13.

¹³ Mohsin [1998: 106-107]. The latter included dissenting factions of the Pahari Chhatra Parishad (PCP), the Hill Women's Federation (HWF) and the Pahari Gano Parishad (PGP).

¹⁴ The UPDF was formally set up as a political party on 26 December, 1998, under the leadership of Proshit Bikash Khisa and Sanchoy Chakma.

¹⁵ Stated by delegates of the UPDF who met the CHT Commission during 2008-10.

CHT Accord.¹⁶ It is also supported by the CHT Citizens' Committee (or *Nagorik Parishad*), which has been recently formed as a non-party platform for the protection of the civil and political rights of the IP of the region.¹⁷

As such, all factions of the social and political leadership of the Hill peoples, irrespective of their organizational differences, hold a common position in terms of support for the implementation of the CHT Accord of 1997.

IMPLEMENTATION STATUS OF THE CHT ACCORD

The elected Awami League-led government which signed the CHT Accord in 1997 did not implement it much beyond the practical and immediate steps, noted above, before going out of power in 2001. The next elected government (2001-06) comprised of a four-party coalition led by the Bangladesh Nationalist Party (BNP) and included the fundamentalist Jamaat-e-Islami (JI). Both these parties had stridently objected to the CHT Accord when they had been in opposition. While they did not abrogate the agreement formally after coming to power, they allowed it to be undermined by continuing in-migration of settlers into the CHT and grabbing of Pahari lands by various Bengali interest groups. During the unelected and military-backed Caretaker Government of 2007-08, these trends accelerated, given that the security forces had a free hand in the CHT and could reactivate much of their pre-Accord counter-insurgency agenda without restriction.¹⁸

Consequently, great hopes were aroused when the current Awami League-led government was elected in December 2008, since it had explicitly promised to implement the CHT Accord in

¹⁶ Among its leaders are Rupayan Dewan and Sudha Sindhu Khisa, who held important positions in the undivided PCJSS.

¹⁷ The Citizen's Committee is chaired by Gautam Dewan and its members consist of representatives of the different Pahari ethnic groups and sub-regions of the CHT.

¹⁸ Adnan (2008b).

its electoral manifesto and campaign declarations. However, little of substance has been done by this elected regime since it came to power, in spite of political rhetoric to the contrary. Most of the important and substantive clauses of the CHT Accord remained unimplemented by the end of 2010 - thirteen years after the agreement had been signed in December 1997. Such ambivalence on the part of the current government has intensified the frustration and disillusionment among the Hill peoples.

Many complex factors have contributed to this outcome, as pointed out in the following review of the performance of the major institutions that were expected to play key roles in the implementation of the Accord. The relevance of these trends for protection of the lands of the IP in the CHT is also noted in context.

Implementation Committee for the CHT Accord

Even though the Implementation Committee for monitoring progress had been set up just after the Accord, it remained dormant during the following years until it was reactivated on 25 May 2009 after the Awami League returned to power. It has held just three meetings in the two and half years since its reactivation and these have consisted mostly of speeches and lunches, generating intense disappointment among the IP.¹⁹ The Committee has not performed any substantive implementation activity and does not appear to have the technical capability to do so. However, faced with united protest from all sections of the IP, the Committee was compelled to make the critical decision in December 2010 to suspend the activities of the Land Commission until the legal act governing the latter's activities had been duly rectified (see below).

¹⁹ The first meeting was held on 19 August 2009 in Rangamati; the second in Dhaka on 26 October 2009; and the third on 26 December 2010 in Khagrachhari.

Hill District Councils

The earlier versions of the Hill District Council Acts (dated 1989) were amended in 1998 in accordance with the CHT Accord.²⁰ However, the transfer of many important departments to the jurisdiction of the HDC, as specified in that agreement, has not taken place to date (as of December 2010). As a result, the HDCs do not yet have authority in critical matters such as control over the officials of the land administration and the appointment of certain police personnel (at the level of Sub-Inspectors and below; Clause B-24 and B-34). The agreement had stipulated that the HDC would be made the key node for development activities in their respective districts (Clause B-19), but this has yet to be actualized.

Significantly, Clause B-26 of the Accord endorses Article 64 of the three HDC Acts, which requires that all land transfers in the Hill districts must have the *prior* consent of the concerned council. However, this provision has been circumvented or ignored by the Deputy Commissioners' (DC) offices, other government agencies, as well as various interest groups concerned to manipulate the land administration in the CHT (see discussion in Chapter 3).

CHT Regional Council

The Regional Council has been kept largely ineffective because the necessary amendments to its Rules of Business and other pertinent laws, as specified in the Accord (Clause A-2), have not yet been approved by the government. For instance, this apex Council has not yet been given effective authority by the government to supervise the district councils (HDC) and coordinate their development activities (Clause C-9). It also lacks

²⁰ The three Hill District Council Acts were promulgated by amending the corresponding HDLGC Acts of 1989 and their revised titles were: (1) Rangamati Hill District Council Local Government (Revised) Act, 1998, (2) Khagrachhari Hill District Council Local Government (Revised) Act, 1998, and (3) Bandarban Hill District Council Local Government (Revised) Act, 1998. (GoB 1998a; 1998b; 1998c). The laws are composed in Bengali and their titles have been translated into English above.

authority to supervise the activities of the CHT Development Board (Clause C-10) because the required administrative orders have not been formalized by the government. The track record shows that the Regional Council has not been consulted by the government when enacting laws applying to the CHT, even though this is required by the Accord (Clause C-13).²¹ In effect, the Regional Council of the CHT has been left stranded by the government, such that it is unable to perform its duties or to fulfill the expectations of the IP, despite the agreements embodied in the Accord.

The Task Force for Rehabilitation of Returnee Refugees and IDP

The setting up of a Task Force for Pahari refugees returning from camps in India was an element of the 20-point agreement of March 1997 between the government and the IP leadership. The CHT Accord of December 1997 stipulated the setting up of a Task Force for the identification and rehabilitation of Internally Displaced Persons (IDP) in the three Hill districts (Clause D-1). While a Task Force for rehabilitating both Pahari refugees and IDP was set up in 1998, it did not receive requisite support and resources from the government to carry out its responsibilities. Thousands of refugees who returned from India were unable to regain their original lands and homesteads which had been occupied by Bengali settlers or other Paharis in their absence.²² The identification and listing of the IDP by the Task Force ran into a road block when the government directed that Bengali settlers should be included in the list in addition to the IP.

²¹ For instance, the very Awami League government that had signed the peace agreement did not even consult with the Regional Council before enacting the law establishing the CHT Land Commission in 2001. See discussion below.

²² A few half-hearted attempts made by the government soon after the Accord to rehabilitate Pahari refugees on their own lands met strong resistance from Bengali occupiers and have not been continued since (Chakma 2010: 15-16; Tripura 2010: 63). See Case Study 16 in Chapter 3 below. Cf. Adnan (2004: 87 and 167-169).

Even though the Task Force²³ has been reactivated by the present government in 2009, it still lacks necessary funds, strength, staff and capability to be able to do its job effectively. Consequently, almost all the repatriated Pahari refugees and IDP are yet to be satisfactorily rehabilitated. Most of them have not got back possession of their original lands, which had been illegally occupied while they had been seeking shelter elsewhere during the counter-insurgency period.

The Land Commission

The Accord explicitly stipulated that a Land Commission would be set up to resolve conflicts over land in the CHT.²⁴ The Commission was expected to provide rapid resolution of disputes pertaining to the occupation of the lands of the repatriated Pahari refugees, as well as to revoke the ownership titles of all lands that had been illegally settled or occupied to date. Consequently, the effective functioning of the Land Commission is of critical importance for resolving the legal, economic and political conflicts in the CHT arising from contentions about land.

However, the law enacted for the Land Commission²⁵ in 2001 differed critically from the relevant provisions specified in the CHT Accord (Clause D-4 to D-6). It limited the scope of activities of the Commission and centralized absolute decision-making authority in the hands of the Chairman at the expense of the other members of the Commission, particularly those who were representatives of the IP. Subsequently, the Regional Council

²³ The Bangladesh gazette of 1 April 2009 published the government order for the appointment of the MP of Khagrachhari, Jatindralal Tripura, as the Chairman of the Task Force. It provides a long and convoluted title of the organization as the “Task Force for repatriation and rehabilitation of returnee tribal refugees from India and the identification and rehabilitation of internally displaced persons”. (Translated from the Bengali original).

²⁴ GoB and PCJSS (1997) and Adnan (2004: 177-180).

²⁵ GoB (2001). As noted above, the law was promulgated by the government without due consultation with the Regional Council, in contravention of the requirement specified in the Accord (Clause C-13).

proposed a list of 23 amendments to the Act, but the government remained indecisive about their implementation. In any case, despite being formally set up, the Land Commission was essentially kept inactive during the tenure of previous governments.

The Commission was reactivated in 2009 after the Awami League returned to power. Its current Chairman is a retired High Court judge, who took office on 20 July 2009. Under his tenure, however, the role of the Commission has become increasingly controversial and its announced activities have been largely opposed by the very IP whom it was supposed to benefit. The Chairman, who is a Bengali, has systematically avoided working in collaboration with the Pahari members of the Land Commission, generating widespread resentment among the Hill peoples.

A meeting held at the CHT Affairs Ministry on 22 September 2010 is reported to have agreed to approve some, but *not all*, of the amendments to the Land Commission Act that had been proposed by the Regional Council.²⁶ Significantly, this meeting did not take a decision on the proposal to reduce the absolute decision-making power given to the Chairman and replace it with majority voting among all Commission members. Instead, this proposed amendment was forwarded to the Ministry of Land for review. Consequently, such contentious issues still remain to be satisfactorily resolved by the Ministry of Land with approval from the highest levels of the government.

Furthermore, no preparation has been made as yet by the Land Commission to resolve land disputes in accordance with the customary law and practices of the IP of the CHT, as specified in

²⁶ These include: increasing the quorum for meetings to ensure Pahari representation, enabling the Circle Chiefs to send authorized representatives to meetings, extending the authority of the Land Commission to deal with all disputes arising from illegal occupation of land in the CHT, not just those of a certain group of refugees, etc. The meeting was held in Dhaka, with the State Minister of CHT Affairs in the chair and attended by representatives of the Regional Council and the three Circle Chiefs. Press release of the PCJSS, dated 26 September 2010.

the Accord (Clause D-6b) and the Land Commission Act of 2001. Since there has been no known attempt to translate or operationalize these customary land laws and practices for use in dispute settlement hearings, the technical capability of the Land Commission to perform its responsibilities properly remains open to serious question.

However, despite such lack of preparation, the Chairman of the Land Commission made a unilateral announcement calling for submission of applications to resolve land disputes, without the agreement of Pahari members of the Commission. As a result, this call for applications has been largely boycotted by the IP. It is reported that around 5,000 applications have been submitted to the Land Commission office in Khagrachhari. Significantly, most of these are from Bengali settlers concerning their claims on land. Only 10-15 per cent of the applications are reported to be from Paharis, reflective of their large-scale boycott of this controversial process.

Nevertheless, on the basis of these applications, formal notices were issued by the Land Commission to concerned Paharis, including monks of Buddhist monasteries, to appear before it or have the cases settled in their absence. Significantly, the summonses are reported to have been delivered through the police rather than the post or courier services, creating a sense of fear among the Pahari recipients.

The widespread boycott of the Land Commission by the IP, as well as the likely non-participation of Pahari members of the Land Commission at its hearings, has generated expectations about paradoxical and contentious outcomes. It is apprehended that, given the concentration of decision-making power in the hands of its Chairman, the Commission would deliver partisan verdicts supporting the claims of Bengali settlers over lands of the IP that they had forcibly occupied from the time of the counter-insurgency (see discussion in Chapter 3).

If this were to happen, the effective outcome of this exercise would be to legitimize the illegal occupation of Pahari lands by Bengali settlers and interest groups. Such a consequence would

be exactly the opposite of the objective of setting up of the Land Commission by the CHT Accord, which had stipulated that it would resolve land disputes arising from illegal settlements and occupation of lands in the CHT.

Holding of a Cadastral Survey before Settlement of Land Disputes

Another controversial action by the current Chairman of the Land Commission, without any endorsement from the Pahari commission members, was his unilateral announcement that a cadastral survey would be held in the CHT *before* the settlement of land disputes. However, holding of a land survey is not under the jurisdiction of the Land Commission as per the CHT Accord as well as the 2001 Act governing its activities. On the contrary, the Accord specifies that a survey is to be held *after* Pahari refugees and IDP had been rehabilitated and land disputes had been resolved, and that such a decision is to be taken by the government *in consultation with* the Regional Council (Clause D-2).

It is significant that the call for the cadastral survey before dispute settlement was made not only by the Chairman of the Land Commission but also key ministers and leaders of the Awami League-led government. As explained in Chapter 3 below, this preference appears to have been motivated, at least in part, by the fact that the land titles and settlement documents issued to Bengali settlers during the counter-insurgency (or fraudulently manufactured during the post-Accord period), had serious technical and legal flaws. It would thus appear that a cadastral survey could provide them with the opportunity to ‘clean up’ their titling documents before submitting their cases for judgement by the Land Commission. In effect, undertaking of the survey *before* the resolution of land disputes holds the serious possibility of legitimizing illegal occupation of Pahari lands by Bengali settlers and other interest groups.

Not surprisingly, this move was solidly opposed by the entire spectrum of the Pahari groups and organizations in the CHT, with support from enlightened sections of Bengali public opinion in the rest of the country, who were concerned with the fair implementation of the Accord. As a result of this combined resistance, the government was compelled to back down and announce that the land survey in the CHT would be held *after* settlement of land disputes by the Land Commission had taken place.²⁷

Next, the Chairman of the Land Commission made another unilateral move by announcing that hearings of the land disputes applications would begin from 27 December 2010, without any consultation with fellow Commission members. This declaration was made even though the Land Commission Act had still not been duly amended in accordance with the resolutions of the earlier meeting, noted above. Consequently, the proposed hearings were likely to have been held without the legal safeguards that had been partly agreed between the government and the Pahari leaders of the Regional Council and the Circle Chiefs. The prospect of this unwarranted hearing by the Land Commission aroused massive protests from all parties and sections of the IP. Faced with such solid Pahari resistance, the government decided to call off the proposed hearing and suspend the activities of the Land Commission until the Act governing its activities had been duly rectified.²⁸

²⁷ This decision was made at a meeting jointly organized by the Ministries of Land and CHT Affairs, held in Rangamati on 10 October 2010. It was attended by the Land Minister and the State Minister for CHT Affairs, as well as Chairman of the Regional Council, Shantu Larma. *The Daily Star*, 11 October 2010; *Prothom Alo*, 11 October 2010.

²⁸ The decision was taken at a meeting of the Implementation Committee in Khagrachhari on 26 December 2010. Faced with the adamant opposition of Shantu Larma, one of the two signatories of the CHT Accord and one of the three members of the committee, the Chair of the Committee was reported to have telephoned the Prime Minister directly to obtain her concurrence to this decision. *Prothom Alo*, 28 December 2010.

This decision means that the Land Commission is effectively in limbo at present (as of February 2011). Significantly, this outcome indicates that the government is sensitive to the unanimous resistance of the IP against the controversial activities of the Land Commission Chairman, whose removal has now been demanded by many quarters, both Pahari and Bengali.

Overall Status of the CHT Accord by 2010

The CHT Accord has been only partially implemented in the thirteen years since it was signed on 2 December 1997. There has been full implementation of only some of the clauses to date, particularly in the immediate aftermath of the treaty. Most of the substantive clauses about devolution of power and increased role of local self-government institutions (HDC and RC) in the governance of the CHT have remained unimplemented or addressed in an unsatisfactory manner. As a result of this impasse, unintended consequences have begun to emerge by default. These reflect the working of many independent processes which are taking place in parallel and are likely to seriously affect the prospects of the full and proper implementation of the Accord.

PARALLEL PROCESSES AND TRENDS IN THE CHT DURING 1997-2010

Irrespective of the nature and extent of implementation of the CHT Accord, processes of change have been at work during 1997-2010, affecting the demographic, economic and political landscape of the CHT, as well as the land rights of its IP in relation to interest groups from outside. Due to these processes of change, there are significant differences between the pre-Accord and post-Accord situations in the CHT. Only selected aspects of these trends, which are relevant to changes in land rights and mechanisms of land alienation in the CHT, are briefly indicated below.

Demographic Growth and Re-composition

The Bengali population of the CHT has grown during the post-Accord period due to continuing in-migration from the plains as well as natural growth of all those who had already migrated to the region in earlier periods. Ironically, further in-migration of Bengalis has been encouraged by the signing of the Accord, since there is no longer fear of any action from the Shanti Bahini, the armed wing of the PCJSS, which had been disbanded in its immediate aftermath. Furthermore, neither the current government, nor its predecessors since 1997, has made any attempts to stop or limit the in-migration of Bengalis into the CHT. Significantly, the influx and settlement of migrants had played a critical role in precipitating the insurgency and ethnic conflict in the CHT during the 1970s. Consequently, the unconstrained continuation of similar processes post-Accord is likely to result in the building up of inter-ethnic tensions that could potentially threaten the stability of the region yet again.

Socio-demographic changes have taken place not only in the ethnic composition of the total CHT population, but also in the composition of different components of the Bengali settlers in the region. In particular, the proportion of the Bengalis who had come as state-sponsored transmigrants during the counter-insurgency (locally termed 'political migrants') has declined, while that of self-propelled Bengali migrants from adjoining districts of the CHT has increased. However, just like the political migrants of earlier periods, the new Bengali settlers have sought to establish rights on lands in the CHT by all means, foul or fair.

Thus, two of the most critical factors driving the long term ethnic conflict in the CHT – in-migration by Bengali settlers and the grabbing of Pahari lands – have continued unabated during the post-Accord period. Moreover, these have been taking place in a political context where the IP have less power to resist the state and Bengali interest groups than before the Accord, given the decline in their capability to put up organized resistance, as well

as continuing growth in the economic and political influence of Bengali interest groups in the CHT (see Chapter 3).

Attitudes of Bengali Interest Groups towards Landed Property in the CHT

Bengalis in the CHT increasingly feel that they now belong to the region. Many have been born of immigrant parents and some have buried their dead in these localities.²⁹ These factors have led to the emergence and hardening of certain attitudes and political dispositions among them, which bear upon the prospects for restituting and securing the land rights of the Hill peoples.

Most Bengali settlers, leaseholders, civil and military officials, traders, etc. who have acquired lands and assets in the CHT for cultivation, businesses and residence, want the security forces to stay and provide protection to their property. In general, Bengalis in the CHT feel insecure if the camps of the security forces are withdrawn.³⁰ This is a quite genuine fear, given that the existence of their current property and power is largely based on the backing of the military and civil administration.

In view of these considerations, Bengali settlers, interest groups, and civil and military officials are largely indifferent about, if not against, the restitution of the illegally occupied lands of the IP through all means, including the functioning of the Land Commission. They are clearly opposed to devolution of power and the effective functioning of the HDCs and Regional Council, which they perceive as protecting Pahari interests. It is also not surprising that Bengali interest groups want to revise the CHT Accord in order to legitimize the lands and businesses that they have built up in the CHT by legal and illegal means. The leaders

²⁹ Discussions with Bengali settlers in the CHT.

³⁰ Statements of members of the Sama Adhikar Andolan, the organization representing Bengali interests in the CHT. Cf. Adnan (2008a).

of almost all national political parties are unwilling to go against this trend and alienate their grassroots supporters among the *Bengali voters* in the CHT as well as the rest of the country.

New Policy Initiatives by the Government

These aspects of Bengali attitudes towards their landed property and political domination in the CHT are likely to have significantly influenced government thinking and policies. During mid-2010, the government began to make plans for major new policy thrusts to manage the CHT through the establishment of a 'Strategic Management Forum', which would regulate overall policy decisions affecting the region. Reports in the national press suggest the existence of an alternative blueprint to the CHT Accord for reorganizing the political and administrative structure of this region, linking development explicitly with security concerns, engineering politics to squeeze out regional Pahari parties, and bringing under surveillance what the media can publicly report about these developments.³¹

If the political and administrative restructuring of the CHT on these lines is actually carried out, the CHT Accord would be effectively bypassed. Local self-government institutions such as the HDC and Regional Council, having crucial roles in protecting the land and political rights of the IP, would be made increasingly redundant as alternative bodies such as the proposed Strategic Management Forum take over and impose a managerial style of security-dominated governance in the region.

OVERALL TRENDS AND FUTURE PROSPECTS

Despite official assurances and declarations, little has been done to implement the most critical clauses of the CHT Accord in a substantive manner. The government has yet to provide a road map for implementing the agreement within a specified time-frame, despite calls from the IP and concerned national and

³¹ For instance, *Dainik Jugantar*, 5 July 2010.

international organizations. Furthermore, lack of implementation of the Accord has created conditions that have facilitated the loss of Pahari lands, e.g. by not transferring 'land administration' to the jurisdiction of the HDC, the land holdings of the IP have been made even more vulnerable to alienation (see Chapter 3).

Parallel developments are already changing the demographic, economic and political landscape of the CHT in possibly irreversible ways that are likely to undermine the objectives of the Accord. Proposed policies of the government are likely to bypass its provisions, making the agreement increasingly non-implementable and irrelevant to the situation on the ground. The government is also more preoccupied with other political issues which are likely to get greater priority. Since preparations for the next parliamentary election (in 2013 or 2014) are due to get under way soon, it appears unlikely that substantive implementation of the CHT Accord would be given much priority during the remaining tenure of the current government.

In any case, the situation has changed so much since the signing of the Accord that it will not be easy to implement its provisions in its original form. Many revisions will be demanded by various quarters and interest groups, and these might provide opportunities for fundamental revisions in the agreement that undermine the interests of the IP. Indeed, apprehensions have already been expressed about possible revision of the CHT Accord to suit Bengali interest groups and agencies of the state at the expense of the IP, e.g. by legalizing all lands illegally grabbed by them during the post-Accord period.

As the ongoing changes in the socio-demographic patterns and distribution of landed property in the CHT take root and become consolidated, it will become increasingly difficult for these long term processes to be reversed. At the same time, there is also a disturbing sense of continuity between the pre-Accord and post-Accord situations in the CHT: the very factors that had stoked the Pahari insurgency and ethnic conflict in the region have all been at work during the years since the Accord, generating the prospects of renewed conflict in the future.

If nothing is done, the Accord will become increasingly irrelevant, given likely administrative interventions and irreversible demographic, economic and social processes taking place, as noted above. This scenario can only be opposed by strong movements of the IP, with support from coalitions of national and international networks. This would need to be accompanied by a political reorientation within the government to seriously implement the Accord while discontinuing the contrary policies and strategies note above.³²

These brief considerations indicate, firstly, that little substantive progress has been made in the implementation of the provisions of the CHT Accord aimed at resolving land disputes and restituting the illegally occupied lands of the IP. Secondly, Pahari lands and settlements continue to remain vulnerable to forcible occupation by agencies of the state as well as Bengali settlers and other interest groups. Thirdly, given these ongoing trends, it appears unlikely that such acts against the Paharis, aimed at driving them off their lands to make room for Bengali-dominated interests, will be stopped in the foreseeable future.

It must be reluctantly concluded that the prospects of peace and stability in the CHT will remain rather bleak unless and until there is a just resolution of these conflicts about the control of land and the rights of the IP. By default, continuation of illegal takeover of Pahari lands is likely to intensify their resentment and enhance the prospects of their organized resistance. This could conceivably lead to the renewal of armed conflict and counter-insurgency warfare in this sensitive region adjoining Bangladesh's international borders. Such an outcome could potentially threaten the social and political stability of not only the CHT and the rest of Bangladesh, but also the surrounding cross-border belts of India and Myanmar inhabited by similar ethnic minority groups.

³² Shantu Larma, leader of the PCJSS, has declared the launching of such a movement in Dhaka on the 13th anniversary of signing the Peace Accord on 2 December 2010.

CHAPTER 3

MECHANISMS OF LAND ALIENATION IN THE CHT

For the IP of the CHT, their lands, including forested areas, constitute resources indispensable for their physical survival as well as provisioning their distinctive social, cultural and religious needs. In recent times, their lands have become the object of illegal and forcible takeover by individuals and agencies from outside the region, giving rise to resistance by the Hill peoples. In this sense, land grabbing constitutes the key driving force of the ethnic conflict in the CHT between the IP and Bengali interest groups backed by the military and civil might of the state.

In recent times, the picture has become more complicated because of new patterns of land grabbing among Bengali interest groups, as well as within Pahari ethnic groups. These parallel processes, taking place along intra-ethnic and class lines, have made the land conflicts of the CHT even more complex.

This chapter is concerned with analyzing and illustrating this wide range of mechanisms at work in the alienation of land rights in the CHT. The discussion begins with a brief outline of the evolution of the system of landed property in the CHT from the colonial to the post-colonial period, drawing attention to the distinctive and changing features of the land rights of the IP as well as those coming in from outside the CHT. The distinctive features of land administration under the hierarchy of traditional Pahari officeholders (Chief-Headman-Karbari) and the colonial bureaucracy headed by the Deputy Commissioner (DC), are indicated.

The major mechanisms of land grabbing in the CHT are analyzed in the sections that follow, beginning with the roles of agencies of the state and then specifying the roles of various interest groups and organizations in the private sector. The analytical exposition of land grabbing mechanisms is arranged in terms of a typology

of the grabbing agencies. It compares different types of mechanisms utilized by land grabbing agencies as well as instances of resistance by the IP. Selective use is made of evidence from the late 1970s to the present (2010), with the aim of illustrating particular mechanisms of land alienation and resistance. However, it is not intended to provide a historical account of such processes. Nonetheless, in the concluding section, the significant differences between land grabbing mechanisms and processes operating before and after the CHT Accord are indicated, while taking note of those common to both periods.

EVOLUTION OF PROPERTY SYSTEMS AND LAND RIGHTS IN THE CHT

In pre-colonial times, the indigenous groups of the hilly and forested tracts of the CHT practised slash-and-burn or swidden cultivation (locally known as *jum*) on the basis of customary laws, rights and practices. Its technical features and social organization of production required temporary and transferable rights of use on common lands.¹ Consequently, there was no need for the IP to develop permanent and heritable private property rights in land.

However, the British colonial state dramatically altered the nature of landed property in the CHT, resulting in distinctive features compared to those in the plains of undivided Bengal.² During the second half of the nineteenth century, almost all the lands of the CHT were taken under state ownership and designated as either (i) Reserve Forests (RF) under the Forest Department, or (ii) Unclassed State Forests (USF) under the office of the DC at the head of the district administration.³ The detailed

¹ Adnan (2004: 36-37).

² Mohsin (1997: 91-92) and Adnan (2004: 37-41).

³ The Indian Forest Reserve Act of 1865 and another Act in 1878 (R.C.K. Roy 1996: 22; Mohsin 1997: 87-91). The USF had been initially termed District Forests, and consisted of all lands that had not been demarcated as RF, or

rules pertaining to land rights and governance of the region under the British colonial state were specified in the Chittagong Hill Tracts Regulation of 1900 (Act 1 of 1900) - known in brief as the CHT Regulation or Manual.⁴ This Regulation has continued to provide the basic legal framework for civil, revenue and judicial administration of the region from colonial to post-colonial times.⁵

Historically, the rights of the IP on their common lands had been based on customary practices operating through the oral tradition rather than written laws. However, these were largely ignored or transformed when the colonial state claimed formal ownership of the Pahari lands. What the British termed as the Unclassed State Forests (USF) actually contained the 'common lands' that the Hill peoples had been historically using for their homesteads, swidden (*jum*) farming, hunting and gathering, livestock grazing, village common forests (VCF) and various other land and forest-based extraction activities.⁶ The CHT Regulation *partially* acknowledged and regulated some of these Pahari uses of land.⁷ Colonial law thus gave the IP limited and qualified rights to use the USF, rather than clearly defined and unequivocal rights on common lands.

Consequently, even though the USF areas were used and inhabited by the Hill peoples, the government regarded these as state-owned lands that could be taken back ('resumed') at will and settled or leased to anyone else.⁸ In effect, the IP of the CHT

not settled or leased out in the name of any private individual or corporate body.

⁴ Mohsin (1997: 32).

⁵ Roy (1995: 54) and Mohsin (1997: 45). However, the CHT Regulation has been subject to various amendments during the course of the twentieth century, transforming many of its original clauses (Adnan 2004: 38-43).

⁶ Roy (1996: 2) and R.C.K. Roy (1996: 33).

⁷ Roy (1994: 15-16), R.C.K. Roy (1996: 33, fn. 79) and Mohsin (1997: 88). The CHT Regulation acknowledged that the indigenous peoples have qualified rights to homestead lands, the extraction of sungrass (Rule 45A), to right to herd (Rule 45B), and the right to *jum* (Rules 34, 41, 42, 45 and 50).

⁸ Cf. Sato (2000) on the concept of 'ambiguous' lands.

came to be treated as ‘squatters’ on their own ancestral lands which had been arbitrarily usurped by the British.⁹ The colonial state thus transformed the nature of landed property in the CHT in a way that weakened the customary land rights of the IP, making them potentially vulnerable to dispossession through state resumption.¹⁰

The CHT Regulation also specified the roles and responsibilities of the hierarchy of traditional officials among the Hill peoples, which consisted of: (i) three Circle Chiefs (or Rajas) as the head of three revenue zones (‘Circles’); (ii) the Headmen (or ‘Headwomen’) of revenue units (*mouza*) under them; and (iii) the Karbaris (managers) at *para* or village-level within the *mouza* under each Headman.¹¹ The Chief-Headman-Karbari structure was responsible for management of swidden cultivation and the collection of taxes from the Pahari (*jum*) cultivators for onward payment to the office of the Deputy Commissioner (DC). Plots used for *jum* cultivation were periodically redistributed to individual Pahari households by the concerned Headman and Karbari from the common lands in their respective domains, *without any formal title* being involved. While some written records required for purposes of tax collection were maintained by the Chief-Headman-Karbari hierarchy, this system of customary land management was largely based on verbal agreements and transactions, as part of a wider oral tradition of social and economic governance.

The new land management system under the colonial state imposed restrictions on the sale or transfer of Pahari lands. Any reallocation or transfer of land had to be done with the knowledge and agreement of the concerned Headman. Furthermore, obtaining private titles (*kabuliyat*) of settlement on common lands, as well as the sale and transfer of such lands,

⁹ Brauns and Loffler (1990: 244).

¹⁰ R.C.K. Roy (1996: 40). Cf. Harvey (2003) on the notion of accumulation by dispossession.

¹¹ The office of Headman or Karbari can also be held by Pahari women, though this tends to be relatively rare. Cf. Adnan (2004: P-47, Plate 97).

required the Headman's written recommendation.¹² While not explicitly specified in the CHT Regulation, obtaining the Headman's recommendation for any transfer of land rights in the region became a universal practice in the system of land administration operating under the DC.

Although the traditional Chief-Headman-Karbari hierarchy and modern civil administration had complementary roles in the CHT, ultimate power and authority was explicitly vested in the DC by the colonial state. In particular, the DC had the final say in matters pertaining to land rights and administration compared to the Chief-Headman-Karbari hierarchy. The ultimate power of the DC over land administration in the CHT was maintained under the post-colonial states of Pakistan and Bangladesh.

The three Chiefs and the various Headmen and Karbaris were also charged to resolve conflicts and dispense justice in their respective domains in accordance with the customary laws of the Hill peoples.¹³ Significantly, the colonial state did not install a separate official judiciary in the CHT. Instead, judicial powers were vested in the executive officials of the civil administration, viz. the DC at the district level and the Divisional Commissioner at the level above. This arrangement continued under the post-colonial Pakistani and Bangladeshi states until very recently. In 2008, judicial functions were separated from administrative ones in subordinate courts, leading to the establishment of civil courts and the appointment of judges and judicial officials in the districts of the CHT.¹⁴

Introduction of Private Land Rights in the CHT

Within this system of state and common lands, the colonial government introduced private property rights in the CHT through several distinct processes. During the second half of the nineteenth century, it offered private land rights to all those

¹² Chakma (2010: 30).

¹³ Shelley (1992: 83) and Mohsin (1997: 33-34).

