

## **Why UPDF has serious reservations on the Chittagong Hill Tracts (CHTs) Peace Accord of 1997**

The United People's Democratic Front (UPDF) and its sister organizations have expressed serious reservations about the Chittagong Hill Tracts Peace Accord signed between the Government of Bangladesh and the Jana Samhati Samiti (JSS) on 2 December 1997. The UPDF's reservations are based on the past experience of the indigenous Jumma peoples with the ruling Government in Dhaka, irrespective of political colour and ideology of the parties concerned.

The Accord did not come in a day. The JSS declared a unilateral cease-fire on 10 August 1992 to show its willingness for dialogue after which the negotiations started, culminating in an accord in December 1997. Yet, none of the Jumma overground organizations, intellectuals or community leaders were consulted or taken into confidence by the JSS before the signing of the Accord. Given the pace of the negotiation and uninterrupted five-year-long cease-fire - unheard of in the history of peace negotiations - the Jummas did not expect miracles from the Accord. Yet a cursory look reveals that the Accord failed to meet the basic demands of the Jumma people.

UPDF firmly believes that the success of any Accord does not lie in the piece of paper signed by the parties concerned. The Hill Peoples Council, the Hill Students Council and Hill Women Federation had to organize demonstrations against the Government of Bangladesh to get the dialogue started.

Yet, any inadequacies can be addressed through the in-built mechanisms for implementation of the Accord. The Accord failed abysmally on that score. The mechanisms for implementation of the Accord were built in only for the JSS and not for the Government of Bangladesh that has the primary responsibility to implement the Accord. In a nutshell, the JSS even failed to incorporate mechanisms for implementation of the Accord. From the declaration of a unilateral cease-fire on 10 August 1992 to the signing of the Peace Accord on 2 December 1997, it was desperation, not serious thinking, that dictated the actions of the JSS. UPDF had little reason to be cheerful about the Accord.

Some of the UPDF's reservations are given below:

### **General:**

1. The Chittagong Hill Tracts Peace Accord fails to address the basic demands of the Jumma peoples. These demands have been articulated by the JSS. The demands are: regional autonomy, constitutional recognition of the indigenous Jumma peoples of the CHT, restoration of land rights, withdrawal of the military and withdrawal of the settlers from the CHT. Moreover, there is no reference to accountability for human rights abuses that bordered on genocide. All the indigenous Jumma peoples believe that without fulfillment of these basic demands and accountability for human rights abuses, a genuine and permanent peace cannot be established in the CHT. The UPDF was born as a result of this perception.

### **Regional Autonomy under the Regional Council and District Councils:**

1. The Accord envisaged the establishment of a Regional Council (RC) to supervise the activities of the existing three Hill District Councils that were established under the Hill District Council Acts of 1989 by military dictator General H M Ershad. Like the Hill Districts Councils, the Regional Council does not enjoy constitutional safeguards. In other words, the RC and the three District Councils were formed under simple parliamentary law and not by constitutional law. Consequently, any Government that enjoys simple majority in the Parliament can repeal the

Regional Council and District Council Acts. The President of Bangladesh can do the same through promulgation of a mere ordinance.

Moreover, executive functions rest with the District Council, and not the Regional Council. Under such circumstances, the Regional Council or its members have little responsibilities. The Jummas have described the work of the Regional Council members as the work of the "retired politicians". The Act provides for "supervision" of the District Councils by the Regional Council. In reality, it means little as the District Councils are practically controlled by the government through various ministries, including CHT ministry. Moreover, since 1989, the Jummas have witnessed the selection of District Council Chairmen without any election required under the Act. Until today, no election has been held to nominate the District Councils' members or Chairmen. The unconstitutional appointment of the District Council Chairmen irrespective of whichever party is in power in Dhaka does not evoke any confidence, nor does it guarantee autonomy. The District Council chairmen have, in practice, become executive assistants to the District Commissioner.

2. Under the Accord, neither the Regional Council nor the three District Councils will have any control over the general administration of the Chittagong Hill Tracts. This will continue to remain in the hands of the Deputy Commissioners appointed by the Government. The only effective power that the Councils will have with regard to the general administration is to appoint, transfer and discharge third and fourth-class employees, a power also provided in the erstwhile District Councils established by General Ershad's regime.

3. The Government has full and absolute control over the RC and the District Councils. Section 21 of Chapter "Kha" of the Accord provides that if it is proved to the full satisfaction of the government that any action performed or proposed to be performed by the Councils is not in conformity with the law or has gone or is likely to go against the interest of the public, then the government is entitled to demand information and explanation from the Councils and to give advice and issue directives.

4. The Accord provides for establishment of the Ministry on the Chittagong Hill Tracts Affairs for monitoring the work of the Regional Council and District Councils. This CHTs Ministry, in fact, is nothing but a new label for the Special Affairs Division of the Prime Minister's Secretariat that was responsible for the matters relating to the Chittagong Hill Tracts. In the past, many Jumma ministers and advisers served under various governments. It made little difference in the state of affairs of the Chittagong Hill Tracts. The CHTs Affairs Ministry does not ensure autonomy of the Regional Council or District Councils. It is a mechanism to beguile the international community on CHT issues by referring the concerned people to the Minister on CHTs Affairs who is a Jumma but does not have any independent power and is under the direct control of the Prime Minister.

### **Constitutional Recognition and Constitutional Guarantees:**

1. There is no mention of the constitutional recognition of the indigenous Jumma peoples of the Chittagong Hill Tracts in the Accord. The issue of constitutional recognition of the indigenous Jumma peoples figured prominently in the discourse of the Bengali intellectuals, constitutional experts and political leaders. The Constitution of Bangladesh does not explicitly recognize the existence of indigenous peoples nor does it recognize the diversity and plurality of the country. The extreme Bengali nationalism and attempts at establishing homogeneity in the country have been described as serious shortcomings of the Bangladesh Constitution.

Today even after signing of the Peace Accord, non-Jummas can be elected from the three parliamentary seats from the CHTs. Today, Jummas face a situation where their voices may not be heard in Parliament as the seats in the CHTs are not reserved for the indigenous Jumma people. Even such constitutional guarantees have not been provided in the Accord. On the contrary, the indigenous Jumma peoples of the