¹⁴ The CHT Regulation (Amendment) Act, 2003 (Chakma 2010: 30, fn. 41). This law was not activated until 1 July 2008.

adopting plough technology for wet-rice cultivation in the CHT.¹⁵ Despite their initial reluctance, some of the Pahari groups began to take up plough cultivation in increasing numbers, thereby also gaining private land rights in the process (particularly the valley-dwelling Chakma, Marma and Tripura peoples).¹⁶ Subsequently, the colonial government also granted private land rights to Pahari office-holders such as the Chiefs, Headmen, Karbaris and other key individuals mediating the collection of land revenue and other aspects of colonial rule.¹⁷

Under the post-colonial states of Pakistan and Bangladesh, private rights of freehold and leasehold were given to Paharis and Bengalis operating timber, rubber and horticultural plantations and other commercial establishments in the CHT.¹⁸ The government initiated several development projects with the support of international donor agencies that aimed to wean the IP away from swidden farming, which was regarded as harmful and problematic for political control, and 'rehabilitate' them on state lands where they were supposed to be given settlement with title deeds.¹⁹

The cumulative outcome of these varied processes was that a certain proportion of the state-owned lands of the CHT was gradually settled or leased out to individuals and corporate entities for agricultural, horticultural, forestry and other purposes. These lands were thus transferred from state-ownership to the domain of private property.²⁰ However, despite the emergence and growth of private lands, the bulk of the area

¹⁵ Sopher (1964: 122).

¹⁶ Sopher (1963: 344) and Brauns and Löffler (1990: 40).

¹⁷ Adnan (2004: 38-39).

¹⁸ Roy (1994: 14-15; 1995: 63).

¹⁹ This applied to certain projects of the Jum Control Division (Roy 1998b: 11-12), the CHT Development Project (CHTDP 1987: 9-14), as well as the 'rubber plantation' villages of the Upland Settlement Project (Adnan 2004: 86-91). However, in many such cases, the concerned Paharis were eventually not given the formal titles (*kabuliyat*) on the plots that they had been promised when joining the project.

²⁰ R.C.K. Roy (1996: 33).

of the CHT continued to remain within the USF, which was largely possessed and used by the IP under customary practices.²¹

With the emergence of pockets of private property in the context of pre-existing state and common lands, the overall system of land rights in the CHT became highly complex and multi-layered, with overlapping rights. In specific instances, (i) individual households, (ii) the village community, and (iii) the state could *simultaneously* hold *distinct* rights over the same lands used by the IP for swiddening, grazing, common use, forests, etc.²² While the CHT Regulation acknowledged and specified some of the customary common rights of the IP, there were 'grey' areas which remained undefined and ambiguous.²³ Such coexistence of partially overlapping state, common and private land rights was symptomatic of a situation of *legal pluralism* in the landed property system of the CHT, which provided the potential basis of conflicts over land that were precipitated by subsequent events.

Changes in Laws of Entry, Residence and Eligibility for holding Land in the CHT

The CHT Regulation had initially given special protection to the rights of the IP, while making it relatively difficult for outsiders from the plains to enter, reside or acquire rights to land in the region. However, during the course of the twentieth century, successive legal and constitutional amendments enacted by the colonial and post-colonial states chipped away at these protective measures for the Paharis. These changes also made it increasingly easier for people from outside to enter, reside and hold private property rights in the CHT.²⁴ In particular, amendments to Rule 34 of the CHT Regulation in 1971 and 1979

²¹ Roy (1996: 53, fn. 116), R.C.K. Roy (1996: 33, fn. 79) and Mohsin (1997: 88).

²² Roy (1995: 62; 1997).

²³ Cf. Sato (2000). Such customary laws and practices are not necessarily informal, but could be regarded as an alternative formality (Bruce et al. 2007).

²⁴ Brauns and Löffler (1990: 39), Shelley (1992: 83), and Adnan (2004).

lifted virtually all restrictions on land settlements and leases to outsiders including those who did not reside in the CHT ('non-resident non-hillman').²⁵ These critical changes in the rules governing rights to landed property enacted by the Pakistani and Bangladeshi states effectively served to 'legalize the settlement of more and more immigrants in the CHT'.²⁶ Most of these newcomers, though not all, were Bengalis from the plains districts.

Transmigration of Bengali Settlers and Forced Redistribution of Pahari Lands

While the pace and volume of natural in-migration into the CHT increased over time, the process was dramatically accelerated by the massive transmigration of Bengali settlers organized by the military and civil administration during 1979-85 as part of the counter-insurgency strategy of the state against the Pahari rebels led by the PCJSS.²⁷ In parallel, the IP were systematically and forcibly evicted from their settlements and many of their lands were redistributed by the state to in-migrating Bengali settlers with little concern for their pre-existing land rights (see below).

The claim that the *common* lands of the IP were essentially state-owned (*khas*) began to be instrumentally invoked by the government from the time of the counter-insurgency to justify the redistribution of Pahari lands to Bengali settlers. In parallel, the civil administration and security forces followed a policy of disregarding even the *private* property rights of Paharis on lands that had been *formally titled and registered*.

²⁵ For technical details, see Roy (1996) and Adnan (2004: 40-43).

²⁶ See Brauns and Löffler (1990: 39), Löffler (1991: 22), Roy (1994: 22; 1996: 73; 1998b: 7), R.C.K. Roy (1996: 43, 70-73), Mohsin (1997: 112) and Adnan (2004: 42-43).

²⁷ Treatment of the factors leading to armed insurgency by the IP and the undertaking of counter-insurgency warfare and organized transmigration by the state are beyond the scope of the present study, given its limited objectives. However, the relevant historical and political analysis can be looked up in Mohsin (1997) and Roy (1997). A brief treatment of these issues is provided in Adnan (2004: 26-35; 47-51).

These legal, military and demographic interventions led to drastic changes in the ethnic composition and land distribution of the region.²⁸ Since the IP and the Bengalis belonged to ethnically distinct groups, the disputes resulting from the redistribution of Pahari lands to settlers and the consequential inter-ethnic shifts in control over land were critical in precipitating the *ethnic and political conflict* in the CHT.²⁹

The Political Context of Land Grabbing after the Peace Accord

After the Shanti Bahini was formally disbanded, the CHT became wide open to in-migration and land grabbing by Bengalis during the post-Accord period. These processes were facilitated by the lack of substantive implementation of the Accord, since the government did not empower the HDC, the Regional Council and the Land Commission with adequate resources and authority to be able to protect Pahari lands against forced occupation (as noted in Chapter 2).

Elected governments led by the Awami League (during 1996-2001) and the BNP (during 2001-2006) did not take effective measures to stop the grabbing of new Pahari lands or to restitute their already occupied plots. The forcible dispossession of the IP from their lands worsened under the military-backed Caretaker government of 2007-08, since the security forces had a free hand in encouraging settlers to take over Pahari lands in the CHT.³⁰ The situation has not improved significantly during 2009-10 under the elected Awami League-led government, since the security forces have continued to operate with a counter-insurgency mindset in the CHT (see below).

²⁸ Adnan (2004: 47-53).

²⁹ Adnan (2004). Bruce et al. (2007: 37) note that "Ethnicity is an especially important social cleavage in many countries, and if formalization (of land rights) confers much greater benefits on one ethnic group than another, it can make (such) formalization politically explosive".

³⁰ Adnan (2008b).

Different Types of Land Laws and Forms of Land Grabbing in the CHT

Following from the evolution of the system of landed property noted above, the state of legal pluralism in the CHT is characterized by the co-existence and parallel operation of three major types of land laws, as follows:³¹

- (i) Formal laws which apply to the entire country
- (ii) Formal laws specific to the CHT and its IP³²
- (iii) Customary laws of the IP

As noted above, land rights based on each of these three systems overlap to varying extents, giving rise to instances of multiple and often conflicting legal rights on the same plot of land. In addition, land grabbing in the CHT (as in the rest of Bangladesh) is based on actual *possession* of land on the ground, entailing the primacy of *de facto* over *de jure* rights. The complex contestations over private, state and customary (common property) lands in the CHT therefore involve interactions between *de jure* and *de facto rights* in varying combinations, as specified below.

Within this complex framework of property rights, acquisition or grabbing of land in the CHT has been taking place through many different processes, which can be grouped under four broad categories:

1. State acquisition of the private and common lands of the IP, converting these into state-owned lands.
2. Forcible occupation of the private and common lands of Paharis by Bengali interest groups and agencies, resulting in the conversion of these into the private property of the latter.
3. Privatization of Pahari common lands by individual members of the IP, converting these into their private property.

³¹ Roy (2004: 5).

³² For instance, the CHT Regulation and the Acts pertaining to the Hill District Councils, the Regional Council and the Land Commission.

4. Acquisition of the titled lands given to Bengali settlers during the counter-insurgency by influential Bengali interest groups based both inside and outside the CHT.

Of these, the first two processes involve the loss of land rights by the IP to outside agencies and interest groups, while the third involves transfer of land rights *among* the Paharis themselves. In contrast, the fourth process pertains to the grabbing of land *among* Bengalis, mainly involving takeover of the land rights of ordinary settlers by powerful interest groups.

In addition to ongoing land loss, the rights of the IP are also undermined by constraints to the *restitution of their already occupied* lands – a process that can be termed ‘land denial’.³³

ACQUISITION OF CHT LANDS BY AGENCIES OF THE STATE

Some of the largest takeovers of Pahari lands in the CHT have been through acquisition by various agencies of the state. Among them, the Forest Department is by far the largest land grabber, followed by the security forces. In most cases, these state agencies activate formal land acquisition procedures mediated by the DC offices. However, these agencies have also been found to take over Pahari lands unlawfully, without bothering to follow the required acquisition procedures. Such instances are illustrated by case studies below.

Procedures of State Acquisition of Land in the CHT

The law and procedures of state acquisition of land in the CHT are somewhat different from those in the rest of Bangladesh. These are conducted under the CHT (Land Acquisition) Regulation, 1958, specific to the region - a draconian law which empowers the DC to use force to acquire the designated lands, without even having to give any prior notice to the concerned

³³ Adnan (2011). Cf. Borras and Franco (2010).

landowner.³⁴ There is no provision for any appeal against land acquisition under this law. Since 1958, it has been used by the state to acquire Pahari lands for installations of the security forces and government departments.³⁵

Actual Outcomes of the CHT Accord and HDC Acts on Powers of the DC Office

Article 64(1), common to all the HDC Acts, explicitly specifies that without the prior approval of the respective Hill District Council, no lands of the district can be settled, leased, sold, or transferred in any other way (except for certain designated areas such as the RF that remain outside the jurisdiction of the Councils).³⁶ The law also requires the government to consult and obtain the agreement of the concerned HDC before it can acquire or transfer any lands, hills and forests under the latter's jurisdiction.³⁷

The framing of the HDC Acts clearly empower these to override the power given by the CHT Regulation to the DC as the sole authority in matters related to the settlement, leasing, sale or any other form of transfer of lands under the jurisdiction of the

³⁴ Chakma (2010: 26).

³⁵ This land acquisition law for the CHT appears to be inconsistent with the fundamental rights of citizens as specified in the Constitution of Bangladesh. A Writ Petition (No. 5582 of 2004) challenging its constitutionality is currently awaiting judgement from the High Court (Chakma 2010: 32, fn. 48).

³⁶ Common Article 64(1) of the HDC Acts (GoB 1998a; 1998b; 1998c), which has been amended and endorsed by the CHT Accord (Clause B-26).

³⁷ GoB (1998a; 1998b; 1998c). The earlier Hill District Local Government Council Acts of 1989 had also stated that the prior agreement of the District Council is mandatory for land settlements and that transfer of lands to non-permanent residents of the CHT is forbidden (GoB 1989). This was confirmed by a gazette notification of the Ministry of Land, dated 19 July 1989, which stated that "without the prior permission of the concerned local government council, no lands can be given in settlement or transferred to any person who is not a resident of the concerned district". Cited by Chakma (2010: 33-34). An approximate translation from the Bengali original has been provided above.

Councils. However, in practice, the DC offices in all three CHT districts have continued to exercise the power given to them by the CHT Regulation of 1900, in violation of the HDC laws (as amended in 1988).³⁸ Even though the HDC Acts have legally curtailed the power of the DC by nominally transferring land matters to the jurisdiction of the HDC, the government has actually not given effect to this redistribution of authority. Consequently, the DC has been able to flout the HDC laws and exercise *de facto* powers of control over land matters in the CHT.³⁹

One of the few consequences of the HDC Acts has been a partial suspension of the issuing of formal titles (*kabuliyat*) to land by the DC offices of the CHT. However, this has not prevented *de facto* land transfers from going on without involving the concerned district councils. As observed in the CHT (and elsewhere in Bangladesh), land grabbers do not wait until they are issued with *de jure* titles (*kabuliyat*) by the land administration. Rather, they grab the land first to get *de facto* possession and then apply for formal land settlement. During the latter stage, their objective is to reach the point at which formal approval for issuing of titles is given by the DC office. This constitutes a major step in gaining *de jure* land rights, even if the consent of the HDC is not forthcoming, or the issuance of such consent is simply frozen or suspended due to deadlock. In effect, land grabbers complete most of the lengthy settlement process up to the DC office and use this as a *fait accompli* to claim justification for their actual possession of the concerned lands (even if they have not obtained formal titles due to lack of agreement of the concerned HDC).⁴⁰

The effective outcome of these processes is that Article 64 of the HDC Acts has been disregarded and violated by DC offices of the CHT in many instances. The latter have continued to process land settlements and leases to various Bengali interest groups,

³⁸ Chakma (2010: 33-34).

³⁹ Rephrased on the basis of comments from Sara Hossain.

⁴⁰ Rephrased on the basis of comments from Sara Hossain.

including non-residents of the CHT, without obtaining the prior approval of the concerned HDC. This provides a critical illustration of the ways in which agencies of the state in the CHT have been undermining the very laws and property rights that they are supposed to uphold.⁴¹

FOREST DEPARTMENT: LAND ACQUISITION FOR AFFORESTATION PROJECTS

Even though existing ('old') Reserve Forests (RF) already cover nearly one quarter of the area of the CHT, the Forest Department has been attempting to expand such areas from the late 1980s. However, *new* Reserve Forests can only be created by acquiring the USF lands on which the IP have *common* or private rights.⁴² Consequently, a 'zero sum game' situation is involved in which expansion of state forests necessarily entails the loss of lands of the inhabitants of the CHT.

The afforestation projects of the Forest Department typically involve expansion of monoculture plantations which are often initiated and funded by international banks and donor agencies. For instance, major forestry initiatives in the CHT, including the National Forestry Policy of 1979 and the Forestry Master Plan of 1994, have been undertaken with the assistance of the Asian Development Bank (ADB). Generally speaking, the forestry policies and programme activities of the World Bank and the ADB in the CHT have had unfavourable impacts on the traditional land rights of the IP. Their policies and projects have systematically promoted industrial forestry by expanding rubber and timber plantations and strengthening the policing function of the Forest Department. The ADB's Forestry Master Plan and other policies and projects have impacted negatively upon the forest commons, traditional land rights and community

⁴¹ Cf. Adnan (2004: 51).

⁴² Roy (2004: 6). These include the Village Common Forests (VCF or mouza reserves) managed by Headmen and Karbaris, which have been largely beyond the regulation of the state until recent times.

participation of the IP.⁴³ Forest-dwelling Pahari communities have been involved in such projects merely as providers of cheap labour. Even though formally designated as 'beneficiaries' or 'participants', they have never been allowed to have any meaningful decision-making roles in these forestry projects.⁴⁴

Since 1989, the cumulative total of lands in the CHT targeted for acquisition by the Forest Department has amounted to a staggering 218,000 acres. These are in the so-called USF areas in which most of the lands used by the IP are located. From 2009, attempts have been renewed to acquire customary lands (and, in some instances, the private property) of the IP for afforestation projects to set up new RF.⁴⁵ Furthermore, plans for creating completely *new categories* of state forests (e.g. so-called 'Notified Forests') have been in circulation during 2010, which are likely to be formally approved during the course of 2011.

This kind of forced afforestation programme by the Forest Department, typically supported by international donor agencies, violates the land rights of the inhabitants of the CHT and results in the eviction of thousands of people from their settlements. While the IP are primarily affected, some Bengalis also face comparable threats (e.g. in areas such as Rajasthali of Rangamati).

When making the case for acquiring lands for afforestation, the Forest Department is required to undertake field inspections on the ground to assess the actual conditions and nature of habitation in the concerned areas. In order to get approval, it has to certify that during field inspection the land to be acquired was found to be either uninhabited or fallow. Alternatively, if the land is inhabited, the department has to certify that the people present are willing to move away if paid due compensation. However, such certification by the Forest Department can be deceptive and the reported findings of the purported field

⁴³ Roy and Halim (2001), Roy (2002; 2004: 17) and Adnan (2004).

⁴⁴ Roy (2004: 7).

⁴⁵ Tripura (2010: 65).

inspections may turn out to be quite fictitious. It has been alleged that, in some instances, Pahari lands have been covertly acquired by the Forest Department on the basis of false claims that these are not populated. This ploy has enabled the department to circumvent the requirement for making public announcements and enquiries and consult with the affected people, as required by law and official procedures.

For instance, recommendations for declaration of new RF areas in various mouzas of Rajasthali in Rangamati district were made by the Forest Settlement Officer and ADC (Revenue) of Rangamati on 9 February 1994 and submitted to the Secretary of the Ministry of Forests and Environment. However, their report and recommendations were publicly challenged by the actual inhabitants of the designated areas during widespread protests against the proposed afforestation programme.

Some of the mechanisms used by the Forest Department for grabbing Pahari lands in the CHT, while bypassing due processes, are illustrated by the three case studies below.

Case Study 1 **Forcible acquisition of Pahari lands by the Pulpwood Plantation** **Division of the Forest Department⁴⁶**

During the counter-insurgency period, the IP of Rajasthali alleged that the Pulpwood Division of the Forest Department had been taking over their lands for afforestation without having completed due land acquisition procedures. This complaint was taken up for discussion in a meeting chaired by the Brigadier commanding the 65 Infantry Brigade, held at the Kaptai Regional Headquarters of the army on 23 February 1988. Relevant evidence was presented to the meeting by the Army Commander of the Rajasthali zone and an Assistant Commissioner from the Rangamati DC office. Their testimonies clearly indicated that the lands of local Paharis had been taken over and used for the pulpwood plantation programme by the Forest Department, even though the state acquisition process under the DC office had not yet been

⁴⁶ This case study is based on the minutes of the meeting, signed and dated 25 February 1988 (Reference No. 256/2/GS (SD) (in Bengali)).

completed and the concerned area had not been officially demarcated with the agreement of the IP. In effect, the Forest Department was found to have unlawfully grabbed IP lands, resulting in resentment and unrest among the latter.

In this instance, the military commanders reprimanded the concerned Forest Department officials present at the meeting because the latter's activities had been fuelling the very insurgency that they were trying to subdue. It was decided that the Forest Department's Pulpwood Plantation Division would under no circumstances begin work on Pahari lands before settlements on these had been formally issued by the DC office and the designated lands had been marked out by the concerned official surveyor with the agreement of the IP. These resolutions made at the meeting were accepted by the Conservator of Forests of Rangamati who was present on the occasion.

Case Study 2

Forcible acquisition of private Pahari lands and plantations by the Forest Department⁴⁷

During the mid-1990s, the Forest Department issued a series of gazette notifications to acquire lands for establishing Reserve Forests for its Pulpwood Plantation Division. However, in many cases, the lands designated for acquisition by the Department were not common lands of the IP in USF areas, but their *private* lands with registered titles. Furthermore, as noted in the preceding case study, the Forest Department did not wait for the formal land acquisition process to be completed before sending in its personnel and contractors. The latter not only entered the private property of the Paharis against their wishes but proceeded to mark the trees belonging to them. In some instances, the Forest Department functionaries and contractors also attempted to evict the concerned IP from their lands by claiming that these were eventually going to be acquired anyway for raising pulpwood plantations. Furthermore, despite objections from the affected Paharis, the Forest

⁴⁷ This case study is based on analysis of legal documents of four of the 62 lawsuits instituted against the Forest Department by the affected Paharis. These pertain to the cases lodged by: 1. Agni Mohan Tanchainghya (Civil Suit No: 52/96); 2. Surendra Lal Tanchainghya (Civil Suit No: 69/96); 3. Mong Pu Ching Mogh (Civil Suit No. 11/97); and 4. Joy Kumar Tanchainghya (Civil Suit No. 67/96). All suits were lodged in the Court of the DC, Rangamati.

Department personnel proceeded to cut down trees raised in the private lands of the IP before the acquisition process had been completed.

Initially, most of the affected IP pleaded with the Forest Department personnel and showed them their *kabuliyat* (title) and other land settlement documents. However, when the latter did not pay heed, they decided to act together and lodge civil suits *en masse* against the concerned officials of the Forest Department and the DC office. At least 62 lawsuits were instituted by the IP at the court of the DC in Rangamati during 1995-97, in which they prayed for temporary stay orders for immediately stopping the encroachment, followed by permanent stay orders against the expropriation of their lands by the Forest Department.

In all the four cases reviewed for this study, the plaintiffs were able to obtain temporary stay orders against such forcible activities of the Forest Department on their private lands. The Court also issued 'show cause' notices asking the Department to explain and justify its actions. In all four of these cases, no final verdict was delivered by the Court during the ensuing decade. However, after independent judicial courts began functioning in the CHT, the affected Paharis renewed their cases around 20 July 2008 and called for permanent stay orders against the concerned Forest Department officials.⁴⁸ They also prayed to the court to confirm their pre-existing legal rights on the disputed lands.

Initially, when the Forest Department had tried to take over their lands, most of the concerned IP did not have the confidence to resist, given their lack of power and financial resources. Subsequently, as a result of group interaction among themselves, many of them decided to take legal action in a concerted manner. The Movement for Protection of Forest and Land Rights (MPFLR) is reported to have played a key role in bringing about this coordinated action by the IP.⁴⁹ It provides an instance of Paharis undertaking collective action through mass lawsuits against a government department in order to resist its unlawful encroachment on their private lands and being able to slow down or hold the process through temporary restraining orders from the district court.

⁴⁸ This was done immediately after the district court was established in the CHT in 2008, when judicial processes began to operate independently of the civil administration (the DC office).

⁴⁹ Interview with Sudatta Bikash Tanchangya, General Secretary of the Movement for Protection of Forest and Land Rights (MPFLR) in the CHT.

Case Study 3

Eviction of people in Rajasthali due to establishment of pulpwood plantation by the Forest Department

The Forest Department began raising pulpwood plantations in Kuikyachhari and Dhanuchhari, two mouzas of Rajasthali in Rangamati district, from 1974 and the process continued during 1992-93 to 1996-97.⁵⁰ As part of the land acquisition process, it issued a gazette notification on 4 January 1992 for establishing new Reserve Forests on lands within these two mouzas.⁵¹ These were followed by notifications from the DC office in Rangamati on 6 July and 29 September, 1992, which were not adequately publicized, nor officially communicated to the Headmen of the two concerned mouzas.⁵² In fact, the two Headmen did not learn of these notifications until 1994-95, at which point they submitted applications to the DC objecting to the acquisition of lands in their mouzas.

In the meanwhile, the Forest Department took over not only lands of the inhabitants on which it had been given settlement by the DC office, but also additional areas in which the formal state acquisition process had not yet been completed.⁵³ Most of the affected persons belonged to the Khyang ethnic group, followed by smaller numbers of other Pahari groups and Bengalis. These local inhabitants were forbidden from keeping livestock, cutting timber and bamboo for homestead use, and undertaking swidden cultivation in the area where "red flags" had been raised by the Forest Department.⁵⁴ Such restrictions meant that the local people lost access to their common lands and forests, undermining their very avenues of survival. Many were also harassed by legal cases instituted against them by the Forest Department. Nearly 200

⁵⁰ Report of the Committee to enquire into the eviction of 200 households in Rajasthali and the measures to be taken by the government. June 2003 (mimeo), and Letter of Conservator of Forests of Rangamati to the Chief Conservator of Forests, dated 11 September 2008.

⁵¹ Issued by Forest Administration-2 under the Ministry of Environment and Forests.

⁵² Letters of the Headmen of Kuikyachhari and Dhanuchhari mouzas to the Ministry of CHT Affairs, dated 1 June 2008.

⁵³ Report of the Committee to enquire into the eviction of 200 households in Rajasthali and the measures to be taken by the government. June, 2003 (mimeo).

⁵⁴ Petition to DC Rangamati by people of Kuikyachhari mouza of Rajasthali upazilla, dated 6 April 2008.

households were forced to leave the areas, while another 220 households eked out a tenuous living by squatting on the lands taken over by the Forest Department or staying on the lands of their kinsmen.

Another notification pertaining to the acquisition of the lands in Kuikyachhari mouza was published by the DC office in 2001 but, as before, the Headman was not duly informed.⁵⁵ However, the issue was raised by a representative of the Regional Council in a meeting chaired by the Minister of Environment and Forest on 29 December 2002. It was decided to appoint a committee to investigate the matter and provide recommendations for actions to be taken by the government.⁵⁶ The Divisional Commissioner of Chittagong was subsequently made the Convenor of this committee, which submitted its report on 23 June 2003.⁵⁷

The report recommended that the 220⁵⁸ families that had been made landless due to state acquisition should be given settlements of 3-5 acres of land each, and that these should be provided by 'de-reserving' some of lands that had been acquired by the Forest Department. This was justified by the committee in terms of the 'welfare of the evicted households' as well as the hope that there would be no further opposition from local inhabitants to the pulpwood project (i.e. in the enlightened self-interest of the Forest Department). It is significant that the convenor of the committee proposing these measures was not an official of the Forest Department, but the head of the wider administrative region of which the CHT was a part.

Despite the recommendation of the committee to rehabilitate the households adversely affected by the land acquisition of the Forest Department, little has been done to implement it since 2003. Instead, in 2007, the Pulpwood Division renewed its opposition to *jum* (swidden) cultivation by the IP in Dhanuchhari. Its personnel also continued to intimidate the Khyangs and other affected groups of the area.

⁵⁵ Dated 19 August 2001. Letter of Kuikyachhari Headman, dated 1 June 2008.

⁵⁶ Minutes of meeting held on 29 December 2002 at the Ministry of Environment and Forest, dated 15 January 2003.

⁵⁷ Report of the Committee to enquire into the eviction of 200 households in Rajasthali and the measures to be taken by the government, June 2003 (mimeo).

⁵⁸ Even though the Enquiry Committee stated the number of households to be given land settlements as 220, the preceding and subsequent official correspondence refers to a lower figure of '200' households.

In April 2008, the affected people submitted an appeal to the DC of Rangamati to be 'rescued' from the damaging impacts of the occupation of their lands by the Forest Department.⁵⁹ This was followed by an appeal by the Headmen of the two mouzas to the Ministry of CHT Affairs in June 2008.⁶⁰ In September 2008, the Conservator of Forests of Rangamati Circle wrote to the Chief Conservator of Forests requesting the implementation of the recommendations made five years earlier by the enquiry committee.⁶¹ A letter concerning de-reserving parts of the Rajasthali mouzas to provide settlement to the 220 evicted families was sent on 28 January 2009 by a senior secretary of the government, but no substantive action has been reported since then. No further information was available in the public domain by the end of 2010 to confirm whether the Forest Department had de-reserved lands and given settlements to the 220 families in Rajasthali, as recommended by the high level committee in 2003.

Village Common Forests

The Village Common Forests (or mouza forests) consist of small natural or regenerated woodlands adjoining the homesteads of IP living in a mouza. These are usually managed and protected by the village Karbari, operating under the supervision of the concerned mouza Headman.⁶² The right of the IP to possess and utilize this kind of forest at village level is partially acknowledged by the CHT Regulation of 1900 and ancillary executive orders of the district administration. However, formal law does not provide the concerned village communities with explicit tenurial rights or protective clauses against the potential alienation and privatization of their VCF.⁶³

⁵⁹ Petition to DC Rangamati by people of Kuikyachhari mouza of Rajasthali Upazilla, dated 6 April 2008.

⁶⁰ Applications to Special Assistant to the Chief Advisor in charge of the Ministry of CHT Affairs by the Headmen of Kuikyachhari and Dhanuchhari mouzas, both dated 1 June 2008.

⁶¹ Letter of the Conservator of Forests of Rangamati Circle to the Chief Conservator of Forests, dated 11 September 2008.

⁶² Roy (2004: 7).

⁶³ Roy (2004: 7).

The IP communities face the continuous threat of losing their mouza forests because they do not have formal (common) title over the VCF. This apprehension has been deepened by recent attempts of the Forest Department to acquire VCF lands for afforestation projects by claiming that these are mere 'jungles'. Ironically, if successful, such processes would lead to the loss of common forests which constitute a rich reservoir of biodiversity sustained by the IP themselves. In contrast, the afforestation projects of the Forest Department, typically funded by international donor agencies and advised by consultants from transnational corporations, propagate monoculture plantations for commercial purposes. The grabbing of Pahari lands for state-managed afforestation thus involves a deliberate blurring of the distinction between *bon* (forests) and *bagan* (plantations).⁶⁴

Another critical threat to the common lands of the VCF arises from privatization by self-serving members of the IP communities.⁶⁵ Such individuals are concerned to convert these common forests into homesteads, orchards and other forms of private property, often with formal settlements and registered titles. Their motivation ranges from enhancing subsistence production to maximizing profit through commercial production for the market.

While Headmen and Karbaris have traditionally played crucial roles in protecting the common lands of their communities from encroachment by outsiders, exceptions are beginning to be observed. Indeed, individual Headmen and Karbaris are known to have privatized the common mouza forests that they were supposed to have protected for their whole community.⁶⁶ Other elite Paharis have also been observed to privately appropriate lands that had been commonly held by their communities. In

⁶⁴ Observation by Sudatta Bikash Tanchangya, the general secretary of the MPFLR.

⁶⁵ Roy (2004).

⁶⁶ Adnan (2004: 79, Box 5.1).

these varied instances, the privatization of common lands by individual Paharis has been facilitated by the lack of awareness of rights among their fellows, as well as the erosion of traditional modes of governance among the Pahari communities, which had traditionally put a premium on *egalitarian* and *redistributive* norms.⁶⁷

INSTALLATIONS OF THE SECURITY FORCES

The available evidence suggests that when acquiring Pahari lands in the CHT, the security forces have followed formal state acquisition procedures in some cases, but not in all.

Taking over Pahari Lands without following due Acquisition Procedures

During the counter-insurgency, the security forces often evicted Paharis from their lands to set up their own camps and installations without following due state acquisition procedures. They also forcibly evicted Paharis from their lands for housing Bengali settlers brought in during the transmigration programme, without bothering about the pre-existing land rights of the former.

For instance, during 1981-82, the IP in Bhuachhari lodged a complaint with the DC that their lands had been arbitrarily taken over by the security forces. However, this did not result in any remedial action by the district administration.⁶⁸ IP respondents reported that unlawful occupation of their lands for installations of the security forces has been continuing up to 2010, in violation of the CHT Accord.⁶⁹

⁶⁷ Brauns and Loffler (1990), Roy (2004: 14), and Adnan (2004: 153-154).

⁶⁸ Chakma (2010: 19-20).

⁶⁹ Testimonies given to the CHT Commission by the IP.

Formal Land Acquisition for Installations and Projects of the Security Forces

The CHT has experienced massive land acquisition by various branches of the security forces for a seemingly unending list of installations.⁷⁰ The establishment and expansion of cantonments, camps and other facilities by acquiring Pahari lands began from the 1970s (if not earlier) and has been continuing during the post-Accord period.⁷¹

Within the CHT, acquisition of lands by security forces (and other agencies) has been particularly excessive in Bandarban district, resulting in numerous appeals and protests by the IP.⁷² An unofficial estimate of the area of lands designated for acquisition in this district by various branches of the security forces includes the following:⁷³

- (1) Approximately 30,000 acres for training centres of the army.⁷⁴
- (2) Approximately 26,000 acres for a training facility of the air-force.⁷⁵
- (3) Approximately 9,560 acres for the army garrison in Ruma (see Case Study 4 below).
- (4) Approximately 183 acres for expanding the Bandarban Sadar Brigade area.
- (5) Approximately 143 acres for expanding the Panchhari Zone facilities.

⁷⁰ PCJSS (2008: 20). *Parbatya Chattogram Chukti Bastabayan Prashongey*.

⁷¹ Chakma (2010: 26).

⁷² Memo to the Prime Minister (Sheikh Hasina) by 25 Headmen and Karbaris of Lama and Ruma upazillas of Bandarban, dated 29 November 1999.

⁷³ Tripura (2010: 66).

⁷⁴ During 1991-92, 11,445 acres of IP lands were acquired in Sualok in Bandarban for training centres of the artillery and infantry corps of the army. The Pahari inhabitants of these areas were made destitute overnight after acquisition of their lands (Tripura 2010: 66). It is reported that the acquisition of another 19,000 acres for similar purposes is currently being processed.

⁷⁵ An area of 26,000 acres in Bandarban district has been under land acquisition processes since 2001 for a training centre of the Air Force. Approximately 30,000 IP families are likely to be evicted from their homes and lands when this acquisition process is completed.

Furthermore, the Bangladesh Defence Rifles (BDR), now renamed Border Guards Bangladesh, initiated a formal land acquisition process for establishing a new battalion headquarters in Ruma of Bandarban in July 2010, which continues to be in process.⁷⁶

It has been reported that the security forces are currently looking for lands in the CHT to establish various commercial enterprises, inclusive of tourist and recreational facilities. Such enterprises require vast amounts of land and result in the eviction of IP groups that had been living there and using them for their homesteads and subsistence activities such as cultivation and raising plantations.⁷⁷ Reportedly, the security forces are attempting to acquire available Pahari common lands by getting these designated (or reclassified) as *khas* or state-owned by the civil administration. Some Pahari Headmen reported having been ordered by civil and military officials to provide them with information about any 'remaining *khas* lands'.

The acquisition of huge areas for military installations has already resulted (or will result) in the loss of the common lands and village homesteads of thousands of Paharis.⁷⁸ Many households belonging to the Mro and smaller ethnic groups of Bandarban are desperately struggling for their survival after being deprived of access to the lands and forests indispensable for their traditional means of livelihood. The issues involved are illustrated by the case study of Ruma cantonment below.

⁷⁶ Letter from BDR Headquarters in Dhaka to the Secretary of the Home Ministry containing the proposal for land acquisition, dated 15 July 2010, and subsequent correspondence between the Home Ministry, DC of Bandarban, UNO of Ruma, Surveyor of DC Office in Bandarban and the concerned Headman during August-September, 2010.

⁷⁷ The well-known Nilgiri hill resort in Bandarban established and run by the army provides a pertinent instance of land grabbing and eviction of IP for the purposes of tourism and recreation of officials and other members of the Bengali elite.

⁷⁸ Tripura (2010: 66).

Case Study 4

Land acquisition for expansion of Ruma Cantonment

The army began formal land acquisition processes for a cantonment in Ruma upazilla of Bandarban from as early as 1973. This process has continued during the subsequent decades and the size of the area to be acquired has increased over time to 9,560 acres. If successfully completed, the acquisition process will result in the eviction of 5,000 Pahari families from 13 mouzas, who will be made landless and destitute.

In 2003, questions were raised by the Prime Minister's Office as to whether it was necessary to acquire such a huge area in view of the consideration that Pahari communities had been inhabiting and cultivating these lands for a long time.⁷⁹ This official letter also noted that a former (Pahari) Minister of the CHT Ministry, Kalparanjan Chakma, had requested that the lands not be acquired, but that the army had not agreed.

Petitions by local IP have noted that even the 500 acres already in the possession of Ruma cantonment are *not fully utilized*. They have therefore questioned the very justification of acquiring nearly 20 times more land at the cost of such great suffering to the IP.⁸⁰ During 2008 and 2009, petitions were submitted to the head of government by local Pahari leaders who appealed for cancellation of the land acquisition since it would result in the eviction of thousands of families from their lands.⁸¹ However, land acquisition for the Ruma cantonment continues to be processed by the district administration, even though it legally requires the *prior agreement* of the Bandarban HDC.⁸²

⁷⁹ Letter from a Director of the Prime Minister's Office to the Secretary of the Ministry of CHT Affairs, dated 3 February 2003.

⁸⁰ Memorandum to the Prime Minister (Begum Khaleda Zia) by Headman of Ruma upazilla of Bandarban, dated 16 May 2005.

⁸¹ Petition to the Chief Advisor of the Caretaker Government (Fakhruddin Ahmed), dated 11 June 2008, and memorandum to the Prime Minister (Sheikh Hasina), dated 11 May 2009.

⁸² Tripura (2010: 66).

REDISTRIBUTION OF PAHARI LANDS TO BENGALI SETTLERS DURING THE COUNTER-INSURGENCY

In addition to acquisition for their own installations, the security forces have collaborated with the civil administration in taking over Pahari lands for redistribution to Bengali settlers during the counter-insurgency period. Such activities were often in violation of existing laws and property rights, as pointed out in context below.

Strategy of Demographic Engineering

During the counter-insurgency, a two-pronged strategy of demographic engineering was undertaken by the state. Firstly, Paharis were forcibly evicted from their homesteads and lands by the security forces.⁸³ Terrified by such violence, many Paharis fled from their village settlements, leaving their lands and homesteads unprotected.

Secondly, Bengali settlers from the plains were brought in to the CHT through a massive state-sponsored transmigration programme and placed on Pahari lands, blatantly disregarding the latter's pre-existing rights on these lands. The migrants were recruited from different parts of the country through the DC of the concerned districts in a massive operation, organized by the military and civil administration.⁸⁴ The government promised them land, cattle, rations and other facilities if they went to the CHT. Most of these settlers were first brought to a transit facility in Chittagong city, known as the Haji camp, where their papers were processed and preparatory arrangements made under the supervision of military and civil officials. They were then transported to specific locations in the CHT and initially placed on lands adjoining camps of the security forces. The civil administration selected the locations where the settlers were to be given the lands promised by the state. The security forces

⁸³ Roy (1997: 170), Adnan (2004: 48-50, Box 4.1) and Chakma (2010: 25).

⁸⁴ Adnan (2004: 48-50)

escorted the settlers to these locations and provided them with protection against possible attacks by the Shanti Bahini.

The affected Paharis were in no position to directly oppose the takeover of their lands by settlers. Even if they could have attempted to resist such forcible occupation, the presence of the security forces in support of the settlers made it futile and dangerous to do so. Such forcible occupation of land took place even when the concerned Paharis were present and able to show titles and documents certifying their land rights. It is not surprising that the traditional land management officials of the IP, i.e. the Chiefs, Headmen and Karbaris, were deliberately kept out of the process of placing settlers on Pahari lands.

Given the orchestrated nature of their transportation and implantation in the CHT, these Bengali settlers have become known as 'political migrants'. They are to be distinguished from self-propelled streams of Bengali migrants who were not transported and settled by agencies of the state as part of counter-insurgency operations.

Continuation of the Counter-insurgency Strategy during the post-Accord Period

A continuing driving force of land alienation of the IP is the covert but effective persistence of the counter-insurgency strategy of demographic engineering in the CHT during the post-Accord period.⁸⁵ There are widespread reports of new settlements being set up for Bengali settlers in the CHT, often by forcibly taking over Pahari lands. Such processes are alleged to have been directly or indirectly facilitated by the security forces and the civil administration.

For instance, during February 2010, Bengali settlers conducted violent attacks on the IP in Baghaihat and Gangarammukh in

⁸⁵ This strategy is reported to be implemented by the security forces under the cover of Operation Uttaran and the Pacification programme in the CHT, as noted in various official documents and press reports.

the presence of the security forces and civil administration. They also put up shacks on the homestead lands of the IP and used threats to make them leave the area.⁸⁶

MANUFACTURE OF LAND TITLES FOR BENGALI SETTLERS

Operation of the Special Settlement Zone

During the counter-insurgency, secret circulars of the government had announced that lands would be given to Bengali settlers going to the CHT as through its transmigration programme.⁸⁷ As part of this policy, the administration set up a Special Settlement Zone to provide formal land rights to these political migrants in the CHT.⁸⁸ A survey team from the Directorate of Land Records and Land Survey went there during 1980-81, including both officials and technical specialists (such as *kanungos* and *amins*). Special survey offices were opened in the sub-divisional and thana (upazilla) centres and the special team conducted land surveys for limited periods. However, given threats and disruptions from rebel forces, the survey was only partially conducted and was declared to be incomplete by the Directorate in 1996.⁸⁹

These special settlement operations were essentially geared to attaining counter-insurgency objectives of redistributing Pahari lands to the in-migrating settlers. To this end, existing laws, land settlement procedures, as well as the private and common land rights of the IP, were deliberately and systematically violated by government officials.⁹⁰

The CHT Regulation specifies elaborate procedures for settlement on land with registered titles, inclusive of ground survey and

⁸⁶ Given that the concerned area lay inside the Kassalong Reserve Forest, such violence aimed at transferring *de facto* occupancy rights on state lands (RF) from the IP to Bengali settlers.

⁸⁷ R.C.K. Roy (1996) and Mohsin (1997).

⁸⁸ Chakma (2010: 27-28).

⁸⁹ (Chakma 2010: 27-28, fn 38)

⁹⁰ R.C.K. Roy (1996), Roy (1997) and Adnan (2004: 50-53).

validation.⁹¹ However, respondents reported that land settlement documents and titles (*kabuliyat*) given to the Bengali settlers during the counter-insurgency were often produced without following due procedures. Concerned officials of the DC office, magistrates and *kanungos* are reported to have manufactured these documents virtually overnight, often *without* holding any survey or inspection on the ground. In order to mass produce titles in this manner, the boundary schedules (*chouhodd*) of allotted plots were often described in terms of vague hills, trees, streams, etc., while the names of the adjoining plot holders were often imaginary.⁹²

Partial Withdrawal of the Political Migrants and their Replacement by Local Bengalis

According to both Pahari and Bengali respondents, many of the original political migrants awarded land titles ('processed' through the Haji camp in Chittagong city) could not locate or get possession of the lands allotted to them. They left the CHT within a few years, and some of their titles (*kabuliyat*) were passed on to local Bengalis through various means. Estimates by key informants suggest that 33-50 per cent of the political migrants in Khagrachhari went back, while 40-50 per cent left Bandarban. Overall, an estimated 30-50 per cent of the total Bengali settlers brought in to the CHT through the transmigration programme are estimated to have left the region and gone back to the plains of Bangladesh.⁹³

Significantly, however, their places were taken over by subsequent streams of relatively 'local' Bengali settlers, who

⁹¹ For details, see Chakma (2010: 26-27).

⁹² Chakma (2010: 28). Corroborated by key informants among the IP in various parts of the CHT. There were local variations but the general features of such title-manufacturing processes appeared to have been similar.

⁹³ This implies that Adnan's earlier estimate of the proportion of transmigrated Bengali population which left the CHT needs to be revised upwards from 15 per cent to 40-50 per cent (vide Adnan 2004: 49-50).

migrated mostly from areas adjoining the CHT, such as the districts of Feni, Chittagong and Cox's Bazar. Unlike the political migrants brought in during the counter-insurgency through the state-organized programme, these newcomers made their own logistical arrangements to reach locations in the CHT (i.e. without being 'processed' through the Haji camp in Chittagong city).

Parallel Process of Allotting Land to self-propelled Bengali Migrants

After reaching the CHT, these self-propelled Bengali migrants also applied to the authorities for land settlement. Some of them were housed in local camps by the administration prior to being settled on Pahari lands.⁹⁴ The DC office and land administration functionaries dealt with their applications on a routine basis.⁹⁵ In Bandarban, the land settlements given to these local Bengali settlers were termed 'Rehabilitation Holdings' – colloquially termed R-Holdings.⁹⁶

As compared to the political migrants brought in by the transmigration programme, the self-propelled local migrants and the allotment of Pahari lands to them constitute lesser known aspects of the in-migration and land acquisition of Bengali settlers in the CHT. These sequential migratory movements resulted in the *recomposition* of the Bengali settler population by

⁹⁴ However, in some of the applications, the name of the camps in which the migrant claims to have been housed appears to be fictitious. For instance, the camp Chhagaliya Jhiri is named in several land settlement applications in Bandarban, but the location of a camp with this name could not be identified or confirmed by local respondents.

⁹⁵ The land settlement applications of the self-propelled migrants in Bandarban district also listed Card No., Camp Name, etc., as had been the case for the political migrants brought in by the transmigration programme.

⁹⁶ However, these were not termed R-Holdings in similar cases in Khagrachhari. It was estimated by key informants that approximately 16,000 R-holdings were given out in settlements in Bandarban district. Most of these were located in the Lama, Naikkhongchhari and Alikadam upazillas.

their areas of origin and modes of migration.⁹⁷ The redistribution of Pahari lands to them drastically altered property rights and power relations in the CHT. These changes reflect significant facets of the complex socio-demographic, economic and political restructuring of the region during the counter-insurgency and its aftermath.⁹⁸

The Long Term Consequences of Land Settlement Documents given to Bengali Settlers in the CHT

Significantly, the land settlement documents, including titles, issued to the self-propelled Bengali migrants were also characterized by legal and technical defects comparable to those noted earlier in the case of political migrants (discussed below).⁹⁹

Furthermore, some of these later migrants were unable to find the plots allotted to them or to take possession of these because of the risks and uncertainties of insurgent attacks. Others were too poor to hold on to the plots allotted to them, given their lack of other resources to use the lands productively. Consequently, a proportion of the self-propelled migrants also left the CHT without settling on their allotted plots. It is reported that their land settlement documents were taken over by other Bengalis, giving rise to subsequent manipulation of land records and related conflicts.

Even though sale of the titles and settlement documents issued to Bengali settlers is not officially permitted, in practice a *de facto market* for them has emerged and continues to thrive. In some cases, current claimants have impersonated the original recipients, even though they are typically far younger than the

⁹⁷ For instance, key informants estimated that only 40 per cent of Bengalis in Bandarban at present (2010) are settlers brought in by the transmigration programme. The remaining 60 per cent are 'local' migrants from adjoining areas in Chittagong and Cox's Bazar districts.

⁹⁸ See Adnan (2004), Chapter 4.

⁹⁹ Based on examination of small samples of land settlement documents of R-Holdings given to Bengali settlers in Bandarban and title documents (*kabuliyat*) issued to them in Khagrachhari.

actual allottees of these titles, whose ages are noted in their applications.¹⁰⁰

Since many of the actual Bengali settlers never got possession of their allotted plots, those subsequently claiming to be their ‘successors’ lack any legal basis for their purported land rights. However, this has not prevented the title (*kabuliyat*) and settlement documents manufactured by the exigencies of the counter-insurgency from having a much longer shelf life than had been envisaged. Furthermore, these continue to be manipulated by land grabbers in recent times, as discussed below. As an experienced Pahari leader has noted, “even though many of the original Bengali settlers are likely to have left the CHT or died by now, the titles and other settlement documents issued to them are still ‘alive’ and continue to be manipulated”.¹⁰¹

Problematic Aspects of the Land Settlement Documents given to Bengali Settlers

Given the counter-insurgency circumstances in which land settlement documents were produced for Bengali settlers in the CHT, these were characterized by various kinds of technical and legal flaws. This applies to the documents of both the political migrants and the subsequent self-propelled local migrants, though the nature of the defects may vary between these cases.

One virtually universal defect of the land settlement documents given to Bengali settlers is that these do not contain the

¹⁰⁰ Findings made available to us by IP researchers. Bengali settlers who were aged 25-30 during the period when most of these R-Holding were issued (1980-85) would be approximately 50-60 years in 2010. However, many of those currently claiming to be the persons named in these documents are actually much younger, e.g. 25-40, as evident from their ages stated on voter lists and other public records.

¹⁰¹ Observation by the Bawm leader, Zuam Lian Am Lai, who is also a member of the CHT Citizens’ Committee.

*Headman's report or recommendation.*¹⁰² Another kind of defect in these titles arose from the fact that the total area of land given to them often consisted of more than one plot, all of which were not always located in the same mouza. Part of the land was given for the homestead, and the holding number of the concerned mouza was usually specified in the document. However, the remaining lands, given for other purposes such as cultivation, could be located in a different mouza and often the document did not specify the holding number of the plots in that mouza.¹⁰³ Consequently, the settlement of a major part of the land given to Bengali migrants was often technically invalid from the very outset, because the location of one or more plots remained unspecified in the relevant schedules (*chouhoddî*) of the title document.¹⁰⁴

Furthermore, certain conditionalities were stipulated in the titles or settlement documents given to the Bengali settlers. Firstly, they were required to cultivate the concerned plot within three years of the settlement being made. Secondly, land revenue had to be paid on time to the concerned Headman or the government office. Thirdly, they were not allowed lease or sell the land to others without the explicit permission of the DC. However, these conditionalities could not be fulfilled by many Bengali settlers.

At the time that they had been given land settlement documents, the Bengali migrants usually did not even know where the plots allotted to them were located. Given the risky circumstances during the counter-insurgency, they could not usually occupy and cultivate such lands until they were taken to the concerned *mouza* by the security forces and given protection against rebel

¹⁰² As noted above, the Headman's report or recommendation is a standard requirement in matters relating to land settlement and state acquisition of land in the CHT (Chakma 2010: 29-31). The designated space for the Headman's report was found to be blank in most of the settlers' titles and land settlement documents in Bandarban, Khagrachhari and Rangamati that were examined during our study. Interviews of several key informants confirmed that this was a nearly universal feature of land settlement documents issued during the counter-insurgency.

¹⁰³ Pointed out in discussion by Pratikar Chakma.

¹⁰⁴ Chakma (2010: 28).

attacks. In many such cases, they also had no information on the holding numbers on which they had been given allotments. Consequently, the settlers simply grabbed whatever Pahari lands they could find and claimed that these corresponded to the plots allotted to them in their land settlement documents.

As noted above, a section of Bengali settlers could not get possession of their allotted lands or hold on to them. Consequently, many of them sold their settlement documents to others without obtaining the required permission from the DC.¹⁰⁵ Furthermore, the law required the settlers to undertake mutation of land records in their names immediately after the title was issued. However, many of them failed to do so under the counter-insurgency conditions.

Thus, in addition to the technical flaws in the titles and land settlements documents given to the Bengali settlers, many of them failed to fulfill the various legal requirements imposed upon them by the state when awarding land rights. In view of these considerations, many of the settlement documents given to the Bengali migrants during the counter-insurgency period were either legally and technically invalid from the outset, or gradually became so as various conditionalities were violated.¹⁰⁶

A further problem pertains to the existence of several settlements on the same plot of land under different names (e.g. in Noonchhari mouza), reflecting a state of *multiple titling*. In these cases, more than one settlement document had been issued at different times, resulting in rival claims on the same plot of land and bequeathing a legacy of land conflicts to the future. Such situations arose because Bengali settlers had been given settlements on the registered or recorded lands of the Paharis by disregarding the pre-existing rights of the latter (shown by documented cases from Khagrachhari).¹⁰⁷ In these instances, even prevalent laws and property rights had been deliberately flouted by the military and civil administration by unlawfully

¹⁰⁵ Chakma (2010: 28).

¹⁰⁶ Chakma (2010: 28) and Tripura (2010: 65).

¹⁰⁷ Chakma (2010: 27-29).

redistributing *registered or recorded landed property* of the IP to the settlers.¹⁰⁸

Manipulation of Land Settlement Documents of Bengali Settlers for Land Grabbing

Despite the technical defects and possible legal invalidity of the title documents given to Bengali settlers during the counter-insurgency, these have been subsequently manipulated by others to tamper with land records for grabbing lands in the CHT. The general mechanism of fabrication has been for the new claimant to manufacture documents that purport to show (falsely) that he (she) is the same person as the original allottee, or his (her) successor.¹⁰⁹ Alternatively, a fictitious sale of the title is incorporated in the land records by signing a (false) affidavit with the complicity of concerned officials of the administration.¹¹⁰

Various Bengali powerholders and commercial interest groups are reported to have bought the title documents from Bengali settlers languishing in *guchhchhograms* (cluster villages) and used these to take over their lands for setting up commercial rubber and timber plantations. The mechanisms of land grabbing based on the manipulation of defective titles and settlement documents manufactured and issued to Bengali settlers during the counter-insurgency have taken different forms in particular contexts. The various ways in which such documents have been used (or misused) by various interest groups and agencies to seize lands in the CHT are specified further below.

¹⁰⁸ Ali (1993: 18), R.C.K. Roy (1996: 77-96), Roy (1997) and Adnan (2004: 50-51).

¹⁰⁹ Reports of the national daily *Prothom Alo* document the widespread existence of such practices in Bandarban (dated 15 August 2010) and Khagrachhari (dated 5 December 2010).

¹¹⁰ These findings are the result of independent research by Pahari groups working on their own initiative, who have given us permission to use them.

INCREMENTAL LAND GRABBING BY BENGALI SETTLERS

Grabbing of Pahari Lands

Once located in the CHT, many Bengali settlers have used a range of different techniques for incremental grabbing of Pahari lands. The targets and mechanisms of these expropriation processes show some variations, as illustrated below.

During the counter-insurgency, each transmigrant settler family was usually given a certain amount of hilly or ‘bumpy’ land by the state (e.g. 3 acres). But they often claimed that they had been allotted more (e.g. 5 acres) and used this as a pretext to occupy any flat land nearby that was suitable for growing paddy.¹¹¹ Many Paharis reported that they had been unable to continue cultivating their paddy lands adjoining plots held by Bengali settlers since the latter had typically taken these over. In some cases, the settlers have forged land settlement documents to justify the occupation of Pahari lands.

The security forces and civil administration are alleged to have facilitated such processes – not least, by allowing these to happen without taking necessary action. For instance, government agencies had placed 74 Bengali migrant households on lands in the sadar upazilla of Khagrachhari in 1982. Of these, 53 were issued *kabuliyats* (titles) on plots without any precise indication of their boundaries. Nonetheless, the settlers are reported to have occupied Pahari lands in the vicinity on the basis of these flawed titles with the backing of the security forces and the civil administration.¹¹² In other cases, settlers have been able to seize Pahari lands *without* any kind of land settlement document, given the backing of the security forces and the civil administration.

Comparable incremental land grabbing by Bengali settlers has continued during the post-Accord period. For instance, settlers in

¹¹¹ Chakma (2010: 22-29).

¹¹² Tripura (2010: 63).

Khagrachhari are reported to have taken over cultivated lands and plantations of the IP in 2006.¹¹³ They were allegedly backed by an influential MP who belonged to the Bangladesh National Party (BNP). The MP is alleged to have mobilized public resources, including 50 bundles of C.I. sheets and Vulnerable Group Feeding (VGF) ration cards, to provide support to the settler households involved in occupying the lands. The security forces are also alleged to have threatened the affected Paharis, preventing them from mounting opposition to the grabbing of their lands.

Bengali settlers in Longadu upazilla are reported to have encroached on the common and private lands of the IP during 2009, without any restraining action from the concerned upazilla chairman and police official (OC).¹¹⁴ The IP have been continuously resisting the forcible takeover of their lands in Longadu with the support of Pahari MPs. However, the security forces and civil administration are alleged to have provided tacit backing to the Bengali settlers, enabling them to continue to expropriate Pahari lands.

A novel technique was reported to have been used by Bengali settlers to grab Pahari lands in a Chak village in Naikkhongchhari.¹¹⁵ They built a dam on a local canal which inundated the lands of local Paharis for a prolonged period. The latter were eventually forced to move out of the area, which provided opportunity to Bengali settlers to take over the lands they left behind. After the dam had served its purpose, it was dismantled by those who had built it. It was reported that not a single Pahari remained in the area any longer, which had now become entirely populated by Bengalis.

¹¹³ Tripura (2010: 62-63).

¹¹⁴ Tripura (2010: 67-68).

¹¹⁵ Reported during a focus group discussion with Pahari informants in Naikkhongchhari on 15 May 2010.

Grabbing of Temple Lands

Bengali settlers are alleged to have encroached upon lands of various religious temples, monasteries and orphanages of the IP in the CHT.¹¹⁶ There appears to have been a widespread perception among Bengali interest groups that Buddhist temples (*Bouddhabihars*) possessed 'more land than they needed'. This belief has been used as a pretext to 'justify' their seizure of the perceived surplus lands.

For instance, in 1993-94, Bengali migrants are alleged to have encroached upon the lands donated by local Paharis for a Buddhist temple and school in Mahalchhari.¹¹⁷ Subsequently, these settlers attacked the temple and local IP villages. In 2000-01, the UNO of Mahalchhari served eviction notice on the settlers, but could do little when the latter disregarded the order. In 2005, the settlers are alleged to have attacked the Buddhist temple and Pahari villages again, grabbing further lands and setting up new homesteads on them.

This provides an instance in which pre-Accord land conflicts persisted and flared up again during the post-Accord period. The same incident also shows the exceptional attempt of a Bengali official (UNO of Mahalchhari) to be fair to the IP. However, his eviction order proved unsuccessful because of the lack of response from the Bengali settlers - presumably because they were able to obtain backing from political patrons and the rest of the state machinery.

Bengali settlers repeatedly put up shacks inside the precincts of a Buddhist temple (the Banani Maitri Banavihara) near Baghaihat and threatened the Vante (chief monk) and his

¹¹⁶ Based on fieldwork observations and written petitions and documentation submitted to the CHT Commission during its field visits to the region over 2008-10.

¹¹⁷ Chakma (2010: 24).

colleagues during 2008-10.¹¹⁸ In February 2010, they were able to burn down the temple itself during attacks on the IP. The settlers continued to forcibly occupy parts of the temple lands after these attacks. Even though security forces were present in the immediate vicinity, the attackers and arsonists were able to act with impunity.¹¹⁹

Grabbing of Fringe Lands

These so-called fringe lands are the flat areas on the shores of the Kaptai Lake which are submerged as the level of the water rises during the monsoon rains and re-surface when the water level falls. Such features make fringe lands very suitable for seasonal wet-rice cultivation, and paddy-growing Pahari groups had obtained settlement on these areas during earlier periods. However, precisely because of these features, the fringe lands were also very attractive to Bengali settlers accustomed to wet-rice farming. Not surprisingly, most of the fringe lands have been taken over by in-migrating settlers from the time of the counter-insurgency. It is reported that the state has since acquired most of these fringe lands, which are now leased out predominantly to Bengali settlers.

In some instances, Pahari lands have been forcibly taken over by a group of Bengali settlers operating in an organized manner, as illustrated by Case Study 5 below.

¹¹⁸ First-hand testimonies obtained by the CHT Commission during its field visits to the area.

¹¹⁹ Numerous press clippings and agency reports on the violent attacks on the IP in Baghaihat-Gangarammukh in February 2010 by settlers, with the alleged support of state agencies. Cf. CHTC (2010a).

Case Study-5

Land grabbing in Naikkhong Mouza of Lama Upazilla in Bandarban¹²⁰

A group of Bengalis had been settled by the state in the vicinity of Rupashi Para Bazar in Naikkhong mouza of Lama upazilla in Bandarban. A coterie among them with connections to the ruling party, the Awami League, is alleged to have been involved in grabbing the common lands of the Mro (Murung) living in the deep forest 50 km away.¹²¹ It is reported that they have formed a so-called 'Land Grabbing Committee', which has the task of influencing the local administration and political leaders so as to persuade them from intervening in their activities.

As of October 2010, this coterie of Bengali settlers is alleged to have grabbed 1,075 acres of lands possessed by the IP, inclusive of their fruit and timber plantations. In the process, 45 Mro families have been completely evicted from their lands while 174 more are on the way to being uprooted. Significantly, the affected Mro households had applied for land settlement earlier and possess relevant documents, inclusive of the Headman's recommendation. In a bitter turn of events, the land grabbers are now extracting 'rent' payment from the Mro for using their former lands.¹²² In addition, some of the Mro reported being physically beaten up and abused in other ways and threatened with death if they were found to have come near the lands that had been occupied by the settlers. This coterie of Bengali settlers has established complete domination over the Mro community through a reign of terror, virtually making them their captives.

Response and Resistance: It is remarkable that there has been no attempt to protect the Mro and restrain the land grabbers by the local administration and political party leaderships. Faced with such indifference, the affected Mros of Naikkhong mouza attempted to publicize their plight. They submitted a petition to the Prime Minister on 29 September 2010 and followed this up by

¹²⁰ This case study draws upon (i) the petition to the Prime Minister, dated 29 September 2010, submitted by the Headman of Naikkhong mouza on behalf of its IP inhabitants and (ii) the written statement distributed at a press conference on 9 October 2010 at the Lama Press Club in Bandarban, signed by the concerned Headman.

¹²¹ Two Bengali settlers are reported to be the leaders of this of coterie of land grabbers, operating with eleven other members.

¹²² The Mro reported having to pay the land grabbers Taka 500 per acre and offer a cock as a 'gift' in order to have access to their very own lands that had been forcibly occupied by the latter.

holding a press conference 9 October 2010 in the upazilla township of Lama (to which many of the Mro had not even travelled before from their remote forest settlements).

In both the petition and the press statement, the Mro expressed their utter helplessness in the face of forced eviction, grabbing of their lands, payment of 'rent' for using their own customary *jum* plots, as well as general physical abuse and intimidation by this coterie of Bengali settlers with ruling party connections. Their primary demand to the authorities was that the latter should take necessary action to stop the violence and repression by the Bengali land grabbers and arrange restitution of their occupied lands.

In the statement read out at the press conference, the IP representatives said that they were making this public statement to the media in the hope that the administration might intervene. Given that the land grabbers belonged to the dominant ethnic group and were affiliated with the ruling party, the Mros chose the only feasible strategy of resistance open to them. They tried to go over the heads of the local administration and ruling party leaders by appealing directly to the Prime Minister. They also hoped to get the local police and administrative officials to be more pro-active in providing them with due protection by informing their superiors and policy-makers in the government as well as the general public through the mediation of the press.

This strategy was reasonably successful. At least four national and local newspapers reported the press conference,¹²³ with sympathetic treatment of the grievances of the Mro. Some of the press reports used the term *vumidasyu* (land robbers) to describe the Bengali land grabbers and noted their connections with the ruling party. Furthermore, the Bandarban district branch of the Bangladesh Human Rights Commission compiled the clippings on the press conference and summarized the grievances of the Mro in a covering note, which they sent to the DC of Bandarban and the UNO and police chief of Lama. This was indicative of support for the Mros from an organization with a national network. The local leaders of the ruling party and officials of the police and the administration were also made aware that the grabbing of Pahari lands within their domain was not going unreported to a wider audience. Nonetheless, it is too early to say whether these relative feeble attempts at resistance by the Mro have been successful in stopping the land grabbing and intimidation to which they are subject.

¹²³ Reported in national and local dailies including: *Samakal*, 11 October 2010; *Dainik Azadi*, 11 October 2010; *Dainik Giridharpan*, 10 October 2010; and *Dainik Natun Bangladesh*, 10 October 2010.

LEASING OUT OF 'KHAS' LAND FOR COMMERCIAL PLANTATIONS

Issuing of leases on CHT lands for private commercial plantations began on a large-scale during the counter-insurgency. From 1979, the government started to award leaseholds on large consolidated tracts to private 'entrepreneurs' for setting up rubber and other commercial plantations and enterprises.¹²⁴ The areas leased out were mostly taken from the common lands of the IP in the USF areas that had been traditionally used by them for jum cultivation, grazing and other purposes. However, their customary rights on these were not recognized by the DC office, which treated these as *khas* lands or state property when leasing them out to private parties.

The groups awarded these leases were mostly members of the influential Bengali elite, most of whom did not reside in the CHT, as well as a few members of the Pahari elite. These privileged recipients were invariably well-connected to the administrative bureaucracy and the major political parties. Among them were past or present ministers, MPs, civil and military officials, journalists and other professionals, sometimes along with their wives, children, brothers or other close relatives.¹²⁵ The whole process thus amounted to a colossal exercise in privatization in which vast tracts of Pahari common lands were 'enclosed' through the use of state power and redistributed to absentee members of privileged classes.¹²⁶

In an earlier study, it was noted that this policy had not resulted in significant development of private rubber plantations in the

¹²⁴ Loffler (1991: 8), Mohsin (1997: 133-134) and Adnan (2004: 127-128).

¹²⁵ Adnan (2004: 127-128, Box 7.6). In many cases, plantation leases have been awarded to members of the same family or kin-group. ABM Fazlul Karim Chowdhury, an MP sitting on the Parliamentary Standing Committee for the Ministry of CHT Affairs, noted the instance of a total of 300 acres being leased to different individuals having a *common address*. Based on minutes of the meeting of the Parliamentary Standing Committee, held on 20 July 2009.

¹²⁶ Loffler (1991: 8).

CHT.¹²⁷ Instead, certain covert objectives appear to have been attained which were consistent with the aims of the counter-insurgency. Granting leases for private plantations (and other commercial enterprises) had the effect of enabling non-resident Bengalis to circumvent the pre-existing legal restrictions on their holding of land rights in the CHT. Furthermore, most of the recipients of the leaseholds had been able to use these as collateral to raise substantial bank loans, which were typically used for purposes quite different from developing the plantations.^{128 129}

In effect, these so-called private entrepreneurs among the Bengali elite were enabled to make windfall gains in terms of land and capital, without having to make any significant investment from their own pockets. This state-orchestrated mechanism served to create a class of largely absentee leaseholders with vested interests in continuing access to, and control over, large tracts of land in the CHT.¹³⁰ Correlatively, there was little concern among policymakers about dispossessing ordinary Paharis in order to allot plantation leases to their own colleagues, supporters and clients as a form of political patronage.

In view of these considerations, it is not surprising that remedial measures to close down undeveloped and inactive rubber plantations had been explicitly incorporated in the CHT Accord. It stipulated that “Out of the lands allotted to non-tribal and non-

¹²⁷ Adnan (2004: 128, Box 7.6).

¹²⁸ *Dainik Natun Bangladesh*, 5 August 2009. Nearly 700 acres in Tonkaboti mouza of Bandarban were leased in 1981-82 by the administration to 28 individuals with addresses in Dhaka, Chittagong and other locations outside CHT. They have not developed any plantations but have taken out huge bank loans by mortgaging the lease documents.

¹²⁹ According to Moniswapan Dewan, a former state minister in charge of the Ministry of CHT Affairs, such lease titles had been mortgaged to obtain Taka 300 million of bank loans by the elite recipients, much of which had not been paid back. Comments made at roundtable in Dhaka on 30 September 2010, organized by the national daily, *Prothom Alo*.

¹³⁰ Observation by Sara Hossain.

local persons for rubber and other plantations, the lease (allocation) in respect of the lands of those who did not undertake any project during the last ten years or did not properly utilize the lands shall be cancelled".¹³¹ Paradoxically, this clause was not implemented by any of the governments since the signing of the Accord, while awarding of *new* plantation leases to Bengalis by the DC office continued unabated during this period.

In particular, transfer of Pahari common lands to private plantations was observed to be excessively high in the district of Bandarban.¹³² The state of plantation leases in Bandarban in recent times has been reviewed by an anonymous report from reliable sources.¹³³ It estimates that altogether 1,605 plots had been leased out for private plantations, of which the largest numbers were located in Lama, Alikadam, Bandarban Sadar and Naikkhongchhari upazillas (in descending order). In these four upazillas, an estimated total of 40,077 acres had been given out on long term (40-year) and renewable leases for rubber and horticulture plantations to people with addresses in Dhaka, Chittagong and other places outside the CHT.¹³⁴ Many civil and military officials, as well as political leaders and professionals belonging to the Bengali elite, had obtained hundreds of acres of plantation leases for themselves and their relatives.

The lands on which these plantation leases were issued by the DC office in Bandarban had been forcibly taken from the common lands of Mro, Chak, Tripura and other ethnic groups.¹³⁵

¹³¹ GoB and PCJSS (1997), Clause D-8.

¹³² Interviews with local respondents in Bandarban and key informants in Dhaka.

¹³³ Anonymous report titled *Overview of Land Grabbing in Bandarban Hill District*. The order of magnitude of the estimates provided by it is corroborated by independent sources, as noted in context below.

¹³⁴ According to Moniswapan Dewan, a former state minister in charge of the Ministry of CHT Affairs, 42,450 acres of land had been given for plantation leases in the entire region. Comments made at roundtable in Dhaka on 30 September 2010, organized by the national daily, *Prothom Alo*.

¹³⁵ Anonymous report titled *Overview of Land Grabbing in Bandarban Hill District*.

In addition to depriving the IP of their traditional swidden lands, false cases had been lodged against them to pressurize them to leave or sell out their remaining lands (see discussion on litigation and distress sales below).

Official Review of the Status of Plantation Leases in Bandarban

In July 2009, an official review of the status of leased plantations in all three districts of the CHT was undertaken to provide information required by the Parliamentary Standing Committee for the Ministry of CHT Affairs. After collation of these reports based on field inspections in various administrative units, the aggregated data were presented by the three Deputy Commissioners of the CHT at the meeting of the Committee, held on 20 July 2009.¹³⁶ The findings indicated that many leased plots had not yet been utilized for plantations and some plots had been sublet to others in violation of the lease contract. Some members of the Committee also noted that powerful land grabbers were using these lease documents in an unscrupulous manner to evict the IP from their lands.

Our detailed examination of the source data from fourteen mouzas under Lama upazilla of Bandarban showed that nearly all the plantation leaseholders in 2009 were Bengali individuals or companies run by them.¹³⁷ Only a few of these had addresses in

¹³⁶ Minutes of the meeting released on 28 July 2009 by the Bangladesh National Parliament Secretariat, Committee Branch-13.

¹³⁷ In a memo dated 5 July 2009 (Uni-A/Lama/Dash-59/2009-721), the UNO of Lama called for reports based on field inspection for onward submission to the meeting of the Parliamentary Standing Committee for the Ministry of CHT Affairs, scheduled to be held on 20 July 2009. The data were collected and listed on printed registers by the concerned mouza Headmen or Surveyors of the DC office. The latter undertook field inspections of a sample of the leased plots in their respective domains to assess the extent to which plantations had been developed by the concerned leaseholders. The findings cited here are based on the inspection reports provided for the following mouzas of Lama upazilla: Lemu Palong (No. 304), Fansiakhali (No. 286), Doluchhari (No. 303), Sangu (No. 102), Yangchha (No. 284), Gajalia (No. 305), Bara Bomu (No. 300), Chhagalkhaiya (No. 393), Faitong (No.

the same mouza as the plantation plot or within Lama upazilla, while the vast majority were based in Chittagong, Dhaka and other districts of Bangladesh.

As of July 2009, the majority of leased plots in these mouzas of Lama were found not to have been used for raising plantations or other kinds of development. In a few cases, it was reported that a plot had been illegally occupied.¹³⁸ In some other cases, it was reported that there were no plantations at all and that families with homesteads were occupying the lands.¹³⁹

Only a fraction of the plots had been partially developed with rubber or horticulture plantations by their leaseholders. Furthermore, a small number of plots were reported to have been taken over from the original leaseholders by private companies and other commercial entities, which had developed horticulture or rubber plantations. For instance, the registers noted that a notorious national corporation had established 'forests' (tree) or horticultural plantations on plots in the Fansiaxhali and Yangchha mouzas.¹⁴⁰ Correspondingly, another national corporation was reported to have established various types of 'forest' plantations in Doluchhari mouza on plots that had been originally leased to Bengalis whose home addresses were also in the same mouza.¹⁴¹

Incremental Land Grabbing by Plantation Leaseholders

As noted above in the case of the settlers, many of the Bengali leaseholders with plantations also embarked upon incremental grabbing of Pahari lands in the CHT. They used a variety of

306), Chambi (No. 307), Dardori (No. 294), Lama (No. 295), Sarai (No. 301) and Lulaing (No. 302).

¹³⁸ Pertains to a leased plot in Chhagalkhaiya mouza of Lama upazilla.

¹³⁹ Noted for leased plots in Fansiaxhali and Saroi mouzas in the register pages submitted on the basis of field inspections.

¹⁴⁰ Based on report dated 17 July 2009 with signature of the Assistant Commissioner (Land) of Lama of Bandarban. The original leaseholders of these plots were either Bengali individuals or commercial firms with addresses in districts outside the CHT.

¹⁴¹ Based on report of Surveyor, dated 7 July 2009.

techniques to seize such lands, as illustrated by Case Studies 6 and 7 below.¹⁴²

Case Study 6

Grabbing of Tripura lands by rubber plantation leaseholders

This case study shows how Bengali leaseholders of rubber plantation plots have been forcibly encroaching on the adjoining lands of a Pahari family while defying all local-level attempts to resolve the conflict.

Batichandra Tripura had three acres of land in Doluchhari mouza of Lama upazilla in Bandarban and had applied for settlement of another five acres each for his two sons (on 11 June 1989 and 12 February 2001 respectively). In the meanwhile, some non-local Bengalis had been given leases on 75 acres of rubber plantations in the vicinity. They subsequently used force and intimidation to take over part of the lands of Batichandra and his sons. The disputed lands had been surveyed and demarcated under the auspices of the local UP Chairman and concerned Headman, but the plantation operators had defied the latter's attempts to resolve the conflict through local adjudication.¹⁴³ Batichandra's claims on the lands were corroborated by the Headman of his mouza¹⁴⁴ as well as the report of the government surveyor of Lama upazilla.¹⁴⁵

On 28 February 2008, Batichandra appealed to the local military commander to intervene and stop the encroachment and false cases lodged against him by the plantation owners.¹⁴⁶ Eventually, however, the local army commander, as well as the Lama Municipality Chairman, advised him to apply to the DC of Bandarban.¹⁴⁷ But since no action was taken by the DC as well, Batichandra decided to lodge a

¹⁴² For instance, see case study of land grabbing around 1998 by a Bengali plantation leaseholder (Adnan 2004: 94, Box 5.7).

¹⁴³ Formal report by local UP members, Headman and surveyors, dated 17 September 2007.

¹⁴⁴ Certificate of Headman of Doluchhari Mouza of Lama upazilla of Bandarban, dated 10 September 2008.

¹⁴⁵ Report based on field inspection of the disputed land, dated 12 June 2009, and submitted to the upazilla Magistrate's court in Lama. Provided by the Surveyor of the Office of the Assistant Commissioner (Land) in Lama upazilla.

¹⁴⁶ Appeal to Sub-Zone Commander, Champatoli Army Camp, Lama, for providing redressal.

¹⁴⁷ Letter of Chairman of Lama Municipality to the Sub-Zone Commander of the Lama army camp, dated 14 May 2008, with the latter's handwritten comment.

criminal case in the court of the Judicial Magistrate of Lama upazilla, praying for a restraining order to be served on the encroachers.¹⁴⁸

The above sequence of events suggests that Batichandra Tripura tried all available institutional avenues to stop the illegal and forcible encroachment on his land by Bengali plantation owners during 2007-09. However, the latter consistently refused to attend any attempt at adjudication by the local civil and military authorities and blatantly defied all resolutions made by these bodies. It is striking that both the civil administration and security forces failed to provide protection to this Pahari individual against documented encroachment by the Bengali leaseholders. In the conclusion of a petition addressed to the CHT Commission, Batichandra Tripura asks: "Is there no law in Bangladesh for us helpless tribals' (*niriho upajati*)?"¹⁴⁹

Case Study 7

Land grabbing in Lemu Palong Mouza of Bandarban¹⁵⁰

There are 228 Mro households living in twelve villages of Lemu Palong mouza (No. 304) of Bandarban. Their livelihoods were based on *jum* cultivation and extraction of bamboo and firewood from common forests in accordance with customary rights. They had also established fruit and timber plantations on these common lands. In 1999, they had applied to the land administration to obtain formal settlement on these lands but the process had not yet been completed.

However, in 1995-96, the administration had leased out their lands to outsiders for the purpose of developing horticulture and rubber plantations, without duly informing the IP of Lemu Palang and their Headman and Karbaris. The leaseholders were Bengalis from adjoining districts who had remained largely inactive, without developing plantations on their leased plots. However, after the Parliamentary Standing Committee for the Ministry of CHT Affairs called for the cancellation of unproductive leases in July 2009, these absentee

¹⁴⁸ Criminal offence complaint to the Court of the Judicial Magistrate of Lama, dated 18 June and 12 August, 2008.

¹⁴⁹ Batichandra Tripura submitted an appeal to the CHT Commission on 12 August 2009.

¹⁵⁰ This case study draws upon a petition addressed to the Prime Minister by the Mro community of Lemu Palong mouza, signed on their behalf by the concerned Headman and Karbaris, dated 16 July 2009, and another addressed to the CHT Commission, dated 12 August 2009.

leaseholders suddenly became active and concerned to put on the appearance of productive development on their leased plots.

On 27 July 2009, they brought in hundreds of workers and cut down the fruit and timber plantations that had been raised by the IP, intending to replace these with new horticulture and rubber plantations. In addition, they also tried to capture lands beyond their leased plots by forcibly encroaching upon Pahari lands in the vicinity. The IP alleged that the plantation leaseholders had threatened them in various ways and tried to evict them from their homestead lands as well.

This case study illustrates the operation of three distinct types of land grabbing mechanisms. Firstly, the common lands of the IP had been quietly leased out to outsiders by the district administration which did not even bother to inform their Headman, who was entitled to know as their authorized representative. Secondly, Bengali plantation leaseholders from outside frequently attempted to take over adjoining Pahari lands to expand the area under their control, indicative of a process of *incremental* land grabbing. Thirdly, the directive to cancel leases of unproductive plantations had quite paradoxical consequences. It jolted into action absentee Bengali leaseholders who not only became hyperactive to put up the appearance of productive development on their leased plots, but also attempted to grab additional Pahari lands in the vicinity.

The affected Mros of Lemu Palong petitioned the Prime Minister to 'save them' by cancelling all leases on their common lands that had been awarded to outsiders for developing rubber and horticulture plantation, without even bothering to inform them.¹⁵¹ They believed that only such measures by top level of the government would enable them to regain their forcibly occupied lands. However, apart from such petitions, the Pahari households of Lemu Palong mouza, by themselves, had not been able to mount much resistance against the land grabbers.

Unintended Consequences of the Directive to Cancel Leases of Undeveloped Plantations

The steps taken by the Parliamentary Standing Committee for the Ministry of CHT Affairs were commendable. Their directive to cancel the leases of unproductive and idle plantation lands was aimed at implementing one of the clauses of the CHT Accord.

¹⁵¹ Petition from the IP of Lemu Palong mouza, dated 16 July 2009, addressed to the Prime Minister and copied to concerned Ministers and officials.

Their call for an inventory check on these plots based on ground inspection also served to provide an up to date picture of the state of development (or non-development) of these private plantation leases. However, these well-intended measures did not lead to the envisaged outcomes but rather were overshadowed by unintended consequences.

As illustrated by the case study above (No. 7), many leaseholders who had neglected their plantations suddenly became active after the directive to cancel unproductive leases was announced by the Parliamentary Standing Committee in July 2009. It was reported that lorry-loads of eucalyptus, acacia and other seedlings were brought in by these leaseholders immediately after the cancellation order to 'create' plantations overnight on plots that had remained undeveloped for years.

However, the matter did not stop there. Bengali leaseholders also used this situation as a pretext for evicting IP from their lands in adjoining areas. Even Bengalis *without any leases* took advantage of the situation to grab Pahari lands and set up new rubber and fruit plantations (see following sections). The unintended consequence of the directive by the Parliamentary Standing Committee to cancel the leases of undeveloped plantation was therefore to trigger a *chain reaction of incremental grabbing* of Pahari lands in the proximity of these leased plots. A press report from Lama upazilla of Bandarban indicates that those involved in such land grabbing had the capacity to influence the local police and administration in order to prevent them from intervening in their illegal activities.¹⁵²

Furthermore, even though the leases of many plantation plots were initially cancelled, most of these were re-issued within a few months. The fact that these Bengali leaseholders have managed to overturn the cancellation order of the Parliamentary Standing Committee shows how powerful they are as an interest group. It is worth pondering why neither the government, nor the parliamentary standing committee, took further steps to re-impose and enforce the cancellation order.

¹⁵² *Dainik Natun Bangladesh*, 5 August 2009.

LAND GRABBING BY COMMERCIAL INTEREST GROUPS

Commercial Land Grabbers and Dealers: Individuals, Companies and NGOs

A major emerging trend in the CHT during the post-Accord period has been land grabbing by commercial interest groups from outside, led by influential Bengalis, including business houses, commercial NGOs and powerful land dealers (real estate brokers). Significantly, this type of Bengali-led commercial interests grabbed not only the lands of the IP but also those of ordinary Bengali settlers who were allotted lands by the state during the counter-insurgency. In some cases, they were reported to have purchased the *kabuliyats* (titles) of settlers who had failed to get possession of their designated plots (e.g. allottees of R-Holdings). In other instances, they are alleged to have produced fake documentation of the 'purchase' of such plots from original recipients.¹⁵³

However, the area of land that they actually grabbed is reported to have been far greater than those specified in the titles or land settlement documents that they might have obtained or manufactured.¹⁵⁴ Such documents served to provide them with a certain kind of legal cover, but in practice they grabbed as much land as they could with the use of private power. Indeed, some of these land grabbers did not even bother with titles and lease

¹⁵³ Press reports note that documentation of (fake) 'purchases' of land in the CHT is based on false affidavits certified by corrupt functionaries of the land administration (*Prothom Alo*, 15 August and 5 December, 2010).

¹⁵⁴ In the general case, the various settlers' plots are likely to have been physically dispersed rather than being fortuitously contiguous. However, actual land grabbing is done in consolidated blocs in a given location that may be quite different from the locations of the plots specified (vaguely) in the title documents that the grabbers obtained or forged. It follows that the lands of those who are not even listed in these title documents have also been taken over in some of these instances. Such outcomes have been facilitated by the fact that the schedules (*chouhaddi*) or boundary description in these documents were usually rather imprecise and could be applied to many different locations, providing scope for grabbing lands in multiple places by manipulating the same document.

documents, but used brute force to take over lands in the CHT, making use of their social and political connections to influence the police, administration and local political leaders.

In numerous instances, these commercial interest groups used armed gangs to impose their will and deployed hundreds of workers to clear the grabbed lands, cut down the pre-existing trees and vegetation, and start new plantations. They also used a variety of other mechanisms, inclusive of bribery, to forge title documents and induce Pahari Headmen to provide necessary reports and recommendations. These distinct mechanisms were often used in a definite logical sequence, as elements of a *multi-pronged and integrated strategy* of land grabbing. These aspects of land grabbing in the CHT by commercial interest groups are illustrated by Case Studies 8, 9 and 10 below.

Case Study 8

Land Grabbing in Ramgarh by a Private Company¹⁵⁵

A particular private company is reported to have obtained possession of 450 acres of land in Ramgarh upazilla of Khagrachhari which it uses for commercial plantations. Initially, it had bought the title documents of Bengali settlers covering 40 acres. After the Accord, Bengalis are reported to have burnt down several Pahari villages in the Ramgarh upazilla sadar. The terrified IP fled from this area, enabling settlers to grab their common swidden (*jum*) lands as well as some of their registered private plots. Subsequently, the company bought 410 acres of these lands from the settlers who had occupied them.

At a later stage, when the dispossessed Paharis submitted petitions to the local administration for restitution of their unlawfully occupied lands, they received no assistance. Significantly, however, they partly blamed their own mouza Headman for complicity in the loss of their lands – symptomatic of a disturbing trend of breakdown of community-based solidarity among the IP (discussed further below).

¹⁵⁵ This case study is based on Tripura (2010: 61-62).

Case Study 9

Land grabbing in Bandarban and Khagrachhari by private companies and powerholders

Massive grabbing of IP lands by private companies and powerful individuals has been reported in parts of Bandarban and Khagrachhari districts in recent times. Several private corporations and commercial NGOs are reported to have bought or grabbed lands in Dighinala, Merung and other parts of Khagrachhari, often forcing the incumbents into distress sales.¹⁵⁶

A press report quotes Mohammad Ismail, the Bengali chairman of Lama upazilla, as alleging that nearly 10,000 acres held by Paharis and Bengalis in his area had been grabbed by private companies and powerful individuals from outside the CHT.¹⁵⁷ Among the dispossessed Bengalis were settlers and permanent residents, while the affected IP consisted of Mro, Tripura, Marma and Tanchainghya households, living in the Laminghiri, Daluchhari, Sarai, Tonkaboti and Gazalia Unions. The land grabbers are reported to have used hired workers, backed by armed gangs, to take over these lands, cut down their existing trees and establish new plantations. They are also reported to have lodged false criminal cases against anyone who resisted their land grabbing activities.

Commercial Dealers Grabbing and Selling Lands

Private commercial dealers who are linked to local powerholders have been grabbing lands in the CHT in order to re-sell these to business houses, real estate dealers, etc. Case Study 10 below on Doluchhari mouza in Lama upazilla of Bandarban provides details of their social identity, grabbing mechanisms and utilization or disposal of the grabbed lands

¹⁵⁶ Land grabbing in various parts of Khagrachhari were reported by both Pahari and Bengali respondents during our fieldwork.

¹⁵⁷ *Dainik Natun Bangladesh*, 5 August 2009.

Case Study 10

Grabbing of Pahari lands in Doluchhari Mouza by commercial dealers¹⁵⁸

In Doluchhari mouza of Bandarban, the Mro and other Pahari groups had been in possession of common lands for many generations, held under customary laws administered through the Chief-Headman-Karbari system. Over the years, they had built up plantations of timber and fruits (e.g. oranges, bananas). They have also applied to the DC office for formal settlement of their lands, but the process has remained incomplete. Consequently, these Pahari groups have not yet been able to obtain formal titles, which had made their lands vulnerable to takeover by others.

Nearly 100 acres of these Pahari lands were seized by powerful individuals and commercial interest groups from outside the CHT during 2009. The latter brought in hundreds of hired workers backed by armed gangs and burnt down the existing forests and vegetation using kerosene to whip up the flames. After destroying the fruit and timber plantations of the IP, the grabbers proceeded to make the ground suitable for new rubber and other commercial plantations.

Social identity of the land grabbers: The petitions submitted by the IP indicate that all the land grabbers were Bengalis with residential addresses in Chittagong city.¹⁵⁹ They appeared to be urban millionaires with social and political connections that enabled them to influence the local administration and security forces in rural areas of the CHT. Given their wealth and social power, they were able to deploy large numbers of workers, escorted by armed gangs, for their land grabbing activities. Significantly, these land grabbers were alleged by the IP to have connections with local-level leaders of the major political parties, particularly the Awami League and the BNP.

¹⁵⁸ The details of this case study are taken from several petitions of the affected IP communities of Doluchhari mouza addressed to the Prime Minister (Sheikh Hasina) and copied to concerned Ministers and other important officials and agencies of the state, dated 5 and 6 July 2009. Information is also taken from another petition by the affected Paharis addressed to the CHT Commission, dated 12 August 2009.

¹⁵⁹ The names and other details of the various city-based Bengalis alleged to have been involved in the grabbing of their lands are stated in the petitions of the IP, cited above.

Nature of grabbing mechanisms: In most cases, these commercial land grabbers had no titles or lease documents, real or forged, which could have allowed them to claim rights on the Pahari lands that they took over. Instead, they depended on the use of sheer force, without much concern for any legal 'justification' in terms of land rights and titles. They also used their social and political connections to influence the local administration, police and powerholders, such that the latter desisted from taking any actions against them.

Resistance: While the affected Paharis attempted to resist such forcible occupation on some occasions, they were eventually overwhelmed, since they lacked the kind of strength, wealth, and connections necessary to cope with such formidable tactics. For instance, the first attempt to grab land with armed gangs by one interest group was resisted by the affected Paharis. During the second attempt, on 1 July 2009, the land grabbers brought in a private surveyor to measure and occupy their land, which was also opposed by the IP. At this point, the land grabbers and their gangs threatened the Paharis that they would use violence to evict them from their lands, harass them with false criminal cases, force them to leave the country, kill them if they got a chance, etc.¹⁶⁰ Faced with such threats and intimidation, the IP could not put up further resistance.

Extent of land loss and other damages: In one instance, a group of six Bengalis from outside the CHT is alleged to have grabbed approximately 1,000-1,500 acres of the timber and fruit plantations of the Mros of Doluchhari mouza. In another instance, 400 acres of land in the mouza are alleged to have been forcibly occupied by a Bengali during 2009, of which 100 acres of fruit trees planted by the Mro were subsequently cut down to establish rubber plantations. In another instance, it is alleged that the Bengali land grabber has forcibly taken over 85 acres of the plantations and homestead lands of the Mro. Apart from grabbing their lands, these Bengali groups have been preventing the IP from undertaking *jum* cultivation and extracting timber and firewood from the forests on their lands. The hired gangs employed by the land grabbers have been also intimidating the Mro men and women and threatening to evict the entire community from its homesteads.

Disposal of the grabbed lands: This class of professional land grabbers and dealers has in some cases used the occupied lands of the IP to set up rubber and other commercial plantations of their own. Alternatively, they have sold

¹⁶⁰ Cited in the petition to the Prime Minister (Sheikh Hasina) by the Mros of Doluchhari mouza, dated 5 July 2009, and in the appeal to the CHT Commission on behalf of the aggrieved Mro community of Dekhichhara para of Doluchhari mouza, dated 12 August 2009.

possession of the occupied lands to wealthy individuals and companies, based in Dhaka or Chittagong, who are interested in developing rubber and other commercial plantations. This second group of land grabbers and dealers are thus in the business of *selling possession*, operating through *de facto* land markets, without the use of any formal titles or *de jure* rights. There has not been much concern for legitimizing the process at the stage of grabbing possession of lands, even though formalization of rights are likely to be attempted in subsequent stages.

MANIPULATION OF CONNECTIONS WITH POLITICAL PARTIES

It is evident from the preceding discussion that land grabbers in the CHT have been able to influence the police and administration to prevent the latter from taking action against them. Connections with major political parties provide an avenue for exerting such influence. In some instances, local leaders of political parties are themselves involved in grabbing lands of Paharis. The following case study (No. 11) illustrates the way in which land grabbing has been facilitated by affiliation with a major political party and a leading association of Bengalis in the CHT.

Case Study 11

Grabbing of Pahari lands in Bandarban town by local political leaders

This case study documents the gradual process by which the lands of a Pahari community within the Bandarban municipal area were gradually seized by local Bengali powerholders with connections to a major political party, in spite of the proximate presence of the military and civil administration.

A large community of Marma households had been living in the area of the town known as Kyaching Para.¹⁶¹ Among them, 19 households had applied for settlement on 38 acres of land (2 acres each) in 1989-90, but had not received formal titles to their lands, making these vulnerable to encroachment. Grabbing of the Marma lands of Kyaching Para by a group of local Bengalis started on 8 July 2001 and the process has continued in stages during the succeeding

¹⁶¹ The *para* or cluster of settlements is named after its elderly leader as Kyaching Karbari Para; however, the full name of this locality has been shortened here to Kyaching Para for convenience.

years.¹⁶² The land grabbers were also involved in settling migrant Bengali families on the Marma lands that they had occupied in Kyaching Para.

The activities of this group were directed by a local leader of the Bandarban unit of the Awami League as well as the Sama Adhikar Andolan, an association representing Bengali interests in the CHT.¹⁶³ ¹⁶⁴ A police report described this individual as being an opportunist against whom legal action should be taken.¹⁶⁵ However, it was reported that the then DC of Bandarban had been keen to appease this influential leader of a major political party and the Bengali association.

During 12-13 September 2004, nearly 250 acres of land of 55 Marma households in Kyaching Para were forcibly occupied by more than a hundred Bengali families brought in from outside.¹⁶⁶ In 2005, the affected Marmas of Kyaching Para appealed to the military zone commander of Bandarban to take due measures against the illegal occupiers and restore their forcibly occupied lands.¹⁶⁷ However, despite such appeals to the authorities of Bandarban and the undertaking of several official enquiries, no effective measures were taken against these influential land grabbers.

During 2008, the last remaining paddy lands of Kyaching Karbari, the leader of the Marma IP, were reported to have been illegally occupied by this political

¹⁶² Petition to the Chief Advisor of the Caretaker Government of Bangladesh (Fakhruddin Ahmed) on behalf of the inhabitants of Kyaching Para, dated 24 August 2008.

¹⁶³ *Prothom Alo*, 18 June 2007 and *Dainik Purbakone*, 16 June 2007. This political leader and his associates were identified as the ring leaders of the land grabbing groups in a report of the police superintendent of Bandarban, which recommended legal measures against them (report by the Superintendent of Police, dated 9 October 2006). However, this recommendation was not implemented.

¹⁶⁴ The Sama Adhikar Andolan provides a common platform for Bengali activists from all political parties in the CHT to work together for their shared interests.

¹⁶⁵ Report of the Additional Superintendent of Police, Enamul Haq, to the Superintendent of Police of Bandarban in September 2006. It noted that another enquiry on the matter had been made by the Assistant Commissioner of Land on 12 July 2002.

¹⁶⁶ *Dainik Jugantar*, 14 November 2005.

¹⁶⁷ Appeal to Zone Commander of the Bandarban Sadar Zone by Aug Pru Marma, on behalf of 19 Marma households of Kyaching para, made after January 2005.

leader and his associates. In response, the Karbari lodged a case in the court of the Joint District Judge of Bandarban, who issued a stay order upon the land grabbers on 7 August 2008. However, that very night, the land grabbers brought in lorry-loads of building materials and constructed nine houses on the forcibly occupied lands.¹⁶⁸

Significantly, press reports revealed that the concerned political leader had obtained an allotment of 20 tons of food grain from the Bandarban Hill District Council, which he had used for the purpose of excavating a pond and settling Bengali families on the illegally occupied Pahari lands in Kyaching Para.¹⁶⁹ This appears to be a clear instance of misuse of public resources, and that to done while violating a court order. On 18 August 2008, the Executive Magistrate of Bandarban gave a judicial order dismissing the claims of Bengali land grabbers and in favour of the Pahari plaintiff. However, there was no action by the administration to stop and penalize the land grabbers, or to restore the occupied lands of the Marma households of Kyaching para.

It is to be noted that the relentless encroachment on the Marma lands of Kyaching Para had been undertaken in a systematic manner with different techniques being used in a definite logical sequence, suggestive of a well worked out strategy of land grabbing. Initially, the encroachers had set up houses on the occupied lands, even though they did not necessarily live there, indicating that their prime concern at that stage was to get *possession* of the Pahari lands. Subsequently, they established a mosque and a school on the encroached lands to claim legitimacy, which made it more difficult to evict them in social and political terms. The leader of the land grabbers became the chairman of the school committee. Under his instruction, the illegally occupied lands were enclosed with bamboo posts.¹⁷⁰ Moreover, the Bengali settlers placed on these lands began harassing the remaining Marma households by letting loose their livestock to damage the latter's crops and fruit and vegetable gardens.

National dailies of Dhaka and Chittagong openly alleged that this local-level political leader and his associates were taking money from Bengali settlers in return for enabling them to put up homesteads on the lands that they had forcibly occupied in Kyaching Para.¹⁷¹ However, the leader of the land grabbers responded that they had been merely helping to 'rehabilitate' landless Bengali settlers.

¹⁶⁸ *Prothom Alo*, 16 August 2008.

¹⁶⁹ *Prothom Alo*, 16 August 2008.

¹⁷⁰ *Prothom Alo*, 18 June 2007, and application to Police by Kyaching Karbari on 8 July 2007.

¹⁷¹ *Prothom Alo*, 18 June 2007 and *Dainik Purbakone*, 16 June 2007.

This case study illustrates that, despite instances of fair investigations by police officials as well as impartial orders by the judiciary, local Bengali powerholders with political connections were able to manipulate the *state machinery as a whole* in order to grab Pahari lands and use public resources for private gains. In response, IP leaders such as Kyaching Karbari did attempt to put up resistance by appealing against the powerful Bengali interest groups grabbing their lands. Such appeals were often addressed to the highest levels of the government (i.e. the Prime Minister or Chief Advisor) and copied to concerned Ministers (or Advisors) and important officials in the local administration and police. In some cases, the IP even appealed to local military officials.¹⁷²

But, despite such appeals through all available avenues, little action was taken by the civil administration, the police, or local military commanders to protect the land rights of this Marma community or to ensure their right to due process. On the contrary, the concerned authorities displayed blatant disregard for the use of illegal power by Bengalis with political connections to forcibly occupy Pahari lands. Even though there are some honourable exceptions among the concerned Bengali officials¹⁷³, this kind of systematic disregard for Pahari land rights as well as considered inaction against illegal land grabbing by Bengali interest groups has generally characterized the role of civil officials, the police and security forces in the CHT.

PRIVATE LAND GAINS BY GOVERNMENT OFFICIALS

Given the role played by government officials in facilitating land grabbing by Bengali interest groups in the CHT, it is not surprising that some of them are also involved more directly in such processes. Individual military and civil officials posted to the region are alleged to have used their formal power and personal influence to obtain formal land settlements and leases,

¹⁷² Application to the Additional Director of the DGFI of Bandarban Sadar, dated 3 December 2008.

¹⁷³ The objective report by the Additional Superintendent of Police in September 2006 and the impartial judicial order of the Executive Magistrate of Bandarban on 18 August 2008 dismissing claims of land grabbers and deciding in favour of the aggrieved Paharis constitute remarkable exceptions in the role of Bengali officials in the CHT and demonstrate that they can act fairly without being unduly biased against the IP.

as well as to purchase *kabuliyats* (titles) issued to Bengali settlers during the counter-insurgency. However, in order to avoid violating their service rules, government officials have usually taken care to make such private gains in the names of their family members and clients, rather than their own. Case Studies 12 and 13 provide instances of private land gains by government officials in the CHT.¹⁷⁴

Case Study 12

Private land gains by a civil servant¹⁷⁵

The nature of private land gains by government functionaries in the CHT is illustrated by the instance of a Bengali official who had been the Assistant Commissioner of Ramgarh upazilla and subsequently became the UNO of Manikchhari upazilla. He is reported to have bought titles and settlement documents from 40 Bengali settlers, which had been originally issued in 1980-81. The official is reported to have accumulated around 400 acres of land through such purchases as well as grabbing of lands settled to IP.

This instance suggests that a section of Bengali officials have misused their position and violated land laws of the CHT in order to amass land from both Paharis and Bengali settlers. In this sense, they have been involved in land grabbing across ethnic as well as class divides.

Case Study 13

Buying of R-Holdings from settlers by an UNO and his wife

A remarkable set of eight land sale deeds provides documentary evidence that an official who was the UNO of an upazilla of Bandarban, along with his wife, had purchased R-Holdings from Bengali settlers. This particular set of sale transactions took place during the short two-month span from 19 March to 18 May, 2008 (though additional transactions might also have taken place at other times).¹⁷⁶

¹⁷⁴ Other instances of land grabbing by Bengali officials were reported to us by Bengali informants in Khagrachhari.

¹⁷⁵ This case study is based on Tripura (2010: 64-65).

¹⁷⁶ These eight transactions pertained to purchase of R-Holding plots on various dates, as follows: R-58 and R-69 on 19 March 2008; R-22 on 20

In four of the deeds, the purchases were made in the name of a private company based in Chittagong. Six proprietors of the company were listed in these deeds, with the wife of the UNO being named in every case, while the UNO himself was listed as a proprietor in two of the deeds. The remaining four deeds pertained to land bought in the name of three Bengalis having a common address, among whom the UNO's wife was listed in all cases.¹⁷⁷

According to local informants, the total amount of land held jointly with others by the UNO and his wife amounted to nearly 300 acres – far greater than those covered by the eight deeds cited above. These lands are reported to be currently used for fish and livestock farming and other businesses.

This case study suggests how a coterie of Bengalis including an official of the civil administration and his wife had been able to take over a substantial amount of land in the CHT. Furthermore, the concerned public official was also listed as a proprietor of the company using these lands to undertake commercial activities for private gains.

USE OF VIOLENCE FOR LAND GRABBING

Violence and Violation of Human Rights

Use of violence, entailing human rights violations in many forms, has been repeatedly used to evict the Hill peoples of the CHT from their lands. Incitement and provocation by Bengali settlers, sometimes with the alleged support of the security forces and civil administration, had precipitated communal riots, arson attacks, physical violence, as well as full-blown massacres during the counter-insurgency period.¹⁷⁸ As the IP were forced to

April 2008; R-71 on 21 April 2008; R-87 on 10 May 2008; R-60 on 12 May 2008; R-87 on 13 May 2008; and R-114 on 18 May 2008.

¹⁷⁷ Local informants alleged that the other two buyers were relatives of the UNO or his wife.

¹⁷⁸ Brauns and Löffler (1990: 242), Roy (1997: 183), Mohsin (1998: 116), Adnan (2004: 47-48), Chakma (2010: 15-25) and Tripura (2010: 58). The CHT has witnessed a series of massacres of the IP including those in Longadu and Kaukhali in 1979, Bhushanchhara, Harina, and Panchhari in 1984 and in Khagrachhari, Dighinala and Panchhari in 1986. Such violence forced thousands of IP to leave their lands and become

flee, their vacant lands and homesteads were taken over by the settlers with little attempt at restraint by the civil administration and security forces.¹⁷⁹ Even if on a somewhat smaller scale than before, use of such Machiavellian techniques to grab Pahari lands is reported to have continued during the post-Accord period.

Sexual Violence against Pahari Women

In particular, rape and other forms of sexual violence on Pahari women have also been used as mechanisms of pressurizing their families and communities to leave a particular locality, enabling settlers to grab their lands.¹⁸⁰ During the counter-insurgency, attacks on IP villages involved mass rape and violence on the women which also served this purpose. Incidents of rape and sexual violence on Pahari women have been continuing during the post-Accord period, as reported and catalogued by the CHT Citizens' Committee and other concerned organizations.

DISTRESS SALE OF LAND UNDER PRESSURE AND INTIMIDATION

'Distress' or forced sale of land by Paharis constitutes the *terminal stage* in longer processes of dispossession which converge to this common outcome. The antecedent causal factors driving the different processes leading to distress sales can vary considerably, e.g. subjection to intimidation and violence, encirclement, harassment, cumulative indebtedness, and false legal cases, as briefly indicated below.

international refugees or IDP seeking shelter in the remote forests of the CHT.

¹⁷⁹ Chakma (2010: 15 and 25). During our fieldwork, Pahari respondents have consistently alleged that massacres of their communities were deliberately undertaken in order to displace them from their lands and settle Bengalis in their place.

¹⁸⁰ Mohsin (1997: 178; 1998: 116) and Chakma (2010: 19).

Encirclement and Harassment

A critical factor pressurizing the IP to sell out their lands has been gradual encirclement of their homesteads and cultivable plots by Bengali settlers moving in to the area and securing possession of many of the lands around them. Such processes of encirclement have usually been associated with harassment and pressure from the in-migrating settlers, making it gradually impossible for the remaining Paharis to live in peace. In some instances, the concerned Paharis were not even able to access their own lands because of fear and insecurity. Testimonies by key informants indicate that even middle-class Paharis with professional status and good social connections were forced to undertake distress sale of their lands because of encirclement and harassment.

Distress sale of land by Paharis at rock bottom prices has been particularly high in areas of the CHT where the Bengali settler population has become increasingly concentrated, such as Ramgarh and Matiranga in Khagrachhari district. However, this pattern of shifting ethno-demographic composition and spatial concentration of settler populations, resulting in the distress sale of land by the Paharis formerly living in these areas, has been taking place in many other parts of the CHT.¹⁸¹

Sale of Land to Resolve Outstanding Debt

Distress sale of land rights to settle outstanding debt has been one of the oldest mechanisms of alienation of Pahari land rights in the CHT, dating back to the British colonial period.¹⁸² This mechanism continues to operate in the CHT even in present times. For instance, many Marmas in Manikchhari were reported to have sold rights to their lands to settle outstanding debts after buying on credit from shops owned by Bengali traders. The

¹⁸¹ Such an instance of Pahari families constrained to sell their lands and move out of their ancestral village was observed in Powapara during our fieldwork in the CHT. Similar experiences were narrated by many IP respondents during our fieldwork.

¹⁸² Mohsin (1997).

instance of distress sales by extremely poor Khyangs in a Bandarban village, based on an earlier study, is summarized in Case Study 14.

Case Study 14

Loss of land rights by Khyangs for debt settlement

The Khyangs of Kuhalong village in Bandarban had to mortgage their land rights to borrow cash from Bengali moneylenders when fleeing their village during the violence at the time of the counter-insurgency. After returning to their village later on, they were unable to repay their cumulative debts and eventually had to sell their land to the concerned moneylenders to settle the outstanding amounts.¹⁸³ During 1998, these Khyangs had reported that they still had to undertake distress sale of their remaining land rights for settling current debts. Discussion with a Khyang leader of the village in 2010 suggests that his community has become virtually landless because of the cumulative loss of its erstwhile land rights.

Pressure of Litigation leading to Distress Sale

Litigation has been widely used as an instrument for harassing and pressurizing Paharis in the CHT until they let go their lands.¹⁸⁴ Ordinary Paharis are typically at a disadvantage when faced with litigation because they are not familiar with the procedures of contesting legal cases in the formal courts, often located in distant and unfamiliar urban centres. Most Paharis cannot afford to pay the continuing legal costs, eventually compelling them to sell their lands. The instrumental use of false or spurious legal cases by land grabbers to intimidate and bankrupt the IP, leading to the takeover of their lands through distress sales, has been reported by many respondents during fieldwork. As noted above, Bengali settlers and commercial land grabbers have repeatedly lodged false cases against Paharis whose lands they covet.

¹⁸³ Adnan (2004: 70).

¹⁸⁴ Litigation has been also used by grabbers to legitimize illegal land gains made through the use of force or fraud.

Correspondingly, litigation has been widely used by the Forest Department to harass and put pressure on Paharis, compelling them to surrender their lands for afforestation projects, sometimes even before formal state acquisition processes have been instituted or completed (Case Studies 1 and 3). In general, spurious or false legal cases have been used against Paharis by various government agencies and private interest groups as mechanisms to compel them to undertake sale of their lands. Even if the Paharis contest the cases, they eventually come to realize that their powerful adversaries will not stop the litigation and harassment until and unless they are able to get hold of their lands.¹⁸⁵

USE OF FRAUD AND FORGERY TO MANIPULATE LAND RECORDS

Many types of forgery, involving fraudulent modification of titles, tenurial contracts and other land records, have been used for making illegal transfers of Pahari lands to others. Such mechanisms cynically exploit the simplicity of the IP as well as their lack of knowledge and experience about the formal laws concerning land rights and legal contracts.

Bengali settlers are alleged to have widely forged land settlement documents and used these to justify fraudulent claims on Pahari lands.¹⁸⁶ For instance, they are reported to have rented land from Paharis and then tampered with the lease contracts (*barga chukti*) to convert these into sale deeds, enabling them to claim such plots as their own.

Indeed, the use of various fraudulent means to dispossess the IP of their lands has become widespread in the CHT. Press reports provide vivid details of the growth of a big and powerful industry involved in forgery and fraudulent manipulation of land

¹⁸⁵ Observation by Sara Hossain.

¹⁸⁶ For instance, one respondent alleged that forged *kabuliyats* (titles) had been used by Bengali settlers of Goachhari Guchhchhogram to grab Pahari lands. Cf. Chakma (2010: 26).

settlement documents.¹⁸⁷ Such mechanisms include use of forged signatures and titles, tampering with the official land records to change the identities of those holding rights, and generally manufacturing any kind of land record and document needed for such ulterior purposes. These fraudulent acts have been used to 'prove' transfer or sale of the genuine land rights of the IP to various Bengali interest groups without the former's knowledge. These press reports note that the *mafia* controlling the business in such fraudulent activities is very powerful and linked to the Bengali elite, inclusive of retired officials formerly working in land administration.

The CHT Citizens' Committee has reported instances of the signature of the Bohmang Raja (Chief) being forged in land settlement documents. Apparently, such documents had been approved by the DC office in Bandarban without the forgery being detected, suggestive of collusion by concerned administrative functionaries.

The Citizens' Committee also noted that the use of forgeries to manipulate land records, leading to loss of Pahari land rights, has been going on unchecked partly because the 'Land Department' had not yet been transferred from the DC office to the HDC, as stipulated in the CHT Accord. In this sense, incomplete implementation of the Accord has constituted an indirect factor contributing to alienation of Pahari lands by facilitating the use of fraudulent means to manipulate land records.

LIMITATIONS AND CORRUPTION OF HEADMEN AND KARBARIS

The Headmen and Karbaris have a crucial role to play as the custodians of the land rights of Pahari communities at the grassroots. In some situations, exogenous constraints have prevented them from performing their duties in terms of protecting the land rights of the IP. For instance, during the

¹⁸⁷ *Prothom Alo*, 15 August and 5 December, 2010, on parts of Khagrachhari and Bandarban respectively.

counter-insurgency, the Headmen and Karbaris were deliberately kept out of the processes of placing Bengali settlers on Pahari lands and issuing the migrants with land titles and settlement documents. Instances of intimidation of Headmen and Karbaris by the DC office and security forces have also been reported during the post-Accord period, limiting their capability to protect the land rights of their respective IP communities.

In contrast, a disturbing trend during the post-Accord period has been the growing manifestation of self-interest among Headmen and Karbaris, which has also contributed to the alienation of Pahari lands. Some have forsaken their traditional roles and made private settlements (or leases) on common lands that they had previously shared with the rest of their communities.¹⁸⁸

Furthermore, instances of corruption have been reported among Headmen and Karbaris, including those who have had formal education up to graduate level. In some cases, it has been alleged that a Headman has taken bribes from Bengalis in return for giving his recommendation for transfer of the common lands of his community to them.¹⁸⁹ Some Headmen and Karbaris are alleged to be operating as land dealers who buy cheap from ordinary Paharis and resell at a profit to outsiders. Such activities are likely to have facilitated the trend of Bengali powerholders and commercial agencies getting hold of titles and other land documents to justify their grabbing of Pahari lands, as noted above.

Given these trends, IP communities can no longer necessarily depend upon their Headmen and Karbaris to protect their lands. This situation is symptomatic of cracks appearing in the last bulwark of defence within Pahari society against alienation of

¹⁸⁸ A concrete instance of privatization of the common lands of a Tanchainghya village in Bandarban by its Karbari is provided in Adnan (2004: 79, Box 5.1). The threat of privatization of VCF by individual Paharis has been pointed out by Roy (2004: 14), as noted above.

¹⁸⁹ Cf. Case study involving a Tripura cremating ground in Dighinala of Khagrachhari (Adnan 2004: 89, Box 5.4).

their lands.¹⁹⁰ Ordinary Paharis usually have no way of bringing an errant Headman or Karbari to book – he (she) cannot be ‘voted out’. However, the concerned Circle Chief and DC may be in position to take requisite action. These issues are illustrated by Case Study 15 below.

Case Study 15 **Corruption of a Pahari Headman**

The corruptibility of traditional Pahari leaders and its consequences are illustrated by the case of Reng Pung Mro, the Headman of a mouza in Alikadam upazilla of Bandarban. A press report has alleged that this Pahari Headman, with the assistance of his Bengali clerk (*muhur*), has taken large bribes for giving recommendations for the purchase and settlement of Pahari lands in his mouza by outsiders.¹⁹¹ In fact, some of the Karbaris under this very Headman are reported to have publicly charged that he has allowed Bengalis from outside to establish commercial plantations on Pahari lands in their villages and cut down the fruit trees raised by the IP.

The Bohmang Raja (Chief) is reported to have conducted an investigation into these allegations and concluded that the Headman was indeed responsible for selling Pahari lands rights to outsiders. The Raja is stated to have recommended removal of the Headman from his position and the DC of Bandarban is reported to have endorsed his findings and recommendation.

CONSTRAINTS TO RESTITUTION OF FORCIBLY OCCUPIED PAHARI LANDS

As distinct from the loss of land, constraints to the *restitution* of forcibly occupied lands also serve to undermine the land rights of the IP. The inability to get back possession of one’s own land because of *de facto* occupation by others, who cannot be dislodged, amounts to a *denial of land rights*.¹⁹² Such factors are

¹⁹⁰ This is also symptomatic of differentiation and loss of solidarity within Pahari communities. Cf. Adnan (2004: 95).

¹⁹¹ *Prothom Alo*, 15 August 2010.

¹⁹² Cf. Borras and Franco (2010) and Adnan (2011).

indicative of the role of *de facto possession* in constraining the restitution of occupied lands, despite holding of *de jure* rights.

After the counter-insurgency, many Paharis have not been able to get back possession of their own lands, because they did not have sufficient influence to get the administration to dislodge Bengali interest groups occupying them. This has effectively meant the loss of such lands for the concerned IP, as illustrated by Case Study 16.¹⁹³

Case Study 16

Failure of Paharis to regain possession of forcibly occupied lands¹⁹⁴

The constraints faced in attempts to regain occupied lands are illustrated by the experience of a group of repatriated Pahari refugees. The concerned IP had left their villages in Dighinala of Khagrachhari when their homesteads had been burnt down during the counter-insurgency and became international refugees in India. Some of them had joined the PCJSS during the armed struggle. When they were repatriated on the basis of the 20-point agreement with the government, they appealed to the DC of Khagrachhari for re-possession of their lands which had been illegally occupied by Bengali settlers during their absence. While the DC did issue orders to the occupying settlers to vacate the lands of the repatriated refugees, he failed to take any further action to evict them when the settlers did not comply with the order.

Since there was no other option available, the Pahari refugees lodged legal cases to regain possession of their former lands. These cases are still going on in the court in Khagrachhari. However, the continuing costs and stress of pursuing litigation through the formal judicial system have put these repatriated Pahari refugees under considerable financial and mental strain.

¹⁹³ Interviews of Pahari respondents.

¹⁹⁴ This case study is based on Tripura (2010: 63).

ADMINISTRATIVE CONSTRAINTS TO THE RECORDING OF PAHARI LAND RIGHTS

As noted above, Bengalis have often been able to manipulate the land administration under the DC office for obtaining titles or other land settlement documents. However, in the case of the Paharis, there has been a long-standing freeze in the issuing of titles because of an impasse in processing their land settlement applications by the DC office. The resultant lack of formal land rights has effectively denied them legal protection and tenure security and served to facilitate grabbing of Pahari lands by Bengali settlers and commercial operators.

In addition, land administration functionaries are alleged to have blocked applications of the IP for *namjari* or mutation of land records because of minor mistakes or variations in the spelling of Pahari names in land titles and records (e.g. *jamabandī*). Such discrepancies occur because the functionaries who write the *dalils* (title deeds and land record registers) are usually Bengalis who are unfamiliar with Pahari names and frequently misspell them. At the stage of mutation, the names on these documents (e.g. of the title-holder) are checked for discrepancies against other public documents providing information about individual citizens (such as certificates from the UP chairman, National ID Card, etc).¹⁹⁵ Blocking of land records amendments because of this kind of ethnocentric bias among the concerned administrative functionaries has served as an ancillary factor in the undermining of the land rights of the IP.

DIFFERENCES IN LAND GRABBING BEFORE AND AFTER THE CHT ACCORD

Some mechanisms of land alienation in the CHT are common to the periods before and after the Accord. This is because of either the working out of long term processes (state acquisition of lands for afforestation and installations of security forces), or the

¹⁹⁵ Information provided by a Pahari leader involved in researching mechanisms of land alienation.

continuing utility of particular mechanisms irrespective of political changes in the CHT (e.g. distress sale due to indebtedness or harassment).

However, there are also critical differences in the circumstances, objectives and mechanisms of land grabbing in the CHT between the two periods. During the counter-insurgency, grabbing of Pahari lands had taken place within certain parameters defined by the interaction between state power and Pahari resistance. It had been based primarily upon the activities of the security forces, supplemented by periodic violence by settler groups. Such attempts were opposed by Pahari resistance, particularly through the actions of the guerrilla forces of the Shanti Bahini, the armed wing of the PCJSS.

The primary forces driving the alienation of Pahari lands in the CHT have been economic and political. Colonizing and grabbing lands and forest resources have been in the interest of the state as well as Bengali interest groups. However, after the Accord, with the disbanding of the Shanti Bahini, the CHT was literally thrown open for land grabbing by Bengali interest groups, since there was not much organized resistance to limit such processes. A whole range of mechanisms of land seizure emerged, which were based on the use force and fraud. These were facilitated by the ethnocentric bias against the IP characterizing the Bengali-dominated civil and military administration.

Significantly, the growing use of violence and fraud has been driven by the need for getting hold of *large and consolidated* tracts of land for deployment in profit-oriented enterprises such as rubber, timber and fruit plantations.¹⁹⁶ Compared to earlier periods, Bengali commercial and political interest groups have been making use of the state machinery and litigation to a much greater extent for seizing large blocks of Pahari lands to meet the

¹⁹⁶ Cf. Adnan (2008a).

growing needs of these *forms of capitalist production*.¹⁹⁷ In this perspective, the *(primitive) accumulation of land* to meet the growing needs of capitalist production in the CHT has become an increasingly powerful driver of the dispossession of the IP, as compared to piecemeal land grabbing by individual settlers.¹⁹⁸

OVERVIEW OF LAND GRABBING IN THE CHT

As of 2010, there are many different agencies involved in grabbing lands in the CHT. These include public agencies such as the Forest Department, the civil administration, and the security forces, as well as private agencies such as business houses, commercial NGOs, plantation leaseholders, political leaders, land dealers, settlers, etc. The IP of the CHT are thus facing *simultaneous* threats on *multiple* fronts, with many different groups and agencies grabbing their lands, using a whole range of mechanisms.

Among these, land grabbing in the CHT by commercial agencies and powerholders reflects a relatively new and complex trend which has grown to prominence during the post-Accord period. It involves grabbing of the lands of not only the IP but also ordinary Bengali settlers. The overall pattern thus includes *inter-ethnic* as well as *intra-ethnic* land conflicts, propelled by the requirements of expanding capitalist investment in land.

The settlers displaced by powerful Bengali interest groups have, in turn, moved on to 'empty' or unused (fallow) lands of the IP, or simply taken over lands being actually used by them, wherever the latter have lacked the capability to resist. Such interactive processes have resulted in a 'domino effect' of

¹⁹⁷ Adnan (2004: 138-139; 2008a).

¹⁹⁸ Harvey (2003) has termed contemporary forms of 'primitive' accumulation as 'accumulation by dispossession'. Cf. Adnan (2011).

sequential land grabbing and population displacements in the CHT. For instance, (i) Bengali settlers have grabbed Pahari lands, (ii) the displaced IP have moved to other areas or inside Reserve Forests, (iii) Bengali powerholders and commercial interests have taken over such lands from the Bengali settlers, and (iv) the Bengali settlers so displaced have moved on to occupy lands of other Paharis.

During the post-Accord period, grabbing land in the CHT and selling possession to Bengali settlers or commercial interest groups has become a profitable business for Bengali powerholders and commercial dealers. These influential land grabbers and dealers are typically affiliated to a major political party and use their connections to prevent the local police and administration from taking any action against their often unlawful activities.

It is somewhat ironic, but not entirely surprising, that these relatively new types of land grabbing have proliferated under the very political leadership in government that had signed the CHT Accord in 1997. The loss of land rights of the IP is integrally related to the power relations and political contentions characterizing the CHT, subsuming both ethnic and class conflicts. The mechanisms and driving forces underlying the grabbing of Pahari lands cannot be fully explained without explicitly taking account of the political economy and political demography of the region. However, the limits of time and resources in this exploratory study have not allowed us to provide a more comprehensive and integrated analysis of the entire chain of causation driving land alienation processes in the CHT.

CHAPTER 4

POLICY ANALYSIS AND RECOMMENDATIONS

This chapter provides policy analysis and recommendations concerned with preventing further alienation of the lands of the IP as well as restoring their occupied lands. Such an exercise needs to take account of the political realities of the CHT. Given that Pahari lands are being simultaneously grabbed by Bengali interest groups and public agencies, attainment of these objectives is likely to be extremely difficult.

Even though the CHT is in a post-conflict situation, many sections of the civil administration and security forces continue to operate with a counter-insurgency mindset. Correspondingly, almost all the political parties of the country continue to give priority to Bengali interest groups over the needs of the IP. This is indicative of the powerful grip of hegemonic nationalism and ethnic discrimination, despite invocation of the rhetoric of democracy and secularism. Consequently, the prospects of implementing policies concerned with securing the land rights of the IP in the CHT are rather bleak, given an unwilling and often hostile bureaucracy, as well as political decision-makers with ambivalent attitudes and uncertain commitment.

In order to overcome these difficulties, the policy analysis below argues that some of the proposed measures may also be beneficial to the long term enlightened self-interest of the government and the country as a whole. It is in this spirit that a broad array of policy options is put forward for consideration by enlightened decision-makers within the government, donor agencies, pro-people NGOs, public interest organizations, advocacy networks, the media, etc.

The various instances of resistance by the IP to protect their lands, briefly noted in Chapter 3, demonstrate their *agency* and resilience. Strengthening of such capabilities could play a crucial

role in overcoming the difficulties noted above. In particular, organized movements by the Paharis, making skillful use of strategies of overt and covert resistance, may be able to play a crucial role in ensuring better protection of their lands.¹ Such options are primarily addressed to the IP of the CHT, as well as their support groups at home and abroad.

OBJECTIVES OF POLICY ANALYSIS

The policy analysis and options discussed below are geared to the following broad objectives pertaining to the land rights of the IP of the CHT:

1. To resolve land disputes aimed at restitution of the already occupied lands of the IP.
2. To prevent further grabbing of Pahari private and common lands.
3. To ensure that the rights of the IP to common lands under customary law are formally recognized and protected by the state.

The discussion below provides an integrated treatment of all three broad objectives, dealing with the major agencies and mechanisms involved in the alienation of Pahari lands (as specified in Chapter 3).

GENERAL CONSIDERATIONS FOR RESOLVING LAND CONFLICTS IN THE CHT

Resolution of land disputes in the CHT with the objective of protecting the land rights of the IP is a massive and complex task, for which adequate advance preparations need to be made. Dispute settlements procedures require fair and clear rules for making decisions on complex land conflicts, particularly when

¹ See Case Studies 1 and 2 in Chapter 3 for examples of such skillful resistance by the IP.

involving multiple rights and titles in the context of legal pluralism. It is also necessary to give due weight to the unwritten customary laws and land rights of the different ethnic groups of the CHT and operationalize their respective rules and criteria so that these can be usefully applied by the institutions resolving land disputes.

Guiding Principles for Decision-making

As noted above, land conflicts in the CHT have emerged in a context of legal pluralism with several systems of property rights operating in parallel. Consequently, it is necessary to define rules or criteria that can be uniformly applied to instances of multiple titles or conflicting claims on the same plot of land. The following guiding principles are suggested as a basis for formulating decision-making rules that can be adapted and applied to specific instances of land conflict in the CHT.

1. When there are multiple legal rights or settlements on the same plot of land, the one which *originated earlier in time* should be considered as being valid. However, titles which were forged or imposed by force by disregarding pre-existing land laws and property rights should not be taken into consideration.
2. Land survey and registration of lands in the CHT should follow, rather than precede, the resolution of land disputes.
3. Wherever feasible, the losing party in land disputes should be compensated and rehabilitated in terms of alternative lands or non-land means of livelihood (e.g. capital and technical equipment).
4. In those instances where it is impossible to restitute the original lands of the IP, they should be given substitute lands in locations close by with similar features; alternatively, they may be compensated with sufficient funds to buy alternative lands or invest in other avenues, in accordance with their preferences.

PROCEDURES FOR RESOLUTION OF LAND CONFLICTS IN THE CHT

The Broad Approach

The approach suggested is that of setting up a range of alternative mechanisms of settling disputes pertaining to the illegal occupation of Pahari lands. Such institutional arrangements should include the existing Land Commission, but also explore the possible role of other formal or social mechanisms, as outlined below.

Ideally, all such dispute settlement mechanisms should be able to deliver just verdicts or negotiated agreements in a short time and at low cost, as contrasted to long drawn out and expensive litigation through the formal judiciary. However, the role of the latter is also crucial for upholding the land rights of the IP and needs to be included in the range of policy options, as noted below.

Reorienting the Land Commission and Enhancing its Capability

Given its counterproductive role in recent times, it is necessary to reorient the Land Commission to perform the actual tasks for which it was designed by the CHT Accord and equip it with the necessary technical capabilities. In particular, Clause D-4 of the Accord explicitly requires the Land Commission to *cancel* the ownership rights in *all* cases of *illegal occupation and settlement* of lands in the CHT (in addition to those pertaining to the lands of the rehabilitated refugees).

Furthermore, the decisions of the Land Commission must be strictly enforced by the concerned government agencies such that the disputed lands can be taken into possession with formal rights by those who are adjudged to have valid claims upon them.

Rectification of the Land Dispute Resolution Commission Act of 2001

Despite various inter-ministerial meetings on the subject and reported agreements, the *Land Dispute Resolution Commission Act of 2001* (the Land Commission Act in short) has yet to be formally amended in accordance with the proposals made by the Regional Council (Chapter 2). If the Commission were to start operating without due rectification of the Act, the land problems of the CHT are likely to get even more complicated, with counterproductive consequences. Consequently, due amendment of the Act is an indispensable step for the functioning of the Commission in a way that leads to satisfactory resolution of the land conflicts in the CHT.

- The crucial first step has to be taken by the government by rectifying the Land Commission Act on the basis of the recommendations of the Regional Council, as agreed during meetings attended by Ministers and government officials.
- The necessary legal amendments should be made and formally published as soon as possible.

The Act (Clause 7-5) gives the Chairman unilateral power to make decisions on behalf of the entire Land Commission in the event that all its members cannot reach a consensus. This power effectively converts the Land Commission into a one-judge tribunal run by the Chairman while suppressing the voice and rights of the other members, particularly the Pahari members of the Commission. This clause should be amended such that the Commission makes decisions on a broad-based and democratic basis.

- The concentration of power in the hands of the Chairman, endowing him with the authority to speak for the entire Commission to the exclusion of other members, needs to be amended and replaced by decision-making rules based on majority voting of all members of the Commission (or their legal representatives).

Given the propensity of the current Chairman to hold meetings with government officials while bypassing the Pahari members, the act should be amended as follows.

- The Chairman should be formally required to make decisions through meetings of the Land Commission *with all its members*, rather than taking unilateral decisions by himself or in meetings held with only government officials such as the DC, UNO, police and other officials (as has been mostly the case to date).
- The rules defining the quorum for the meetings of the Land Commission should be modified to ensure the presence of Pahari members of the Commission (or their legally permitted representatives). This should also be made a prerequisite for the Commission to hold hearings to make decisions about the ownership of disputed lands in the CHT (Land Commission Act Clause 7-2).

The Land Commission Act (Clause 2-Cha) defines rehabilitated refugees as those covered by the 20-point agreement of 9 March 1997. However, the CHT Accord referred to Pahari refugees who had returned under the 16-point agreement of 1992.

- The wording of the Land Commission Act should be revised to explicitly include all instances of disputes concerning lands that have been illegally occupied and settled, as per the CHT Accord, and not just those of the refugees repatriated under the 20-point agreement.
- Furthermore, the illegally occupied lands of *all* Paharis should be brought under the purview of the dispute settlement activities of the Land Commission, as per the CHT Accord.

It is necessary to include disputes concerning fringe lands along the shores of the Kaptai Lake under the purview of Land Commission, as per the Accord (Clause D-4), which had been excluded in the Land Commission Act. The fact that some (or all) of these fringe lands have been subsequently acquired by the

state should not preclude Paharis who held *prior* rights on them from submitting their claims to the Land Commission.

- Disputes about the ‘fringe lands’ should be included among those over which the Land Commission has the jurisdiction to conduct enquiries and make decisions on ownership rights.

Given the potentially very large number of cases that the Land Commission would have to deal with, as well as the length of time needed to do so, the original tenure of three years provided in the CHT Accord (Clause D-6a) is clearly out of date and needs to be revised.

- The Land Commission should be empowered by the government to function for *as long as is necessary* to resolve the complex and accumulated land conflicts of the CHT.
- Indeed, the proliferation of land-related conflicts in the CHT warrants making the Land Commission into a permanent body with judicial status so that it can deal with the continuing disputes generated by the land redistribution during the counter-insurgency and their long term consequences, e.g. manipulation of R-Holding titles issued by the Special Settlement Zone for subsequent land grabbing activities.

The Accord specifies that the Land Commission should operate in accordance with the “laws, customs and procedures” prevailing in the CHT, but the term “procedures” has been omitted in the Land Commission Act of 2001.

- The omitted term “procedures” should be included in the Land Commission Act during its amendment.

Rules of Business of the Land Commission

The Rules of Business (or by-laws) specifying the operational procedures of decision-making by the Commission should also be defined during (or immediately after) the amendment of the Land Commission 2001 Act.

The Land Commission has hardly involved the Headmen and Karbaris in its activities to date, even though these traditional IP office-holders continue to be routinely involved by the land administration under the DC. This is paradoxical, given that the Headmen and Karbaris have the most detailed knowledge of land rights at the level of their respective mouzas and village settlements (*para*), and can play invaluable roles in resolving conflicts related to illegal occupation of lands.

- When resolving disputes pertaining to lands in the CHT, the Land Commission should ask for testimonies and evidence from the concerned Headmen and Karbaris (in addition to the functionaries of the DC and UNO offices, such as government record-keepers and surveyors or *amins*).
- The Land Commission's Rules of Business must be framed to incorporate operational criteria based on customary land rights and evidence from Headmen and Karbaris, in addition to formal land records. Agreed procedures should be devised to give due significance and precedence to these customary rights, in the context of legal pluralism and multiple titling. Only thus would the Land Commission be able make decisions to resolve disputes fairly, as envisaged in the CHT Accord.
- The Rules of Business should clearly specify the operational procedures of calling for applications from the disputants and agreed procedures and criteria for dealing with them.

Allegations have been made that blank application forms (complaints), containing just the names and signatures of Bengali settlers, were accepted by the Land Commission in some cases. There were also some allegations that people had to bribe functionaries of the Commission in order to be able to submit their applications.

- The government should ensure that only completed applications are accepted from *bona fide* claimants by the Land Commission, without any hassle or bribe-taking.

- Notices and summons issued earlier by the Land Commission to Pahari individuals, as well as their religious monks in charge of temple and monastery lands, should be revoked to remove widespread resentment among Paharis. New ones should be issued after the full Commission has met, inclusive of its Pahari members, and has reached agreement on the modalities of issuing notices and summons to disputants.
- Notices and summons from the Land Commission should not be sent through the police, as has been reported during 2010. This creates fear and anxiety among the recipients, particularly the Paharis who are already subject to intimidation by the security forces. Instead, these should be sent through normal channels such as the post office or courier services.

Acceptability of the Land Commission Chairman to All Ethnic Groups

The Land Commission Chairman should be someone who has the ability to take the initiative to work collaboratively with the fellow Pahari members of the Commission. This is indispensable for the smooth functioning of the organization and to endow its activities with the legitimacy necessary to resolve land conflicts in a manner that is acceptable to all ethnic groups. The activities and decisions of the current Chairman (during 2009-10) have not earned him the trust and confidence of the IP, as reflected in repeated calls for his resignation by Pahari organizations as well as groups representing Bengali mainstream views and general public opinion.

- In view of these considerations, the government should replace the current Chairman of the Land Commission by a distinguished retired judge who has proven credentials of being fair and non-communal.
- The new Chairman should preferably have prior knowledge and understanding of the traditional and customary land rights of the IP in the CHT.

Operationalizing the Land Commission

- A massive advocacy campaign should be mounted to ensure that the 2001 Land Commission Act is duly rectified by the government.
- The Land Commission should be reactivated after due rectification of the 2001 Act and the framing of appropriate rules of business, as specified above.
- The call for applications pertaining to land disputes by the Land Commission should be restarted after the measures proposed above have been implemented and its activities have gained the trust and confidence of the IP and their leaders.
- The government, donor agencies, NGOs and other concerned organizations should assist the Land Commission to make the necessary technical preparations for accomplishing its tasks, inclusive of operationalizing criteria based on customary laws of the IP which can be treated as equivalent to formal titles, training technical and legal staff, developing capability to undertake pilot and feasibility studies, etc.
- Rules and procedures should also be framed for rehabilitation of those who lose out in the process of dispute settlement. Specifically, the government should take responsibility to rehabilitate both Bengali and Pahari households that lose their lands due to verdicts given by the Land Commission (or alternative dispute settlement institutions, noted below).

Assessment of the Performance of the Land Commission

- The Ministry of Land and/or the Ministry of CHT Affairs should undertake an objective and detailed review of the performance of the Land Commission to date with independent evaluators. The review should assess whether the Commission has done what it had been supposed to do as well as undertaken activities beyond its remit. The report of this independent review should be made available in the public domain. Relevant directives to guide the activities of the Land Commission in the future should be formulated on the basis of the findings of this evaluation.

Alternatives to the Land Commission for Resolving Land Conflicts

Given the controversies in which the Land Commission has been chronically embroiled under its current Chairman (2009-10), there may not be much option but to look for alternative or additional mechanisms of settling disputes over land. This may become all the more necessary because new land disputes have been created everyday in the CHT since the Accord of 1997, and these need to be resolved as much as those dating back to the counter-insurgency period.

- The formal judiciary and alternative mechanisms of dispute settlement may be utilized in parallel to the Land Commission.
- Possible alternative mechanisms of resolving land conflicts include arbitration or traditional *shalishi* practices in which adjudicators acceptable to all sides can attempt to resolve land conflicts on the basis of an agreed formula. Such alternative mechanisms may take less time and involve lower expenses than the long drawn out litigation processes in formal courts.
- Operation of such alternative institutions would require formulation of decision-making principles and rules that the disputants have to agree upon *before* the dispute settlement process is undertaken.
- These alternative mechanisms of resolving land disputes may also contribute to the restitution of the occupied lands of the Hill peoples, or provide acceptable substitutes in terms of equivalent land or monetary compensation.
- All institutions, formal or informal, dealing with land disputes in the CHT should be required to take evidence, whenever necessary, from the Headmen and Karbaris, who are usually the most knowledgeable officials regarding customary rights at the grassroots.
- The various other recommendations pertaining to dispute settlement by the Land Commission, specified above, should

be adapted to apply to these alternative mechanisms of resolving land conflicts, as relevant.

Operationalizing the Traditional Land Laws and Customs of the Hill Peoples

The Accord specifies that the Land Commission must resolve land disputes on the basis of the customary laws, traditions and procedures of the CHT (Clause D-6b). Correspondingly, the CHT Land Commission Act of 2001 requires the commission to take into account the “customs, practices and usages” of the region.²

It is therefore essential to work out how customary laws on land rights are to be operationalized for resolving land disputes by the Land Commission. This has not yet been attempted by the Chairman of the Commission in his hurry to hold hearings. As such, there is substantial lack of preparation for resolving disputes by the Commission. Furthermore, such preparations would also need to be made by possible alternative mechanisms of settling land disputes, as discussed above.

Many IP in the CHT do not have formal land settlement documents. There are a number of reasons for the lack of documentation of Pahari land rights. Firstly, their ancestors traditionally did not obtain any written documents of formal land rights and many IP still do not do so. Secondly, some Paharis have been using lands on the basis of verbal permission from the Headman (as allowed by the CHT Regulation) rather than formal documentation. Thirdly, many Paharis have not been awarded land titles or settlement documents due to bottlenecks in processing by the DC Office, despite having applied for these during the 1980s and 1990s. This is not very surprising because it was during this very period that Pahari lands were being forcibly taken over for establishing installations of the security forces and placing Bengali migrants on their lands. Fourthly, many Paharis lost their land rights documents during the counter-insurgency

² Roy (2004: 5).

when fleeing from violent attacks and moving from place to place for shelter. Even the land records of their communities, maintained by Headmen and Karbaris, were lost or destroyed when the latter were also evicted from their homesteads and had to flee from violence. Fifthly, the land records kept in the DC office of Khagrachhari, including those of the IP, were burnt down when this establishment was mysteriously torched in 1994.

Because of these varied considerations, it will be very difficult to establish rights to existing lands of the IP, as well as to reconstitute the occupied lands, through the formal legal system based on documentary evidence such as formal titles and other land settlement documents. One possible alternative would be to work out legally acceptable procedures for written documentation of the pre-existing customary land rights of the IP, which are largely based on the oral tradition. These preparatory steps would be essential for enabling Paharis to submit claims on land based on customary rights and usage for consideration by the Land Commission, formal courts or alternative mechanisms for resolving land disputes.

- Active homework by concerned organizations of the IP, backed by necessary technical assistance from supporting agencies and coalitions, would be essential for giving written form to the customary laws and practices governing land management among the various ethnic groups.
- Criteria based on the customary land rights of IP should be operationalized to define *acceptable proof* of their land rights and the dates from which these have been held. The formulation of such criteria should be based on local land management documents (e.g. *kabuliyat*, *jamabandi*, *tauzi* records) and the testimony of concerned Headmen and Karbaris.
- However, in order to avoid the dangers arising from *rigid codification* of traditional and customary laws, a relatively flexible approach should be used, which allows for periodic revision, as and when necessary.

STATE ACQUISITION OF LAND AND COMPENSATION PROCEDURES

Given the extraordinary scale of land grabbing in the CHT and the continuously shrinking area left in the hands of the IP, it is essential to minimize further state acquisition of land in the region. Furthermore, it is not enough just to be able to provide compensation in cash. Money may not lead to proper rehabilitation, and may not even be actually received by those affected if there is corruption in the institutions concerned. Even if it were adequate, simply being able to give some monetary compensation does *not justify* unnecessary land acquisition, particularly since ancestral lands have traditional and emotional values that cannot be priced or replaced.

- If land acquisition cannot be entirely avoided by agencies of the state, it should be reduced as far as possible. Minimization of the state acquisition of private and common lands of IP, as well as restituting their occupied lands, should be the key principles guiding state policies in the CHT.
- Past practices of taking over of IP lands by agencies of the state without even bothering to go through due legal procedures should be firmly discontinued; the requirement for formal land acquisition on a legal basis must be made mandatory for all public agencies.
- The CHT (Land Acquisition) Regulation, 1958, which gives the DC draconian powers to acquire land without giving any rights to the landowners, must be repealed or suitably amended by the Government on the basis of consultations with the IP of the CHT.
- Proposals in the pipeline for state acquisition of Pahari common and private lands should be reviewed and cancelled wherever feasible.
- Government agencies must be required to make decisions regarding land acquisition on the basis of *actual field visits* to the concerned areas to check if there are people living there who would be affected. Concerned officials should not have the

discretion to make such decisions by simply 'looking at maps' in their offices.

- Land acquisition decisions must be based on full information about the people and communities likely to be affected. Necessary measures for compensation and involuntary resettlement must be included in the reports and plans submitted for consideration prior to the approval of such decisions.
- Officials manufacturing false or deceptive field reports for land acquisition while sitting in their offices, which indicate areas that actually contain the private and common lands of the IP as fallow or uninhabited, should be made to face formal enquiries and due penalties.
- Wherever there are IP living on lands that are intended to be acquired, independent social and environmental impact assessments must be conducted *before* any decision is made.
- In particular, involuntary resettlement measures of the concerned organisation must be activated and enforced in instances of forced acquisition of IP lands.
- If necessary, involuntary resettlement guidelines should be formulated specifically for the indigenous peoples of the CHT, taking account of relevant operational procedures of the World Bank, the Asian Development Bank, OECD, etc. Furthermore, the representatives and organizations of the IP should be involved in the process to customize the guidelines of involuntary resettlement to their particular needs and concerns.
- Whenever the IP are evicted from their lands because of state acquisition, they should be given substitute lands in locations close by with similar features. However, if they so prefer, the affected IP may be compensated with sufficient funds to buy alternative lands or invest in other avenues.
- Direct payment of compensation to the actually affected IP should be ensured rather than to brokers or intermediaries claiming to represent the affected communities.

- Given past experience, adequate compensation and rehabilitation of IP should be ensured in cases of state acquisition of their lands for:
 - Afforestation projects
 - Development projects
 - Construction of roads
 - Installations of the security forces

ROLE OF THE DC OFFICE AND LAND ADMINISTRATION

The land administration in the CHT under the DC has a critical role to play in upholding land laws and discouraging illegal land grabbing. Significantly, there are instances in which the district administration has attempted to dislodge illegal occupiers of land. For instance, in 1989, settlers illegally occupying IP lands in a part of Khagrachhari were forcibly removed by the administration and police.³ In recent times, the DC of Rangamati demolished structures built on Pahari lands grabbed by a fake Muktiyoddha Sangsad (even though the land is still reported to be in possession of the illegal occupiers).⁴ These instances demonstrate that the civil administration in the CHT can act fairly and firmly if it has the will to do so.

In contrast to these exceptional instances, however, there are many more cases in which the DC offices and land administration officials in the CHT have played partisan roles in favour of Bengali interest groups grabbing lands. As noted above, the operations of the DC offices in the CHT have been marked by various kinds of fraudulent activities and forgeries, utilized by land grabbers to evict ordinary people from their lands, inclusive of Paharis and Bengali settlers.

- The government should take necessary action to ensure that the civil administration in the CHT performs in a fair and impartial manner and enforces laws and land rights without

³ Chakma (2010: 22-23).

⁴ Reported to the CHT Commission by officials of the civil administration in Rangamati district and Baghaichhari upazilla.

any biases against the IP or the poor Bengalis. This would serve to discourage further manipulation of land records and violation of property rights by land grabbing interest groups.

- The government should ensure that officials and administrative staff responsible for forgery and fraudulent manipulation of land records in the CHT are punished through due processes of law.
- The government should take necessary steps to transfer power over land administration to the HDC as part of implementing the CHT Accord and instruct the DC offices to act accordingly. This would serve to prevent further alienation of IP lands through manipulation of land records in the DC offices of the CHT, as has been widely reported.
- Appropriate measures must be taken to stop the DC offices in the CHT ignoring the provisions of HDC Acts and the CHT Accord by processing land settlements and leases without the prior approval of the concerned district councils.
- Article 64(a) of all three HDC Acts should be implemented without exception from now on. All earlier land settlements, leases and transfers that were made without the prior approval of the concerned HDC should be critically reviewed and cancelled if found to be illegal.

ROLE OF THE FOREST DEPARTMENT

As discussed above (Chapter 3) the Forest Department has had a land-devouring role to date, grabbing Pahari lands and promoting commercial plantations through aid-funded projects, while destroying the last of the natural forests of the CHT.⁵ It is also pursuing further land acquisition for RF as well as new types of state forests in the CHT with the support of the government and donor agencies.

⁵ Roy (2004: 12) and Adnan (2004).

Land Acquisition by the Forest Department for Afforestation Projects

- The Forest Department should not acquire any further lands in the CHT for afforestation programmes which entail involuntary eviction of IP from lands that they already inhabit and need for their livelihoods.
- Ongoing land acquisition processes of the Forest Department, requiring eviction of the IP from 218,000 acres of land in the CHT (initiated from 1989 onwards), should be stopped. Wherever possible, areas acquired from the IP should be restored to them.
- Gazette notifications by the Forest Department for acquisition of new areas in the CHT for the ongoing afforestation projects should be cancelled.
- The areas of the old RF should be rationalized and reorganized, such that the extensive vacant areas inside them are used more productively.
- New afforestation project should be located in *deforested areas inside existing Reserve Forests* rather than in areas populated and used by the IP. This would prevent further eviction of IP from their lands (as has happened in hundreds of Pahari settlements where land has been acquired by the Forest Department with support from donor agencies such as the ADB).
- Afforestation projects requiring acquisition of fresh Pahari lands should not be permitted without the prior agreement of the concerned IP and HDC.
- Reported proposals for modification of the Forest Act to include new types of state forests (e.g. so-called Notified Forests) requiring acquisition of further Pahari lands must be stopped by the government.
- Protest and advocacy activities to that end must be mounted by the IP and their supporting coalitions.

While the ongoing resistance by the IP to afforestation projects in the CHT has gained momentum and received support from a few influential nation-level NGOs and environmental groups, they have not yet been able to change the policy of the government.⁶

- Consequently, rethinking and innovation in the strategy of resistance to creation of new state forests and maintaining existing rights on land are called for.⁷
- Mobilization and resistance of IP against land acquisition by the Forest Department could be greatly enhanced by the coordination of the Movement for the Protection of Forest and Land Rights, which has played a very crucial and effective role in organizing Pahari resistance, advocacy and networking activities in the past.⁸

Social Forestry Projects

The social forestry programmes in USF areas under the Forest Department have had adverse impacts on the IP, inclusive of undermining their land rights.

- The so-called Social Forestry programmes in the CHT that effectively lead to the surrender of IP lands to the Forest Department should be discontinued.

Village Common Forests

In the VCF (or mouza forests), the IP communities have *de facto* possession of the lands, and their rights over such resources are partially and indirectly acknowledged by the CHT Regulation and other formal laws. However, as noted above, they do not have common titles over the VCF, making these potentially vulnerable to acquisition by the state or private interests.

⁶ Roy (2004: 15).

⁷ Roy (2004: 15).

⁸ Roy (2004: 15).

- The VCF areas should be formally included in public land records and provided with legal safeguards against attempts to acquire, grab or privatize such lands.⁹
- IP communities should undertake organized movements to obtain community-based ownership rights on VCF with a group title to reduce vulnerability to state acquisition as well as private appropriation by both Bengalis and Paharis.¹⁰
- The Hill District Councils should take necessary steps to formalize the status of all VCF areas in their respective domains through legal measures that can prevent these from being acquired by the Forest Department, other state organizations, as well as private land grabbing agencies.
- Attempts by the Forest Department to acquire VCF of the IP should be resisted socially and challenged legally, wherever possible.
- The rights to VCF specified in the CHT Regulation of 1900 should be made widely known amongst the IP so that they can challenge illegal attempts to take over such forests.

Obtaining and strengthening the common rights of the IP on mouza forests depends on bringing about necessary changes in policy and legislation at high levels. This would require sustained lobbying in the national capital which would be extremely difficult for the concerned IP because of their poverty and pressing preoccupation with day-to-day subsistence.¹¹

- IP communities in *mouzas* with VCF should unite and expand their support networks by mobilizing political groups, social organizations and pro-people NGOs, as well as undertake coordinated advocacy campaigns for strengthening their rights over the common forest lands of their villages.

⁹ Roy (2004: 15). Cf. Instance of awarding titles to community territories in Colombia in order to reduce tenure insecurity (Bruce et al. 2007: 36, Box 16).

¹⁰ Roy (2004: 12).

¹¹ Roy (2004: 8).

ROLE OF DEVELOPMENT INTERVENTIONS**Land Acquisition Procedures for Development Agencies and Projects**

There are instances in which development agencies such as the CHT Development Board have taken over Pahari lands even before due land acquisition processes have been completed. In many cases, the land acquired has been far in excess of what is necessary, in spite of the scarcity of lands for meeting bare subsistence needs faced by the IP.

- It is essential to reorient development planners, policy-makers, consultants and implementing agencies from pursuing further, and excessive, land acquisition in land-scarce CHT, e.g. for new rubber and timber plantations.
- Development agencies must be strictly regulated from taking over Pahari lands before formal land acquisition processes have been completed.
- Land acquisition for *new* development programmes in the CHT should be minimized to absolutely essential levels, so as to reduce land loss and counterproductive impacts on the IP.
- Large-scale acquisition of additional Pahari private and common lands by *ongoing* development projects should not be permitted.
- Adequate compensation and involuntary resettlement provisions should be ensured for the IP evicted from their lands by development projects.
- Care should be taken to avoid or minimize adverse socio-economic and environmental impacts of development interventions on the IP, which could potentially lead to distress sale of their lands.

Plots of land that had been promised earlier by development projects to Pahari workers are now reported to have been

withdrawn. Such plots are being treated as *khas* or state lands and being resumed by the state for other purposes.¹²

- IP workers in development projects who had been promised plots of land with settlement rights should be given titles and possession of such plots instead of being evicted or left hanging in the balance.

Public Consultations with the IP to Elicit their Genuine Preferences

Development projects in the CHT have frequently had adverse impacts on the IP and led to the loss of their lands.¹³ In order to prevent or reduce such instances in the future, it is essential that the agreement of the IP and their political leadership be obtained *before* development projects are approved and implemented. However, many such public consultation exercises in the past have not been conducted in an objective manner. Consultants tasked with ‘people’s participation’ have been primarily concerned to justify project implementation, inclusive of land acquisition. As such, the mere claim of having undertaken ‘consultation with the people’ by commercial consultants does not necessarily mean that the real views of the affected IP have been elicited. Nor do such exercises ensure that the affected groups have a share in decision-making power, such that they are able to make meaningful choices about development interventions, particularly concerning acquisition of their lands.¹⁴

- Public consultation with IP communities, whose lands have been designated for acquisition by a development project, should preferably be undertaken through public interest

¹² The Upland Settlement Project had promised settlement on plots of land to Pahari workers in rubber plantations, but this was reported not to have materialized for many (Adnan 2004: 86-88, Box 5.3).

¹³ Adnan (2004).

¹⁴ Cf. Adnan et al. (1992).

organizations rather than commercial consultants. Wherever possible, trusted members of their own community should be given the responsibility to conduct such consultations.

- The methods and results of public consultations with the IP should be made available in the public domain for discussions and decisions by the concerned community *prior* to project approval and implementation.

Road Construction in the CHT

Even though usually presented as development projects, construction of roads in the CHT in the past has been largely associated with security-oriented concerns and counter-insurgency objectives.¹⁵ These have led to adverse impacts on the IP in terms of facilitating faster access to their settlements by the security forces, settlers, traders, etc. The long term impacts of road-building have often resulted in deforestation and dispossession of lands, endangering the means of livelihood of the Hill peoples. Even if roads are relatively small and narrow (e.g. 8 ft wide and brick-built rather than metalled, as pleaded by one expert at a donor meeting in Dhaka), these are sufficiently wide and strong to bring in settlers, land grabbers, moneylenders, illegal loggers, security forces, etc.

- Roads in the CHT should be built only if these are wanted by local inhabitants, particularly the IP. The decision should be based on meaningful and non-orchestrated public consultations on the lines suggested above.
- Approval of the concerned HDC and the Regional Council must be obtained prior to making the decision to go ahead with implementation of road construction projects.
- Adequate provisions for involuntary resettlement and compensations should be made for people whose lands are acquired for road construction.

¹⁵ Brauns and Loffler (1990), Loffler (1991) and Adnan (2004: 131-133).

ROLE OF THE SECURITY FORCES

Land Acquisition by the Security Forces

As noted above, vast amounts of land in the CHT are already under legal or *de facto* control of the security forces. In Bandarban district, the situation has reached unacceptable levels. There is little justification for further large-scale land acquisition in the CHT for security forces, given the areas already under their control, some of which is not even being used for the purposes acquired. Furthermore, land acquisition for new military installations goes against the spirit of the Accord, which explicitly stipulates that all facilities of the security forces in the CHT are to be withdrawn except the six permanent cantonments, and that the lands vacated by these camps are to be handed over to the original owners or the concerned HDC (Clauses D-17a and 17b).

- In view of these considerations, there should be no further large-scale land acquisition for facilities of the security forces in the CHT. This restriction should also apply to any *expansion* of the six permanent military cantonments.
- Instead, the security forces should utilize unused lands within the vast tracts already under their control for any new installations that might be necessary.
- Exceptionally, small-scale land acquisition for absolutely essential installations of security forces can be made (say, up to a maximum of 10 acres), to be approved on a case by case basis after due scrutiny.
- Pahari lands occupied by the remaining camps of the security forces in the CHT should be released by closing them down as per the Accord, within a specified time period. Such areas should be restituted to the original Paharis from whom these had been taken, or to those currently lacking land.
- The actual utilization of the massive amounts of lands already acquired by the security forces in the CHT needs to be critically reviewed. Any surplus lands, not utilized for the purposes for which these were acquired, should be redistributed to the IP, with priority to those whose lands were needlessly acquired in the first place.

Discontinuation of Operations Aimed at Displacing IP from their Lands

As noted above, eviction of the IP from their lands and putting Bengali settlers in their place has been continuing during the post-Accord years, reflecting the persistence of a counter-insurgency mentality among the security forces (aided by the civil administration). This has been evidenced in various locations in the CHT, such as the attacks on the IP in Baghailhat-Gangarammukh noted above. Such forced eviction of the Paharis from their lands and homesteads aggravates the risk of destabilizing the CHT and undermining the objectives of the Accord signed by the government.

- The government should direct the security forces to discontinue covert activities aimed at evicting the IP and placing Bengali settlers on their lands, as had been done during the counter-insurgency.
- Those operations and programmes of the security forces which provide direct or indirect support to Bengali settlers and their land grabbing activities should be discontinued by the government. This is particularly pertinent, given that the need for counter-insurgency operations in the CHT ended with the Accord of 1997.
- Programmes in the CHT with counter-insurgency concerns under the cover of deceptive labels such as ‘pacification’, ‘peace-building’ or ‘development’ activities should not be funded and supported by the government and donor agencies.

LAND SETTLEMENT PROCEDURES**Manipulation of Special Settlement Zone Titles including R-Holdings**

As noted above, the various titles and settlement documents issued to Bengali settlers during the counter-insurgency by the Special Settlement Zone (including R-Holdings) were technically defective and/or became legally invalid over time as conditionalities were not fulfilled. Furthermore, these documents have been widely forged and fraudulently

manipulated for land grabbing during the subsequent period, raising pertinent issues about their continuing validity.

- The government should devise procedures for checking the controversial land settlement documents issued in the CHT during the counter-insurgency and take measures to stop their fraudulent manipulation.
- Steps should be taken to scrutinize severely defective land settlement documents including *kabuliyats* (titles, R-Holding documents) and *jamabandis* (land registers) produced by the Special Settlement Zone during the counter-insurgency, as well as those fraudulently modified or forged during the subsequent period. Invalid and forged documents should be cancelled to prevent these being misused for land grabbing.
- As a general principle, the *kabuliyat* and *jamabandi* documents that were manufactured during the counter-insurgency without following the required legal procedures and having serious technical and legal defects should be declared null and void.
- Land settlement documents issued in the CHT which do not have the Headman's recommendation should be scrutinized for validity, and cancelled wherever so warranted.
- There are often no clearly specified boundary (*chouhaddi*) schedules in the *kabuliyat* (titles) and *jamabandi* (settlement records) given to Bengali migrants, in addition to other legal and technical flaws noted above. These titles and land records are legally invalid and should be cancelled in order to reduce the scope for land grabbing in the CHT.
- In those cases where multiple titles exist for the same plot of land, all the competing documents should be scrutinized in order to determine the one that is valid and cancel the rest.

- The *de facto* market for illegal transactions in land titles and settlement documents issued during the counter-insurgency must be closed down by the government. This is essential to prevent Bengali commercial and political interest groups from manipulating such documents for grabbing lands in the CHT.
- Application of such measures should be accompanied by clear directives from the government on the status of these titles and land settlement documents to concerned agencies such as the DC offices in the CHT and the Land Commission.

However, since such systematic manipulation and forgery involves the direct or indirect complicity of a section of the civil administration, it is unlikely that these processes can be stopped immediately by simply changing rules and procedures. Nor are the major political parties likely to take much interest, since some of their local-level Bengali leaders in the CHT are among the beneficiaries of such fraudulent practices. Consequently, the (higher) judiciary is perhaps the only institution that can be approached to provide a fair hearing and give directives that could lead to necessary legal action being taken.

- A Writ Petition submitted to the High Court in Dhaka to resolve the principles of the matter might be the best option, and hopefully the most effective one. This should challenge the validity of the Special Settlement Zone titles (including R-Holdings) as well as the *de facto* possession and grabbing of land in the CHT based on the sale or forgery of such documents.
- Given large-scale and unlawful land grabbing by powerful individuals and commercial interest groups, the government should explicitly direct the DC offices in the CHT to investigate all applications for land settlement and leases, and reject those based on flawed or forged documents.

Land Settlements for the IP

In 2004, the government instructed the DC offices in the CHT to issue permanent settlements on land to Paharis who had been using these from earlier in order to overcome the long-standing impasse in processing Pahari applications for land settlement (*bandobosti*).¹⁶

- In accordance with the existing instructions of the government, the DC offices in the CHT should take steps to renew the processing of titles (*kabuliyat*) of the IP and forward these to the concerned HDC for approval. Such measures would reactivate the process of awarding formal (private) land rights to the Paharis, giving them relatively greater protection against land grabbing.
- IP organizations and supporting advocacy networks should lobby the government to award *community-based titles* on the common lands of Pahari ethnic groups in order to reinforce their tenure security.¹⁷

LAND LEASING PROCEDURES

Land Leases for Rubber and Horticulture Plantations

As noted above, leases for rubber and horticulture plantations given to Bengali interest groups have involved forcible eviction of Paharis from their common and private lands. Many of these leases have not resulted in the development of plantations. Furthermore, a section of these plantation operators have undertaken incremental grabbing of Pahari lands in the vicinity.

- No new plantation leases should be issued by the three DC offices in the CHT and the Rubber Standing Committee headed by the Commissioner of Chittagong Division. This policy needs to be particularly strictly enforced in Bandarban district, where the largest number of leases has been issued and consequently the IP have suffered the most extensive loss of land.

¹⁶ Memorandum no. Revenue/Noy-6/2004-535(14), dated 31 May 2004 (Chakma 2010: 33).

¹⁷ Bruce et al. (2007: 36, Box 16).

- The DCs of the CHT should be strongly directed by the government to cancel plantation leases in which the conditionalities of the lease contract have been violated, as resolved by the Parliamentary Standing Committee for the Ministry of CHT Affairs in 2009.¹⁸
- This policy should be applied also to those cases in which the lease had been cancelled after the issuing of the directive of the Parliamentary Standing Committee but subsequently reinstated by manipulation (see below).
- The original leases of the plantations should be cancelled in instances in which such plots have been sold or sub-let in violation of the lease contracts.
- The DC offices should be directed to undertake regular monitoring of the plantation plots through field inspections on the ground to check whether lease conditions have been violated by the leaseholders.
- The full names and details of plantation leaseholders in the CHT must be published, along with size of the plots given to each. This information should be made accessible in the public domain.
- The existence of multiple leases given to holders with the same address should be investigated to check whether these have been awarded to members of the same family, particularly those of influential individuals.
- Instances in which plantation leaseholders in the CHT are alleged to have grabbed the lands of IP should be investigated through due processes of law and their leases should be cancelled if the charges are found to be valid.
- The DC offices should be instructed by the government to detect and disallow any application for formal leasing which has been made to legitimize *de facto* possession of lands that have been illegally grabbed.

¹⁸ Minutes of the meeting of the Parliamentary Standing Committee for the Ministry of CHT Affairs, held on 20 July 2009.

Dealing with Cancellation of Leases and their Reinstatement

As noted above, most of the plantation leases that had been cancelled by the directive of the Parliamentary Standing Committee on CHT Affairs because of lack of productive development are now reported to have been reinstated by 'cancelling the cancellation order'.

- The directive for cancellation of plantation leases on unproductive plots in the CHT should be reactivated and fully implemented. The relevant orders and directives should be reviewed and revised to remove any loopholes that might have enabled inactive leaseholders to reverse the cancellation of their lease contracts.
- An independent enquiry should be instituted by the government to investigate the mechanisms by which such cancelled leases have been reinstated and to take action against those responsible.
- The possibility of initiating a public interest litigation in the Supreme Court regarding the factors underlying the re-issuing of leases of unproductive plantations that had been cancelled by the directive of the Parliamentary Standing Committee may be explored.¹⁹
- In addition, an independent public enquiry should be instituted by the government to examine the processes by which plantation leases had been granted to non-resident Bengalis by forcibly taking over the private and common lands of the IP, as well as the consequences of such land alienation for the latter. The findings should be released in the public domain.
- The lands released by cancellation of unproductive plantation leases in the CHT should be redistributed to the IP who have lost their erstwhile lands and are currently landless.

¹⁹ Noted by Sara Hossain.

ROLE OF POWERHOLDERS AND COMMERCIAL INTEREST GROUPS

As noted above, a major trend in the CHT is forcible land grabbing by commercial agencies and powerful individuals, subsuming members of the Bengali elite, business corporations, commercial NGOs, land dealers and brokers, settlers, local party bosses, individual government officials, etc. Both IP and ordinary Bengali settlers in Bandarban have demanded government action against land grabbers and cancellation of all land leases that had been issued to them.²⁰

Much of the lawlessness characterizing such land grabbing by force has been due to the failure of the police and civil administration in performing their duty in terms of protecting the rights of relatively powerless groups of Paharis and Bengalis. This has been made possible by the capability of the land grabbers to influence these agencies to remain inactive, or even work in their favour, by invoking the support of powerful political patrons at local and national levels. Countering this trend would thus require a shift in the balance of power against this influential coterie.

- The government should impose legal and administrative restraints on the land grabbing activities of commercial interest groups and powerholders in the CHT based on violence and fraud.
- The government should investigate if the concerned business houses and commercial NGOs are breaking the law through the methods that they have been using to acquire lands in the CHT. The findings of the investigation should be made available in the public domain and due steps should be taken against instances of illegal land grabbing.
- For example, business licences of companies and the registration of commercial NGOs involved in illegal land grabbing could be cancelled, in addition to any other legal measures that might be warranted by prevalent laws.

²⁰ *Dainik Natun Bangladesh*, 5 August 2009.

- The government should ensure that the civil administration and security forces in the CHT provide protection to the IP as equal citizens of the country, inclusive of the security of their land holdings, without being influenced by powerful commercial and political interest groups involved in capturing their lands.
- Wherever feasible, legal cases should be instituted by the IP with the support of advocacy and legal aid groups against those illegally grabbing their lands.
- The media should be informed about instances of illegal land grabbing in the CHT by the affected groups through the holding of press conferences, if necessary. As noted above, liaison with the media would enable the latter to publicize these events.²¹ Such measures are needed to inform mainstream public opinion and upper echelons of the government about local level violence and intimidation by land grabbers, so that necessary action might be taken.
- Organized mass movements and coordinated public action by the affected IP would enhance the chances of activating the government to take action against land grabbing by commercial and political interest groups in the CHT.
- It may make sense to organize a broad-based campaign that unites ordinary Paharis and Bengalis in the CHT against commercial and political interests grabbing their lands, with support from mainstream public opinion, the media and national and international advocacy networks. It is only pressure from such a coalition of forces that is likely to be effective in making the local administration and police perform their duty rather than being manipulated by the power structure backing the land grabbers.

²¹ See Case Study 5 on the responses of the affected IP of Naikkhong mouza in Lama upazilla of Bandarban (Chapter 3).

TOURISM ENTERPRISES

Forcible state acquisition or private grabbing of Pahari lands has also been taking place under the cover of setting up tourism enterprises, eco-parks, game reserves, etc. Such activities are being undertaken on an increasing scale in the CHT by both private and public agencies. Since large amounts of land are needed, these agencies are alleged to have been asking the DC office to declare their coveted areas as *khas* or state-owned, even when these are being used as common lands by the IP with customary rights. State acquisition of the traditional lands of the IP for tourism facilities has become a massive threat in the Bandarban district, particularly from projects being floated by the security forces.²²

- Acquisition of lands for establishing tourism facilities, eco-parks, game reserves, etc. in the CHT must not be undertaken without the consent of the IP who have been using these from earlier, as well as the prior agreement of the concerned Hill District Councils as stipulated by the CHT Accord and the HDC Acts.
- Tourism projects that have been undertaken earlier without obtaining the approval of the concerned HDC should be subjected to reappraisal by the Council.
- Any state acquisition of lands of the IP for tourism and related purposes should be dependent on the findings of rigorous environmental and social impact assessments, as well as provision of adequate arrangements for involuntary resettlement, *prior* to any decision being made to evict them from their lands.
- Undertaking of mass movements by the affected IP, with support from the mainstream public opinion and the media, might have a chance of pre-empting the spread of land

²² Apprehensions expressed by Pahari leaders whose lands are subject to such threats, cited in press statement of the CHT Commission dated 5 October 2010 (CHTC 2010b).

grabbing in the CHT under the cover of various kinds of tourism facilities.

- Legal action should be taken by IP organizations, with support from concerned advocacy and legal aid networks, against all public and private organizations taking over their lands for purported tourism enterprises.

ROLE OF BENGALI SETTLERS

As noted above, incremental grabbing of Pahari lands by Bengali settlers has continued to take place during the post-Accord period in many different forms, facilitated by the civil administration and security forces in some cases.

- Coordinated legal action against settlers grabbing their lands by force or fraudulent means should be undertaken by the IP, with support and legal aid from concerned public interest organizations.
- Plot by plot data on Pahari lands grabbed by settlers should be collected and collated by activist groups and updated in a central computerized data-base (see below). Such processing would enable the data to be used for filing individual cases or 'class suits' with the Land Commission and other land dispute settlement institutions, inclusive of the formal judiciary.²³
- However, litigation by itself is unlikely to be effective unless it is reinforced by organized resistance by the IP with the backing of advocacy activities and media publicity to inform and arouse mainstream public opinion.
- As noted above, disputes between the IP and Bengali settlers pertaining to the fringe lands should be brought under the purview of the Land Commission by rectifying the 2001 Land Disputes Resolution Commission Act, in accordance with the CHT Accord.

²³ See Adnan (2004: 181-182).

VIOLENCE AND HUMAN RIGHTS VIOLATIONS**Inter-ethnic Violence and Communal Riots**

As discussed above, human rights violations of the IP through violence and communal riots have been used in the past as means of evicting them from their settlements and grabbing their lands.

- The government should take firm measures to stop Bengali interest groups and the agencies backing them from inciting inter-ethnic violence with the ulterior motive of grabbing Pahari lands.
- The government must ensure that the civil administration and security forces in the CHT provide due protection to the IP against human rights violations and take stern measures against those officials who fail to fulfill their responsibility.
- Such measures should include surveillance to pre-empt ethnic conflicts and the taking of necessary preventive measures in potential flashpoints, as well as prompt legal action against individuals and interest groups responsible for such violence.
- Pahari organizations and supporting coalitions need to undertake advocacy campaigns and media publicity to prevent the sparking of ethnic conflict and violence in the CHT which might pressurize the IP to leave their lands.
- The government should ensure that the lands grabbed from IP through all types of violence and human rights violations are duly restituted to them. Necessary laws and instructions for this purpose should be enacted to guide the civil administration, Land Commission and other concerned agencies.

Sexual Abuse and Violence

As discussed above, rape and other forms of sexual abuse of Pahari women have been deliberately used in the past to force their communities to leave their village settlements, enabling their lands to be grabbed. Legal action and punitive measures are absolutely indispensable to prevent sexual violence in

general, and as mechanisms of land grabbing in particular. It is essential to break from past patterns in which perpetrators of sexual violence against Pahari women have been allowed to get away with impunity. Such measures would also help to remove widespread Pahari resentment and create conditions conducive for peaceful inter-ethnic relations in the CHT as envisaged by the Accord of 1997.

- Rape and other forms of sexual abuse of Pahari women must be firmly dealt with by the police, civil administration and judiciary through prompt legal action and prosecution of those responsible.
- Administrative and legal actions must also be taken against government officials and personnel in all services whenever they are directly responsible for rape and sexual abuse of Pahari women, or negligent in preventing such acts and prosecuting the perpetrators.

ENHANCING THE CAPABILITIES OF HEADMEN AND KARBARIS

As the traditional officials of the IP, the Headmen and Karbaris have a crucial role to play in protecting their land rights. However, there are limits to what the Headman and Karbaris can be expected to do. Their position remains subordinate to the formal land administration under the DC office. They are often overworked and underpaid in relation to their responsibilities.

Furthermore, current Headmen do not have the power to undo problems that were created during the tenure of their predecessors, e.g. reports provided under military pressure during the counter-insurgency period.

As noted above, concern has been raised about instances of corruption and self-interest among a section of Headmen and Karbaris in recent times, which have been detrimental to the protection of the lands of their communities.

In view of such limitations, leaders of the IP have recommended correctives in the form of awareness raising and capacity building among the Headmen and Karbaris. However, such attempts have already been made by development agencies during the post-Accord years. IP respondents have noted that past programmes for training and capacity building of Headmen and Karbaris had not been very effective and that their motivation for attendance had become tied to material incentives. Consequently, it would be useful to first take stock of past programmes and their actual outcomes.

- There should be a critical and comprehensive review of previous programmes of capacity building and awareness rising of Headmen and Karbaris, so that the lessons learnt from these experiences can provide feedback into possible programmes of the future.
- Alternative modes of motivation and training of Headmen through a more conscientization-based approach can be tried out and the results compared with the outcomes of earlier approaches.
- Headmen (and Karbaris, if possible) should be paid reasonable cash salaries or allowances by the state for the comprehensive services that they provide at the grassroots. This may help to reduce their susceptibility to corruption resulting from the inability to meet basic survival needs.

It is necessary to enhance the capability of Headmen and Karbaris to cope with the intensive pressure of land grabbing on their communities, as well as to prepare them for presenting cases for submission to various institutions resolving land disputes.

- Programmes should be devised to impart appropriate training and skills to Headmen and Karbaris which can develop their capability to guide members of their communities in dealing with hearings of the Land Commission, the formal judiciary, as well as other possible institutions involved in settlement of land disputes.

- The leadership of the IP should mobilize and motivate Headmen and Karbaris to play a crucial role in leading and coordinating their respective communities when undertaking protests and resistance against land grabbing.

THE PEACE ACCORD AND LAND RIGHTS OF THE IP

The CHT Accord of 1997 specifies the formal political and institutional framework within which Pahari land rights are to be protected and secured. However, as discussed in Chapter 2, this framework has been made increasingly irrelevant by the lack of implementation of the treaty as well as parallel developments transforming the overall situation in the CHT. The policies needed include not only those dealing *directly* with the land rights of the IP, but also those *indirectly* influencing such rights through the effective performance of relevant institutions. These include the institutions in the CHT set up by the Accord, viz. the Regional Council, the Hill District Councils, the Land Commission²⁴, and the Task Force for Rehabilitation of Returnee Refugees and IDP.

The Regional Council and the Hill District Councils

As noted above (Chapters 2 and 3), the Regional Council and the Hill District Councils have crucial roles to play in upholding land rights of the IP and providing protection against illegal occupation of their lands.

- The government must endow the Regional Council with the requisite authority and resources without further delay if the CHT Accord is to be meaningfully and substantively implemented.
- Correlatively, the central role of the Regional Council in the governance and development of the CHT, as envisaged by the

²⁴ Policy analysis and recommendations regarding the Land Commission have been provided in an earlier section of this chapter.

Accord, should not be undermined by setting up alternative institutional structures that bypass and undermine its role and authority, such as the proposed Strategic Management Forum (Chapter 2).

- The government must fully empower the HDC as soon as possible, so that these can effectively perform the roles given to them by the CHT Accord and provide due protection to the IP against grabbing of their lands.
- The government should transfer authority over land administration in the three districts of the CHT from the DC office to the HDC and bring the concerned officials and functionaries under the jurisdiction of the latter, as per the Accord. Such measures could potentially reduce the use of fraud and forgery as means of land grabbing, which have not been adequately checked by the DC offices in the CHT.

The HDCs should be more pro-active in exercising the authority they already have to institute preventive measures against alienation of Pahari lands. For instance, these Councils can give formal recognition to the VCF of the IP, which could make the state acquisition or privatization of such lands relatively more difficult.²⁵

Since the current HDC members are not elected but nominated by the government, they are not accountable to the electorate but to the ruling party. This factor may explain their relative lack of interest and effectiveness in taking measures against the alienation of Pahari lands.

- Elections to the HDC should be held as soon as possible, as per the Accord, so that the currently nominated individuals can be replaced by elected members with accountability to the electorate. Elected Pahari members of the HDC may be expected to be more concerned and effective in securing the land rights of the IP than those holding office by nomination from the government.

²⁵ Policy option proposed by Roy (2004).

Role of the Task Force for Rehabilitation of Returnee Refugees and IDP

The Task Force was established by the CHT Accord to provide rehabilitation for Pahari refugees and IDP in a post-conflict situation. However, as discussed in Chapter 2, it has not been able to play a significant role up to now.

- The government should take out Bengali settlers from the list of IDP to be dealt with by this Task Force, and arrange to provide assistance to them separately. Such a modified policy would provide help to both displaced Paharis and Bengalis, but through separate channels, while also breaking the longstanding deadlock regarding activation of the Task Force for returnee refugees and IDP.
- The government should not further delay providing the Task Force for Returnee Refugees and IDP with the requisite funds, personnel, rules of business, etc., so that it can begin to operate as an effective organization, as envisaged in the Accord.
- Repatriated Pahari refugees and IDP should be rehabilitated on state lands currently available to the government and provided with initial resources to enable them to have a means of livelihood. More lands may become available if the Accord is substantively implemented through the closing down of camps of the security forces and cancellation of the leases of unproductive plantations.
- The Pahari refugees and IDP should be given back possession of their former lands by evicting illegal occupiers, wherever feasible. Alternatively they should be settled on equivalent lands.
- The government may take these steps through urgent administrative action with the state lands available to it (waiting for the Land Commission may take too long – the Pahari refugees and IDP have already been waiting for 13 years).

Sequencing of the Land Survey and Settlement of Land Disputes

The Accord stipulates that a cadastral survey should be held in the CHT to record and secure IP land rights after the Pahari refugees and IDP have been rehabilitated and disputes concerning illegal occupation of lands have been settled (Clause D-2). It should be noted that holding the land survey *before* rehabilitation of the refugees and IDP and resolution of land disputes would unduly favour Bengali settlers who have *de facto* possession of illegally occupied Pahari lands, since their names would be recorded as the incumbent holders in the survey documents.

Furthermore, the majority of the IP would probably not be able to prove their rights to *common* lands if there is a land survey at present, because they do not have formal documents spelling out their customary land rights. The long-standing freeze in finalizing land settlement to the IP means that many of them do not also have formal titles on land despite having applied for them much earlier (as noted in Chapter 3). Even Paharis who already have registered titles of private property might have difficulty in establishing their rights given rival claims on their plots because of the pervasive incidence of multiple titling and fabrication of land settlement documents. Consequently, the cadastral survey should take place *after the IP have had the opportunity* to obtain titles and/or documents confirming their rights to private and common lands and establish such land rights at the hearings of the Land Commission, judicial courts and other institutions of resolving land disputes.

- Formal recognition should be given to the customary rights of the IP to *common* lands, in the form of group titles or land settlements, before launching a cadastral survey in the CHT. Issuing of common titles to the IP may be done through enactment of appropriate laws by an enlightened government, but this does not appear to be a realistic possibility at present. Alternatively, formal legal recognition of the rights of the IP to common lands could be attempted by submitting a

Writ Petition to the High Court (see discussion below on legal options).

- The frozen land settlement (*bandobosti*) procedures in the CHT must be activated so that the Paharis can get formal titles (*kabuliyat*) to their *private* lands.
- The land survey should be held *after* Pahari refugees and IDP have been rehabilitated and disputes concerning all types of illegal occupation of Pahari lands have been satisfactorily resolved by the Land Commission (or other institutions), as per the Accord.

Revision of the CHT Accord?

There has been some public discussion as to whether the CHT Accord should be revised, given that the situation in the CHT has changed significantly since it was signed in 1997. However, it is necessary to be careful about the kind of ‘revisions’ that are being contemplated and the specific interests of the groups putting up such proposals.

- The interests of the IP would be best protected by first implementing the substantive clauses of the original 1997 Accord that are still outstanding, particularly those concerned with restoring their occupied lands and providing them with security on the lands that they still possess. This may be followed by additions or modifications to the agreement based on widespread consultations with all concerned ethnic and interest groups.
- While the CHT Accord of 1997 may need to be revised to take account of factual changes (e.g. in ethnic and demographic composition of the CHT), its basic principles affirming the political and land rights of the IP must not be compromised.
- In particular, any possible revision of the Accord must not be manipulated to legitimize illegal occupation of Pahari lands and provide immunity to the various land grabbing agencies in the CHT noted above (Chapter 3).

IN-MIGRATION AND VOLUNTARY WITHDRAWAL OF BENGALI SETTLERS

Since the CHT Accord does not even mention Bengali settlers, policy measures beyond the treaty are needed to address their situation and possible options. The pressure from continuing in-migration constitutes a critical factor encouraging the grabbing of Pahari lands and generating ethnic conflict in the CHT. Consequently, the absolute numbers and relative proportion of settlers in the ethno-demographic composition of the CHT need to be regulated since these influence the sustainability of the land-population relationships as well as the peace and stability of the region.

Limiting In-migration of Bengali Settlers

It is absolutely essential to curb in-migration of Bengali settlers and put a cap on the population-size of the CHT. Otherwise, with increasing numbers of Bengalis and continuing grabbing of Pahari lands, inter-ethnic relations are likely to worsen further.

- The government must take measures to limit and discourage further in-migration and residence of Bengali settlers in the CHT by removing incentives such as the provision of 'free' lands and free rations.
- The government should not undertake further expansion of cluster villages and other settlements for housing Bengali settlers in the CHT, which would otherwise increase the need for residential and arable lands. Discontinuation of new settlements would limit the growth of pressure on the arable lands of the region and could possibly contribute to the reduction of land grabbing.²⁶

Voluntary Withdrawal of Bengali Settlers from the CHT

Voluntary withdrawal of Bengali settlers from the CHT would relieve population pressure on land and contribute to reduction in land grabbing and inter-ethnic tension in the region.²⁷ Even though it is

²⁶ See Adnan (2004: 59-64, Table 4.4 and Figure 4.6).

²⁷ Adnan (2004: 169-174).

extremely difficult to reverse long term migratory processes, this is not absolutely impossible. After all, Bengali settlers were brought to the CHT for political and security objectives of a counter-insurgency strategy. They can also be withdrawn as part of a political solution to the problems of the CHT.

Discussions during our field visits in 2008-10 confirm the willingness of a section of Bengali settlers, typically living in miserable conditions in *guchhchhograms* (cluster villages) or undeveloped areas, to move out of CHT, provided they are given adequate financial and logistical support by the government and other agencies. However, to be effective, the policy package would need to include discontinuation of the facilities provided to settlers from the time of the counter-insurgency, which has continued to give them incentives for long term residence in the CHT.

- The government should initiate a programme for the voluntary and honourable withdrawal of Bengali settlers to locations outside the CHT.²⁸ Those who return would be given financial and logistical assistance to rehabilitate themselves in the new locations.
- To make this policy effective, free rations and other facilities must be discontinued for those Bengali settlers who choose to stay on in CHT, while such facilities should continue to be provided to settlers moving to locations outside the region (for a time-bound period, e.g. 5 years).
- It is not necessary that settlers relocating outside the CHT would have to be provided with alternative lands. Capital and training can be given as substitutes for land in order to provide them with alternative means of livelihood in the new locations. The government could arrange skill development and employment programmes for settlers withdrawing from the CHT.
- The Ministry of CHT Affairs or any other suitable government agency could be given the responsibility for overseeing the

²⁸ A 10-point policy package for the voluntary withdrawal of Bengali settlers from the CHT has been proposed earlier by Adnan (2004: 169-174, Box 9.1).

voluntary withdrawal of Bengali settlers from the CHT to the plains on the basis of a comprehensive and long term plan.

- Donor agencies and NGOs would have a critical role to play in supporting the government in this massive and complex task to undo some of the damages wrought in the CHT by counter-insurgency and demographic engineering.
- The official agencies and NGOs responsible for facilitating the voluntary withdrawal of Bengali settlers could be assisted with the requisite financial, logistical and technical resources by the government and donor agencies.
- The modalities and dynamics of the sensitive process of withdrawal of settlers should be anticipated and planned for in advance. For instance, the administration should be prepared to deal with possible obstruction and protests from Bengali interest groups opposed to the voluntary withdrawal of settlers.

ROLE OF POLITICAL NEGOTIATIONS BETWEEN THE IP AND BENGALIS

Even if the CHT Accord is fully implemented and it is possible to have some degree of withdrawal of Bengali settlers from the CHT, these would not be sufficient to completely stop the alienation of Pahari lands. This is because large-scale state acquisition and illegal grabbing by private interest groups is likely to continue unless other measures are taken to stop them.

Furthermore, the restitution of occupied Pahari land rights cannot be ensured only through the operation of the Land Commission and other mechanisms of resolving land disputes. This would apply even if these institutions were to operate fairly and effectively, which is by no means certain at this juncture. Even under an optimistic scenario, the Land Commission would be able to resolve only cases of land disputes between *individuals*. It does not have the capability to resolve the wider

social and political conflicts between the Bengali and Pahari *communities and classes* with interests in the lands of the CHT.

The experience of the IP in the CHT also demonstrates that land *titling* and *registration*, by themselves, are not sufficient conditions for ensuring tenure security. As noted above, both state agencies and private interest groups have totally disregarded the private and common property rights of the IP when forcibly taking over their lands.

Resolution of land conflicts at the macro-social level would require explicitly political negotiations between the IP leadership and the state and powerful interest groups. A negotiated agreement about land between these agencies may be able to provide a more secure guarantee that the IP would not be forcibly evicted from their lands in the future. It would thus appear that a *balance of power* in the CHT which is favourable to the IP is an indispensable precondition for the protection of their lands against forcible seizure.

- The IP leadership will need to negotiate with the major political parties and Bengali interest groups, as well as the civil administration and security forces, in order to secure the land rights of the IP in the CHT on a durable and sustainable basis.
- Specifically, some kind of a politically negotiated settlement would have to be made by the Pahari leadership with the Bengalis who live or hold interests in the CHT in order to secure their land rights on an everyday basis.
- Advocacy campaigns and lobbying of the Parliamentary Caucus on IP and sympathetic leaders of the major political parties would help to secure Pahari land rights through politically negotiated settlements. So would attempts to mobilize support from mainstream public opinion in Bangladesh with the help of the media.

CHANGING THE MINDSET OF GOVERNMENT OFFICIALS

It is important to note that there are instances of Bengali civil and military officials who have acted fairly and helpfully towards the Paharis rather than being bent on evicting them from their lands. However, despite the presence of such exceptional individuals, the civil and military agencies of the state *as a whole* have continued to pursue the counter-insurgency agenda concerned with displacing the IP from their lands and putting Bengali migrants in their place.

In order to bring about change in this situation, it is crucial to build on the fact some Bengali civil and military personnel in the CHT have demonstrated that they are impartial and fair-minded through their performance in relation to the IP. Potentially there are many others who might be expected to act similarly if they were sensitized to the land losses as well as the exploitation and injustice suffered by the Hill peoples. These include officers and staff of the civil administration, Forest Department, security forces, etc.

- The civil and military personnel of the government who demonstrate their fairness and act in an impartial manner towards the IP of the CHT should be rewarded and given due social and official recognition.
- Special efforts should be made through training and advocacy activities to make civil and military personnel in the CHT better informed and more sensitive about the needs and rights of the IP. These would serve to facilitate changes in their traditional mindsets and attitudes.
- Civil and military personnel serving in the CHT should be made fully aware of the constitutional and human rights of IP through their service rules as well as on the job directives.
- Instances of the violation of the land and human rights of the IP in the CHT by civil and military personnel of the government should be investigated through due processes of law and those who are found guilty should be prosecuted and penalized.

- Civil and military personnel of the government who are found to be making private land gains in the CHT for themselves and their relatives should be duly investigated and penalized, as per prevalent laws and service rules.
- The performance of civil and military personnel of the government in terms of respecting the rights of the IP in the CHT, whether commendable or otherwise, should be put on their service record and brought up for due consideration when they are being assessed for promotion and overseas assignments.

ROLE OF THE GOVERNMENT OF BANGLADESH

The government is the principal actor in determining the status of the land rights of the people living in the CHT, subsuming both Bengalis and Paharis. After signing of the CHT Accord in 1997, the successive regimes in power have failed to implement many of its clauses in a substantive manner (Chapter 2). One of the outcomes of this process has been the growing land alienation and marginalization of the IP. If the government wishes to reverse this process, it must make significant policy changes which address these issues pertaining to the political and land rights of the IP. It must also take effective measures to reorientate its officials and personnel in order to ensure that they act to implement the Accord in a substantive sense.

General Policy Orientation towards the CHT and Land Rights of the IP

- The government should give primacy to the enlightened self-interest of the country as a whole in order to override the narrow and self-centred demands of Bengali interest groups in the CHT.
- The government should be encouraged by enlightened sections of Bengali society, IP organizations, their supporting networks and the media to make policy decisions about the CHT that reflect vision and farsightedness.

- The government should be lobbied by all progressive Bengali and Pahari groups to protect the traditional rights of IP on their lands in the CHT and ensure the restitution of their illegally occupied plots.
- Concerned Ministries and agencies of the government can play a constructive role in the formulation and implementation of policies which secure the land rights of the IP and thereby help to ensure peace and stability in the region.
- The government should ensure that Bengali settlers illegally occupying Pahari lands are removed and provide them with incentives for voluntary withdrawal and relocation outside the CHT.

The CHT Accord and the Government's Electoral Manifesto

The current Awami League-led government should be urged to fulfill its electoral pledge (during the 2008 parliamentary election) of implementing the CHT Accord. This strategic measure would serve to protect the land and human rights of the IP and go a long way in ending discriminatory practices towards them.

- In operational terms, the government should declare a time-bound road map for the implementation of the CHT Accord without further delay, inclusive of the resolution of land disputes by the Land Commission and restitution of the illegally occupied lands of the IP.

Constitutional Recognition of the IP and the Peace Accord

- The government (and all major political parties) should take necessary legislative measures to give constitutional recognition to the distinctive identity, culture and rights of all the IP of the country. This would subsume the IP of the CHT and their rights to common lands governed by customary laws and practices.
- The government and other concerned political parties should take appropriate legislative steps to give constitutional recognition to the CHT Accord of 1997. This would help to

ensure that the agreement, inclusive of the clauses pertaining to protecting and restituting the land rights of the IP, is not subject to cancellation or arbitrary modification by subsequent regimes in power.

Implementation of International Conventions on Indigenous Peoples

There has been persistent opposition within the government and state machinery to giving recognition to the Paharis of the CHT as indigenous people (or Adivasi). Significantly, such recognition would make them fully entitled to the rights and protective measures that are prescribed in international conventions and agreements pertaining to the IP. This is where a critical break with past government policy in Bangladesh is called for.

- The government of Bangladesh has nothing to lose and much to gain by acknowledging that Paharis of the CHT as 'indigenous peoples' (Adivasi), who are fully entitled to the rights and protective clauses that are prescribed for them in international conventions and agreements, inclusive of their land rights.
- The government of Bangladesh should uphold and protect the land rights of the IP in accordance with the international treaties that it has already ratified, inclusive of the following:
 - The ILO Convention on Indigenous and Tribal Populations (No. 107 of 1957)
 - International Convention on the Elimination of Racial Discrimination (CERD)
 - The International Covenant on Civil and Political Rights
 - The International Covenant on Economic, Social and Cultural Rights
 - The Convention on Biological Diversity (CBD)

- In particular, the government should implement the clauses of ILO Convention No. 107 which endorse the private and common land rights of the IP and measures of protection against forcible acquisition of their lands by others.
- The Government of Bangladesh should also ratify ILO Convention 169 and implement its provisions pertaining to the IP.
- The government should implement the UN Declaration on the Rights of Indigenous Peoples, containing provisions on the collective and individual rights of the IP, inclusive of their traditional rights over common lands and forests.
- The government should implement international conventions on other subjects which include specific concerns about the land rights of the IP and tribal groups, including the following:
 - (a) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
 - (b) International Covenant on Civil and Political Rights (ICCPR).
 - (c) International Covenant on Economic, Social and Cultural Rights (ICESCR).

Significantly, the government has not yet enacted any *national laws* about the rights of the IP which translate these international conventions and agreements in the context of Bangladesh.

- The government of Bangladesh should enact national laws to correspond with the international conventions on the rights of the IP that it has already signed or ratified, so that the benefits of such agreements can be availed by the Paharis of the CHT.
- Pahari organizations and advocacy networks should lobby the government to implement these international conventions and promulgate corresponding national laws for upholding the land rights of the IP of the CHT.

ROLE OF DONOR AGENCIES

International donor agencies can assist the government of Bangladesh in implementing the Peace Accord, inclusive of the specific clauses that deal with securing the land rights of the IP. Donor representatives can propose appropriate policy options and try to persuade the government of Bangladesh to implement them. Specifically, donor agencies may adopt or endorse the following policy proposals aimed at protecting the land rights of the IP in the CHT:

- Provide necessary technical assistance to the Land Commission to resolve land disputes and facilitate the land rights of the IP.²⁹
- Support the rehabilitation of Pahari refugees and IDP as per the Accord, most of whom have yet to regain their own lands.
- Ensure that aid-funded projects are designed in a way that minimizes, if not completely avoids, large-scale acquisition of Pahari lands in the CHT.

Construction of roads can have devastating effects on Pahari communities and their means of survival due to large-scale acquisition of their lands as well as the consequential influx of settlers, moneylenders, loggers, security forces, etc., which may further endanger their lands, forest resources and physical security.

- Donors should provide assistance for building only those roads that are wanted by the people living in the concerned areas and ensure that any adverse environmental and socioeconomic impacts are adequately assessed and mitigated, so as to minimize damage to their livelihoods.
- They should also insist that internationally recognized operational directives on involuntary resettlement are

²⁹ As discussed above, under its current Chairman (2009-10), the Commission has hardly made any realistic preparations for the logistical and technical needs of this massive and complex operation.

followed in providing compensation and rehabilitation to the people who are uprooted from their lands as a consequence.

- Before deciding on projects involving land acquisition in the CHT (such as construction of roads and physical infrastructure), donor agencies should ensure that the real views of IP regarding these have been elicited through genuine, as contrasted to orchestrated, public consultations (as discussed above in relation to development).

Donor agencies may endorse and support the following policies which aim to reduce the risks of the alienation of Pahari lands in the CHT:

- Encourage and assist the government in programmes of voluntary withdrawal of Bengali settlers from the CHT, as noted above.
- Encourage the government to increase the footprint of the security forces in UN and other international peacekeeping activities on the basis of a good human rights record.
- Facilitate the scope for elected political representatives and the civil administration to have increased roles in the governance of the CHT.

MOBILIZATION AND RESISTANCE BY THE IP

Despite the various policy recommendations put forward above, protection of Pahari land rights is unlikely to be ensured without *pressure from below* in the form of mass mobilization of the IP.³⁰ The Hill peoples of the CHT are currently so marginalized and disadvantaged within the political order that they are no longer in a position to go for sustained confrontation based on armed resistance. Rather, their feasible options are *non-violent* and

³⁰ Cf. arguments for community-driven and rights-based legal empowerment from below (Bruce et al. 2007: 54, Box 27).

constitutional forms of resistance. However, these can include forms of *overt protest* and *collective non-cooperation*, going beyond the covert and silent forms of resistance termed ‘weapons of the weak’ by Scott (1985; 1986).³¹

It is true that even non-violent and constitutional forms of protest are not risk-free and can lead to detention and repression of those taking part.³² Nonetheless, without such resistance by exceptional individuals and groups, it will be much more difficult to protect the land rights of the IP. Consequently, overt mobilization and resistance of the IP are essential elements of the policy package suggested by this study.

- Given the multiple threats to their political and land rights, it is essential for the different Pahari ethnic groups and political organizations to join forces and present a *united* front.
- Correlatively, *divisions* amongst the political parties and leadership of the IP would undermine their capability for collective resistance while providing encouragement to land grabbers and anti-IP forces.
- The political organizations and social movements of the IP will need to mobilize support from national and international coalitions in their struggle for protecting their rights and lands.
- Mass mobilization and resistance by the IP at the grassroots, with support from advocacy campaigns by national and international networks, would be indispensable for overcoming the formidable power of the various interest

³¹ Cf. Adas (1986) on comparable forms of ‘avoidance protest’ by subordinate groups in the face of state repression in Southeast Asia.

³² Many Pahari leaders and activists have had to face arrest and torture by state agencies for their attempts to assert the rights of the IP, inclusive of their land rights. They are not named here so as to avoid exposing them to additional risk and insecurity, but many of their cases are well-known and well-documented.

groups grabbing Pahari lands with the collaboration of sections of the civil administration and security forces.

- Only through a sustained political campaign by the IP, supported by sympathetic voices from the mainstream of the Bengali community and the national media, can the protection and restitution of Pahari lands be made a priority concern for action by the government.

Possible Issues and Forms of Resistance by the IP

The IP of CHT should explore the whole range of feasible options for overt and covert resistance, as part of their struggle to get back their occupied lands and protecting their existing lands.

- Given their past experience, the IP already have the capability to undertake a whole range of constitutional and non-violent forms of overt resistance, inclusive of public protests, demonstration, lobbying, legal actions, appeals and petitions to concerned authorities, etc.
- As already observed, boycotting bazaars and government offices can be effectively used by Paharis as forms of non-violent but overt resistance against unjust acts by the civil administration and security forces.
- These can be combined with threats of sabotage and other forms of covert resistance.
- Social mobilization and skillful utilization of the media and legal pressure by the IP leadership may enable them to make the police and civil administration perform their duties and enforce laws against commercial agencies and powerholders involved in grabbing their lands through illegal violence.³³

³³ For instance, the legal struggle of the IP against unlawful land occupation by the Forest Department, coordinated by the Movement for Protection of Forest and Land Rights, demonstrates that such a strategy can be feasible, if applied with skill and resourcefulness (Case Study No. 2 in Chapter 3).

- The need to oppose counterproductive activities of the Land Commission cannot be ruled out as yet. For instance, if the 2001 Act is not duly rectified as per proposals of the Regional Council, it may become necessary to oppose the notices and hearings that may be announced again by its incumbent Chairman.
- Mobilization and resistance by the IP would be needed should the Land Commission under its current Chairman display a systematic bias towards validating the Special Settlement Zone titles (inclusive of the R-Holdings) given to Bengali settlers during the counter-insurgency while disregarding the prior customary rights of the IP on their common lands.

Resistance and political movements of the IP for protecting their land rights would be facilitated and strengthened by a whole range of complementary activities, inclusive of the following:

1. Legal activities in support of Pahari land rights
2. Mobilization of mainstream public opinion at home and abroad
3. Publicity from the media
4. Support from advocacy groups and networks,

LEGAL ACTIVITIES IN SUPPORT OF PAHARI LAND RIGHTS

Given the difficulties faced by the IP in bringing about necessary policy changes through a Bengali-dominated political system, the chances of making such changes through legal and juridical avenues might be relatively greater. However, the potential of judicial action and human rights based litigation for securing the land rights of the IP has been explored only to a limited extent to date. Nor have legal actions been always successful.³⁴ Nonetheless, recourse to the higher judiciary may still offer an

³⁴ The Writ Petition (No. 5122 of 1996) by the IP challenging the Forest Department's notification to acquire their homesteads and productive lands for new state afforestation projects by the Forest Department did not turn out to be very effective because of financial and technical constraints (Roy 2004: 15).

alternative avenue of redressing wrongs and obtaining justice for the IP, which is worth exploring.³⁵ Indeed, a whole range of legal activities can be undertaken in support of the struggle for securing Pahari lands, as proposed below.

Appealing to the Higher Courts of the Formal Judiciary

It may be worthwhile to lodge Writ Petitions with the High Court to obtain clarification on the legal status of the land rights of Paharis and as well as the grabbing of their lands by illegal means.

- A Writ Petition should be filed challenging claims by agencies of the state that the common lands of the IP, managed through customary laws and practices, can be treated as being equivalent in legal status to *khas* or state-owned lands in the rest of Bangladesh.
- Another Writ Petition should be filed challenging the legal validity of *kabuliyats* or title documents issued by the Special Settlement Zone (e.g. R-Holdings) to Bengali settlers as part of the counter-insurgency strategy, as well as forgeries of such documents, which have been widely used since then to grab lands in the CHT.
- Even if it is not propitious immediately, preparations for lodging these Writ Petitions should be undertaken from now on by concerned IP groups and their legal advisors, in order to be ready to initiate cases whenever conditions become favourable.

Legal Measures for Strengthening Land Rights of the IP

A number of specific legal issues need to be addressed through the judiciary for securing the land rights of the IP, as follows:

- Legal initiatives should be taken to revise existing laws, regulations and executive orders pertaining to land administration and property rights in the CHT in order to make these consistent with the provisions of the 1997 CHT Accord.

³⁵ Roy (2004: 16).

- Legal action should be taken to amend the powers of the DC in the CHT Regulation, 1900, in accordance with the clauses of the HDC Acts (particularly Article 64), endorsed by the CHT Accord, to ensure that the agreement of the HDC is obtained *before* any land titles, settlements, leases, etc. are issued by the district administration.
- Legal action and advocacy campaigns should be initiated by the IP to amend the CHT (Land Acquisition) Regulation, 1958, in order to remove the draconian powers given to the DC and include provisions for prior notification and rights of appeal to the concerned land holders.
- Legal challenges and lobbying activities need to be mounted for amending forest laws and policies that have had adverse impacts upon the land rights of the IP, such as the Forest Act, the National Forest Policy and the Forestry Master Plan.
- Advocacy campaigns should be initiated to enact laws and obtain judicial orders stipulating stern punitive measures against interest groups grabbing lands in the CHT by illegal means such as violence and intimidation.

Legal Assistance for the IP

- Legal assistance is desperately needed by many Paharis who are too poor and unfamiliar with legal procedures in order to take action against those forcibly grabbing their lands.
- The IP need legal assistance to deal with spurious litigation by land grabbers intended to harass them and wear down their resistance such that they are constrained to leave and undertake distress sale of their lands.
- Legal aid is also needed by the IP in order to avoid the hassles of pursuing legal action through an unscrupulous and corrupt legal system.
- Legal aid should be focused on those Paharis who do not have the means and connections to contest forcible occupation of their lands by powerful agencies. While poor and

uninfluential individuals among *all* Pahari ethnic groups need such legal assistance, this applies particularly to the smaller ethnic groups in the remote interior of the CHT, such as the Khyang, the Mro, the Chak, the Khumi and the Bawm.

- Legal aid organizations should extend their outreach to the IP living in inaccessible hilly and forested areas of the CHT.
- Legal aid teams should maintain 'surgeries' where aggrieved Paharis could get prompt help and advice. These should preferably be located in the various district and upazilla towns of the CHT, with back up support from concerned legal organizations and professionals in the cities of Dhaka and Chittagong, whenever necessary.
- Legal aid teams could also help Paharis to prepare their cases for submission to the Land Commission and the formal judiciary, as well as other possible institutions for resolving land disputes.
- Provision of legal assistance would be helpful for not only individual Pahari victims but also the Pahari organizations mobilizing resistance against land grabbing among the community as a whole.
- Concerned public interest organizations and NGOs can play a crucial role in providing legal assistance to Paharis.
- National and international support networks can help in the provision of legal assistance to the IP through funding, technical expertise and publicity.

Coping with Reactions of Land Grabbers Dislodged from Occupied Pahari Lands

As noted above, there was a wave of violent grabbing of Pahari land just after the call by the Parliamentary Standing Committee for cancellation of leases of plantation plots that had not been developed (Chapter 3). Comparable reactive violence can also be expected from settlers and other interest groups who might be evicted from illegally occupied Pahari lands by the Land Commission or the formal judiciary.

- Legal aid groups should anticipate reactive violence and incremental land grabbing by interest groups evicted from Pahari lands and be prepared from beforehand to initiate pertinent legal action against them.
- The government must ensure adequate preparations by the police and the civil administration to take immediate legal action against possible opposition and violence by interest groups that are dislodged from the Pahari lands that they had been occupying illegally.

MOBILIZING SUPPORT FROM MAINSTREAM PUBLIC OPINION

It is uncertain whether any government in Bangladesh will have the political will and courage to restitute the illegally occupied lands of the IP by evicting the concerned Bengali interest groups. This is in part due to their perceived fear of alienating Bengali-nationalist support (votes) in the CHT as well as the rest of Bangladesh. It is an extremely difficult task to overcome or change such ethnocentric and ultra-nationalist attitudes. Significant improvements in the political and land rights of the IP are unlikely to come about unless support can be obtained from progressive sections of mainstream public opinion and the media.

The majority of the general public in Bangladesh does not even know that the land management systems of the CHT and the property rights of the IP are very different from those prevailing in the plains. Nor do most people in mainstream Bengali society know what has actually been going on in the CHT, particularly in terms of the large-scale grabbing of Pahari lands by public and private agencies. It is conceivable that given a more informed public opinion, the government will find it more difficult to remain indifferent to the grabbing of Pahari lands in the CHT. Consequently, harnessing influential voices from mainstream Bengali society in support of Pahari land rights could play a critical role in making the government change course and undertake appropriate policies.

However, while seeking support from mainstream public opinion and the national media regarding protection of Pahari land rights, care should be taken to avoid *assimilating* concerns of the IP within Bengali-dominated mainstream discourses in ways that blur the distinctive identity and cultural traits of the Pahari ethnic groups.

Informing and Sensitizing Mainstream Public Opinion

Awareness should be raised among the general public of Bangladesh about the distinctive property rights and land management systems of the IP of CHT. This would help to mobilize support for protecting Pahari land rights by informing and activating intellectual and professional groups, public interest organizations, NGOs, the press and electronic media, etc.

- Progressive intellectuals and media journalists are key opinion-makers in Bangladeshi society. They should be mobilized by IP organizations and advocacy networks to provide informed and balanced views about the actual situation of Paharis and Bengalis in the CHT, inclusive of their land rights.
- Sustained advocacy and awareness raising programmes should be undertaken with the help of the media to remove discriminatory anti-IP attitudes and win over fair-minded military and civil officials, political leaders and various professional and intellectual groups among the mainstream Bengali community.
- The actual situation prevailing in the CHT, particularly in terms of the grabbing of Pahari lands, should be made known to the general public of Bangladesh with the help of the national and international media.
- Wherever feasible, the existence of illegal land grabbing in the CHT should be exposed through litigation on behalf of the affected IP, which should be publicized by the media to inform mainstream public opinion in Bangladesh.

- Public awareness should be raised about the nature and extent of damages suffered by the IP due to counter-insurgency, transmigration of Bengali settlers, and the forcible takeover of their lands by agencies of the state and private interest groups.
- Mainstream public opinion should be made aware that the CHT Accord is not unduly unfair to Bengalis; rather, that it is primarily concerned with repairing the damage inflicted on the IP by counter-insurgency operations which led to the demographic invasion of the CHT and redistribution of Pahari lands in violation of their property rights.
- Efforts should be made to inform and mobilize public opinion among the mainstream Bengali community to oppose the narrow self-centred interests of Bengali groups involved in grabbing Pahari lands in the CHT. Such a policy approach is currently being followed by the CHT Citizens' Committee (*Nagorik Parishad*), and concerned advocacy groups and networks may fruitfully adopt a similar approach.

Voices from Mainstream Bengali Society in Support of Pahari Needs

Concerted efforts should be made to raise issues and policy recommendations concerning Pahari land rights from the mainstream of Bangladeshi society, so as to provide a broader base of support for such demands.

- Coalitions should be mobilized in support of the IP within mainstream Bengali society, inclusive of professional groups such as intellectuals, journalists and editors of the press and electronic media, student organizations involved in mainstream politics, etc.
- Such a coalition of forces can support efforts of Pahari political organizations and social movements to raise their grievances and policy proposals within mainstream discourses.

- Protests and demonstrations in support of Pahari land rights should be undertaken by coalition members in mainstream Bengali society as part of extending their support-base to other parts of Bangladesh. This would also help to prevent the IP from being singled out for reprisals by agencies of the state and land grabbers in the CHT.

Broad-based Demands for Constitutional Recognition of the IP

- Support should be mobilized from mainstream Bengali society for constitutional recognition of the rights and distinctive cultural traits of the IP, inclusive of their land rights.
- Furthermore, there should be demands from Bengali-led platforms for revising the principle of secularism and the provisions for backward sections of the population in the present constitution in order to explicitly incorporate measures against *ethnic* communalism and discrimination.
- Advocacy campaigns should be mounted to mobilize mainstream public opinion and the media in support of constitutional recognition of the distinctive identities and land rights of the IP.

Dealing with Bengali Interest Groups in the CHT

The narrow self-interest of Bengali land grabbers in the CHT who want to protect such illegal gains should not be allowed to undermine the land rights of the IP. This is an essential precondition for reducing conflict and promoting social and political stability as well as economic growth in the region.

- Mainstream public opinion and the national media should be mobilized to neutralize political pressure by vested interests to protect their illegal land gains in the CHT.
- Efforts should be made to mobilize support within mainstream public opinion for stopping further in-migration of Bengali settlers to the CHT, as well as encouraging their voluntary and honourable withdrawal with government assistance.

MOBILIZING INTERNATIONAL PUBLIC OPINION

In addition to mobilization of mainstream public opinion within Bangladesh in support of Pahari land rights, complementary efforts should be made in the international arena. Expressions of concern from donor governments, multilateral bodies and international NGO networks might be able to influence the government to adopt policies that provide better protection to the lands of the IP.

- Pahari organizations and their supporting coalitions at home and abroad should inform international public opinion as well as donor agencies, NGOs, and public interest organizations about the agencies responsible for the alienation of their lands.
- Advocacy campaigns should be mounted to persuade the governments of other countries to convey their support for land and human rights of the IP to the government of Bangladesh.
- Pahari organizations and their supporting coalitions should mobilize international advocacy networks to lobby the government of Bangladesh to implement the CHT Accord and enforce the rights of the IP in accordance with international conventions and agreements such as ILO Conventions No. 107 and No. 169.
- The CHT Commission may play a facilitating role in informing and mobilizing international public opinion against the ongoing alienation of the lands of the IP and proposing relevant remedial measures.

ROLE OF THE MEDIA: SUPPORT AND PUBLICITY

The media in Bangladesh has a critical role to play in making public opinion more sensitive to the land rights of the IP in the CHT and publicizing the ways in which these have been violated by land grabbing agencies and interest groups. This would also serve to rectify the pro-Bengali ethnic and nationalist biases that

have characterized national media reports on the CHT in the past. The international media can also play a complementary role by giving publicity to instances of land grabbing and repression of the IP in their respective domains.

- The print and electronic media can play an important role by publicizing and informing the general public of the country about the illegal and unjust takeover of lands of the IP in the CHT, and support their demand for protection and restitution of occupied lands.
- The media can also provide support to Pahari resistance against land grabbing and public actions to regain their lost lands. Publicity by the various media channels could greatly facilitate national and international advocacy campaigns in support of Pahari land rights.
- Concerned Pahari organizations and leaders should provide regular briefings to the press and electronic media, so to ensure that they have accurate and up to date information for reporting on land grabbing in the CHT.
- In addition to routine briefings, Paharis should hold special press conferences to highlight instances of exceptionally large and violent land grabbing in the CHT, inclusive of the injuries and material losses inflicted upon them. This would enable the media to publicize these events and inform both policymakers and mainstream public opinion, which could potentially help to curb such expropriation of Pahari lands through violent means.
- Pahari groups and advocacy campaigns can also try to inform and influence the Bengali language broadcasts of international news agencies which are widely respected and can significantly influence public opinion in Bangladesh (e.g. Bengali services of the BBC, Voice of America and Deutsche-Welle).

ADVOCACY ACTIVITIES AT HOME AND ABROAD

Many of the policy options put forwarded above could be promoted and publicized by well-organized lobbying and advocacy campaigns in Bangladesh and abroad. Such activities are essential for bringing the situation and needs of the Hill peoples to the attention of public opinion in general and policymakers in particular. Concerned public interest organizations and NGOs can play critical roles by conducting advocacy campaigns in support of the struggles by the Paharis to protect their lands and regain their occupied lands.

- The leadership of Pahari organizations should continue to expand their existing national and international networks with pro-people NGOs, public interest organizations, UN agencies, IP activist groups and other sources of potential support.
- National and international networks should be formed by concerned groups and public interest organizations to undertake advocacy activities aimed at protecting the interests of the IP of the CHT, inclusive of their land rights.
- Pahari activists and supporting advocacy networks can lobby policy-makers in the government, donor agencies and other influential international platforms to take decisions that serve to protect the land rights of the IP.
- Well-organized advocacy campaigns can elicit support from mainstream Bengali society as well as international public opinion on behalf of the land rights of the Hill peoples.
- Advocacy campaigns should provide critical information and regular briefings to lawyers, journalists and media personnel, as well as other professional groups who could help to articulate Pahari grievances against illegal occupation of their lands.
- Advocacy campaigns should inform mainstream public opinion and the media about the rights of IP to common lands on the basis of customary law.

- Advocacy campaigns can help to question the blanket claim made by government agencies and Bengali interest groups that the legal status of Pahari common lands is equivalent to that of *khas* or state-owned property.
- Pahari organizations and advocacy groups should compile lists of the common lands that the IP have been using for many generations in order to apply for land settlements in their names and have these duly registered in the land records. Such efforts are specially needed for poor and uninfluential IP groups without education and legal knowledge of formal land settlements, typically living in the hilly and forested interior of the CHT.

Coordination between National and International Advocacy Activities

Furthermore, coordination among the various international and national groups involved in advocacy campaigns in support of the IP would help to make their activities more effective.

- There could be a *complementary division of labour* between national and international advocacy groups based on comparative advantage, such that responsibility for different types of activity is undertaken in accordance with their respective resources and risk-taking capabilities.
- For instance, international advocacy groups could take up sensitive issues that cannot be undertaken easily by organizations working inside Bangladesh.
- International and national advocacy campaigns should be mounted to persuade the government of Bangladesh to recognize the Pahari ethnic groups of the CHT as *adivasi* or indigenous peoples. Attainment of this objective would enable the Paharis to enjoy the rights to which they are entitled by international conventions and agreements on the IP.
- National and international advocacy campaigns should be mounted to persuade the government of Bangladesh to ratify ILO Convention No. 169, which upholds the land rights of the IP.

- The cumulative outcomes of advocacy campaigns are likely to be more effective if concerned groups in Bangladesh can work in coordination with like-minded networks in Asian countries, as well as liaise with international organizations and bodies concerned with the rights and interests of the IP.
- Direct transnational channels of communication built up through such social and political networking could provide more effective support to movements of the IP to protect their lands.
- National and international advocacy groups working to protect Pahari lands can hold seminars and conferences to bring these issues to the attention of public opinion at home and abroad and thereby help to influence policymakers in their respective governments.

International Networking for Regional Stability and Economic Growth

- Advocacy campaigns can publicize the benefits of bringing about peace and stability in the CHT for promoting regional growth and trans-Asian projects such as the Asian Highway and trans-Asian railway system. These would serve the enlightened self-interest of Bangladesh, as well as being beneficial for India, China, Myanmar and other adjoining Asian countries.
- Advocacy networks in Bangladesh working with the IP could interact with like-minded networks in the South Asian and East Asian regions, including India, China, Japan and other countries. The latter may be encouraged to influence their respective governments to collaborate with the government of Bangladesh in ways that would be beneficial to the IP of the CHT.
- Such international networking may also contribute to bringing about peace and stability in the CHT, which would facilitate economic growth and development in this part of Bangladesh as well as the adjoining Asian region.

POLICY RESEARCH INITIATIVES BY THE IP

A remarkable aspect of the struggle of the IP in the CHT has been the undertaking of research and policy analysis by groups of Pahari leaders and activists. These are the organic intellectuals³⁶ among the IP and their work is largely based on their own resources and in pursuit of an agenda defined by themselves.³⁷ For instance, some of these Pahari activists have been collecting data and analyzing the features of the Special Settlement Zones titles (e.g. R-Holdings) issued to Bengali settlers during the counter-insurgency, as well as the ways in which these documents have been subsequently manipulated for land grabbing in the CHT (Chapter 3).

- Concerned researchers and activists among the IP should continue to investigate critical issues such as the mechanisms of land grabbing and draw out pertinent policy implications. They should also disseminate their findings and conclusions to other concerned groups and networks.
- Media journalists can play a critical role by disseminating and publicizing the findings of the research and policy analysis of these Pahari groups.
- Correspondingly, concerned lawyers may be able to provide them with legal defence against possible litigation and intimidation by powerful agencies and commercial interest groups.
- Such self-propelled and self-defined policy research initiatives of the IP deserve to be assisted by concerned support networks at home and abroad with requisite funds and technical assistance. Donor agencies, public interest organizations and pro-people NGOs can help to enhance the capability of home-grown research and policy analysis among the IP.
- However, the Pahari research groups need to be careful that, in the process of accepting external assistance, their own agenda is not compromised and that their organizations are

³⁶ Gramsci (1971: 6).

³⁷ Further details of these home-grown and self-propelled research initiatives are available from the authors of this study.

not co-opted into a different agenda set by the agency providing such assistance. While such Pahari activists and researchers eminently deserve support, extreme care should be taken against attempts to buy them out.

COMPUTERIZED DATA-BASES

There is no centralized collection of data on the CHT which is in the public domain and openly accessible. Hence, it is very difficult to retrieve and collate critical information, e.g. finding out the total land holding of any individual held in different mouzas. However, the capability to access, retrieve, collate and analyze such information could be extremely useful for the IP, particularly for informing and guiding their movements for protection of their lands.³⁸

- Computerized data-bases should be built up to make campaigns against land grabbing more efficient, e.g. by retrieving information on forcibly acquired holdings of particular individuals by the type of grabbing agency and the mechanisms used.
- Computerized analysis of centralized databases would make it possible to identify cases in which the same individual, family or corporation is holding more land than the permitted legal ceiling, e.g. by holding land settlements or leases in *different* mouzas and districts. It might also be possible to use computer-based techniques for detecting cases in which land is being held illegally under false names and identities (*benamdari*).
- Such databases could also store pertinent information on land conflicts arising from illegal occupation of Pahari lands. These could be used for litigation in the form of 'class suits' against land grabbing based on a *common* mechanism. These databases could also keep track of judgements of the Land

³⁸ Cf. Adnan (2004: 181-182).

Commission, formal courts, and other mechanisms for resolving land conflicts.

- Such data-bases should be built up under the management of Pahari activists and advocacy groups for utilization in their own policy analysis and campaign activities.
- Independent researchers and their institutions could also build up comparable databases that Paharis, as well as other legitimate users, can draw upon.

INDEPENDENT RESEARCH AND MONITORING OF CRITICAL TRENDS IN THE CHT

Recent trends suggest that both state acquisition of land and commercial land grabbing are likely to continue in the CHT in the foreseeable future. This raises the prospects of continuing, if not escalating, conflict over land, along both ethnic and class divides. Uncertainty about the future role of the Land Commission as well as the implementation of the CHT Accord may well mean that land disputes in the CHT are not resolved but kept in abeyance. Such trends are likely to give rise to further inter-ethnic and intra-ethnic conflicts, political repression of the IP, as well as processes of counter-mobilization and resistance by them.

Given such a scenario, policy formulation for the CHT in the coming decade might be very difficult given the absence of accurate information and up to date analysis of unfolding social, demographic, economic and political trends. In particular, an adequate understanding of the changing nature of land grabbing mechanisms and the response and resistance of the IP would demand continuing monitoring and evaluation of the situation in the CHT.

Given the track record, it is unlikely that accurate information and objective analysis would be made available in the public domain by concerned government agencies or consultants

working for national and multinational corporations.³⁹ In this context, independent monitoring and evaluation of the ongoing trends in the CHT, conducted with rigour and objectivity, could constitute an alternative source of accurate information. This could provide the basis for informed policy analysis and formulation of strategies of protecting the land rights of the IP.

Such a research programme could continuously monitor the status of implementation of the CHT Accord and the grabbing of lands of the IP by various agencies, as well as the nature of Pahari response and resistance to these developments or threats. Impartial and continuing assessments of these issues and trends would be useful to Pahari political organizations and social movements, as well as the government, donor agencies, public interest organizations, pro-people NGOs and advocacy networks for formulating their own policies in the CHT. Continuous monitoring and evaluation of land grabbing and related contentions may also be able to provide early warnings of emergent ethnic and political conflicts in the CHT and help to avert or deal with impending crisis situations.

³⁹ A short-critique of the data on CHT from official sources is provided in Adnan (2004: 217-218).

BIBLIOGRAPHY

- Adas, Michael, 1986. 'From Footdragging to Flight: The Evasive History of Peasant Avoidance Protest in South and South-east Asia'. *Journal of Peasant Studies*, 13 (2): 64–86.
- Adnan, Shapan, 2000, *Land Alienation and Ethnic Conflict in the Chittagong Hill Tracts*, Paper presented at the conference of the European Network of Bangladesh Studies (ENBS), held at the University of Oslo over 14-16 May, 2000.
- Adnan, Shapan, 2004, *Migration, Land Alienation and Ethnic Conflict: Causes of Poverty in the Chittagong Hill Tracts of Bangladesh*, Dhaka: Research and Advisory Services.
- Adnan, Shapan, 2007, "Departures from Everyday Resistance and Flexible Strategies of Domination: The Making and Unmaking of a Poor Peasant Mobilization in Bangladesh", *Journal of Agrarian Change*, Vo. 7 No. 2, April 2007, pp. 183-224.
- Adnan, Shapan, 2008a, 'The political economy of border control and manipulation in the context of ethnic domination and capitalist expansion in the Chittagong Hill Tracts of Bangladesh', Paper presented at a Social Science Research Council (SSRC) workshop in Dubai in February 2008, (mimeo).
- Adnan, Shapan, 2008b, *Situation of Minorities of the Chittagong Hill Tracts under the Caretaker Government and their Participation in the Upcoming Elections*. Written testimony submitted to the United States Commission on International Religious Freedom (USCIRF) at Capitol Hill, Washington DC, on 4 December 2008. (See Website of USCIRF).
- Adnan, Shapan, 2011, 'Resistance to accumulation by dispossession under neoliberal capitalism and globalization: Struggles for land by the poor peasantry in rural Bangladesh'. Paper presented at the international conference on *Global Land Grabbing* held during 6-8 April 2011. Organised by the Land Deals Politics Initiative (LDPI) in collaboration with the *Journal of Peasant Studies* and hosted by the Future Agricultures Consortium at the Institute of Development Studies, University of Sussex.

- Adnan S., Barrett A., Alam S.M.N. and Brustinow, A., 1992, *People's Participation, NGOs and the Flood Action Plan: An Independent Review*, Dhaka: Research and Advisory Services (RAS).
- Ali, S. Mahmud, 1993, *The Fearful State: Power, People and Internal War in South Asia*, Zed Books, London.
- Anonymous, *Overview of Land Grabbing in Bandarban Hill District*. Unpublished report.
- Borras, Saturnino M. Jr. and Franco, Jennifer, 2010, *Towards a Broader View of the Politics of Global Land Grab: Rethinking Land Issues: Reframing Resistance*. Initiatives in Critical Agrarian Studies (ICAS), Land Deal Politics Initiative (LDPI) and Transnational Institute (TNI). ICAS Working Paper Series No. 001.
- Brauns, Claus-Dieter, and Löffler, Lorenz G., 1990, *Mru: Hill People on the Border of Bangladesh*, Basel, Boston and Berlin: Birkhauser Verlag.
- Bruce, J. W., Garcia-Bolivar, O., Roth, M., Knox, A. and Schmid, J., 2007, *Land and Business Formalization for Legal Empowerment of the Poor: Strategic Overview Paper*, Burlington: USAID.
- Chakma, Pratikar, 2010, Chapters 1-5 in Chakma, Pratikar and Tripura, Shaktipada, 2010, *Parbattya Chattogramer Bhumi Samashya O Paharider Adhikar* (Land Problems of the Chittagong Hill Tracts and Land Rights of the Paharis), Dhaka: ALRD (Association for Land Reform and Development) (in Bengali).
- CHTC, 2010a, *Memorandum to the Prime Minister of Bangladesh based on June 2010 mission of the CHT Commission*. Dhaka, (mimeo).
- CHTC, 2010b, *Press release of the CHT Commission on its September 2010 mission*. The CHT Commission, Dhaka, (mimeo).
- CHTDP, 1987, *Consultant's Final Report: Strengthening of the CHT Development Board and Strengthening of Agricultural Extension in the CHT*, CHT Development Project, (mimeo).
- GoB (Government of Bangladesh), 1989, *Act No. 20 of 1989: Law enacted for the establishment of the Khagrachhari Hill District Local Government Council*, Bangladesh Gazette, dated 6 March 1989, Dhaka (in Bengali).

- GoB (Government of Bangladesh), 1998a, *Law enacted to further amend the Rangamati Hill District Local Government Council Act of 1989: Act No. 9 of 1998*, Bangladesh National Parliament, Government of Bangladesh, Bangladesh Gazette, Additional Issue, pp. 6199-6207, dated 24 May 1998, Dhaka (in Bengali).
- GoB (Government of Bangladesh), 1998b, *Law enacted to further amend the Khagrachhari Hill District Local Government Council Act of 1989: Act No. 10 of 1998*, Bangladesh National Parliament, Government of Bangladesh, Bangladesh Gazette, Additional Issue, pp. 6208-6216, dated 24 May 1998, Dhaka (in Bengali).
- GoB (Government of Bangladesh), 1998c, *Law enacted to further amend the Bandarban Hill District Local Government Council Act of 1989: Act No. 11 of 1998*, Bangladesh National Parliament, Government of Bangladesh, Bangladesh Gazette, Additional Issue, pp. 6216-6225, dated 24 May 1998, Dhaka (in Bengali).
- GoB (Government of Bangladesh), 1998d, *Law enacted to establish the Regional Council of the Chittagong Hill Tracts (Act No. 12 of 1998)*, Bangladesh National Parliament, Government of Bangladesh, Bangladesh Gazette, Additional Issue, Dhaka (in Bengali).
- GoB (Government of Bangladesh), 2001, *The Chittagong Hill Tracts Land Disputes Resolution Commission Act 2001* (passed in July 2001), (in Bengali).
- GoB & PCJSS, 1997, *Accord between the Committee set up by the Government of the People's Republic of Bangladesh and the Parbatya Chattagram Jana Samhati Samiti*, Dhaka, 2 December, 1997, (mimeo; in Bengali).
- GoI (Government of India), 1939, *The Chittagong Hill Tracts Regulation 1900 (I of 1900)*, as amended by the Chittagong Hill Tracts (Amendment) Regulation 1939 (Bengal Regulation No. 1 of 1939), Selected extracts (mimeo).
- Gramsci, Antonio, 1971, *Selections from Prison Notebooks*, London: Lawrence and Wishart.
- Harvey, David, 2003, *The New Imperialism*, Oxford: Oxford University Press.
- Kerkvliet, Benedict J. Tria. 1986, 'Everyday Resistance to Injustice in a Philippine Village', *Journal of Peasant Studies*, 13 (2): 107-23.

- Kerkvliet, Benedict J. Tria. 1990, *Everyday Politics in the Philippines: Class and Status Relations in a Central Luzon Village*, Berkeley, CA: University of California Press.
- Löffler, L.G., 1991, *Ecology and Human Rights: Two papers on the CHT, Bangladesh, 1991*, Zurich, (mimeo).
- Mohsin, Amena, 1997, *The Politics of Nationalism: The Case of the CHT, Bangladesh*, The University Press Limited, Dhaka.
- Mohsin, Amena, 1998, "CHT Peace Accord: Looking Ahead", *The Journal of Social Studies*, No. 82, August-October, 1998, pp. 106-117.
- PCJSS, 2008, *Parbattya Chattagram Chukti Bastabayan Prashongey*, (Implementation Status of the CHT Accord), Rangamati: Parbatya Chattagram Jana Samhati Samity (PCJSS).
- Roy, Raja Devasish, 1994, "Land Rights of the Indigenous People of the CHT", *Land*, Vol. 1, No. 1, February, 1994, pp. 11-25, Journal of the Association for Land Reform and Development (ALRD), Dhaka.
- Roy, Raja Devasish, 1995, "Land Rights, Land Use and Indigenous Peoples in the CHT", pp. 49-100 in Philip Gain (ed.), 1995, *Bangladesh: Land, Forest and Forest People*, Dhaka, Society for Environment and Human Development (SEHD).
- Roy, Raja Devasish, 1996, *Forests, Forestry and Indigenous People in the CHT, Bangladesh*, paper presented at the workshop on "The Rights of Tribal and Indigenous Peoples", New Delhi, 23-25 February, 1996 (mimeo).
- Roy, Raja Devasish, 1997, "The Population Transfer Programme of 1980s and the Land Rights of the Indigenous Peoples of the CHT," pp. 167-208 in Bhaumik et. al. (eds.), 1997, *Living on the Edge: Essays on the CHT*, Kathmandu, South Asia Forum for Human Rights.
- Roy, Raja Devasish, 1998a, *Sustainable and Equitable Resource Management in the CHT*, paper presented at Rangamati Conference in December, 1998, (mimeo)
- Roy, Raja Devasish, 1998b, *Development and Resource Rights of Indigenous Peoples in Bangladesh*, Concept paper for Development Planners in the CHT, TAUNGYA, Rangamati.

- Roy, Raja Devasish, 2002, *Land and Forest Rights in the Chittagong Hill Tracts, Bangladesh*, Kathmandu, International Centre for Integrated Mountain Development (ICIMOD), June 2002.
- Roy, Raja Devasish, 2004, *The Politics of Safeguarding Traditional Resource Rights in the Chittagong Hill Tracts, Bangladesh: An Indigenous Perspective*, paper presented at the Tenth Biennial Conference of the International Association for the Study of Common Property (IASCP) on "Challenges of Globalizing Commons and Indigenous Peoples of the Eastern Himalayan Region", Oaxaca, Mexico, 12 August 2004 (mimeo).
- Roy, Raja Devasish & Halim, Sadeka, 2001, "A Critique to the Forest (Amendment) Act of 2000 and the (draft) Social Forestry Rules of 2000", pp. 4-45 in Philip Gain (ed.), 2001, *The Forest (Amendment) Act 2000 and the (draft) Social Forestry Rules, 2000*, Dhaka, Society for Environment and Human Development (SEHD), May 2001.
- Roy, Rajkumari Chandra Kalindi, 1996, *Land Rights of the Indigenous Peoples of the CHT*, NORAD/ Jumma Peoples Network in Europe (JUPNET).
- Roy, Rajkumari Chandra Kalindi, 2000, *Land Rights of the Indigenous Peoples of the Chittagong Hill Tracts, Bangladesh*, IWGIA Documents No. 99, Copenhagen.
- Sato, Jin, 2000, "People in Between: Conversion and Conservation of Forest Lands in Thailand", *Development and Change*, Volume 31, Issue 1, pp. 155-177.
- Scott, James C., 1985, *Weapons of the Weak: Everyday Forms of Peasant Resistance*, New Haven and London: Yale University Press.
- Scott, James C., 1986, 'Everyday Forms of Peasant Resistance', *Journal of Peasant Studies*, 13 (2): 5-35.
- Shelley, Mizanur Rahman (ed), 1992, *The CHT of Bangladesh: The Untold Story*, Centre for Development Research, Bangladesh (CDRB).
- Sopher, David E., 1963, "Population Dislocation in the Chittagong Hills", *The Geographical Review*, Vol. LIII, No. 3, July, 1963, pp. 337-362.

- Sopher, David E., 1964, "The Swidden/Wet-Rice Transition Zone in the Chittagong Hills", *Annals of the Association of American Geographers*, Vol. 54, No. 1, March, 1964, pp. 107-126.
- Tripura, Shaktipada, 2010, Chapters 6 in Chakma, Pratikar and Tripura, Shaktipada, 2010, *Parbattya Chattogramer Bhumi Samashya O Paharider Adhikar* (Land Problems of the Chittagong Hill Tracts and Land Rights of the Paharis), Dhaka: ALRD (Association for Land Reform and Development) (in Bengali).

Newspapers cited in this Study

Dainik Azadi, Chittagong, Bangladesh

Dainik Giridarpan, Rangamati, CHT, Bangladesh

Dainik Jugantar, Dhaka, Bangladesh

Dainik Natun Bangladesh, Bandarban, CHT, Bangladesh

Dainik Purbakone, Chittagong, Bangladesh

Prothom Alo, Dhaka, Bangladesh

Samakal, Dhaka, Bangladesh

The Daily Star, Dhaka, Bangladesh

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The Chittagong Hill Tracts (CHT) of Bangladesh had been historically inhabited by indigenous peoples (IP), locally known as the Paharis. From the 1970s, however, counter-insurgency operations resulted in the forced eviction of the IP. Massive numbers of Bengali settlers were brought in from outside and placed on Pahari lands, forcibly changing the demographic composition and land distribution of the CHT. The conflict was brought to a formal end in December 1997 by the CHT Accord between the government and the PCJSS, the party leading Pahari resistance.

However, many of the critical clauses of this peace agreement have yet to be implemented by the government, while the influx of Bengalis from outside and the grabbing of Pahari lands have been allowed to continue. Lands are being forcibly acquired by not only government agencies but also private commercial interests led by Bengali powerholders with connections to major political parties and agencies of the state. The failure of various governments in power since the Accord to take effective measures against continuing in-migration and eviction of Paharis from their lands threatens to undermine the social and political stability of the CHT and raises the prospects of renewed ethnic and political conflict.

This book documents the bewildering variety of mechanisms used to grab Pahari lands in the CHT, inclusive of illegal violence and intimidation. It also puts forward a wide range of policy measures to reduce land grabbing and ethnic tension. These policies are addressed to Pahari organizations as well as progressive sections of the government, mainstream Bengali society, donor agencies, the media, public interest organizations, the NGO sector, advocacy groups and others at home and abroad.

The research for this book was conducted under the auspices of the international CHT Commission, which seeks to contribute to the just resolution of the conflicts in the CHT in order to ensure the safety of the indigenous peoples and their lands.

CHTC

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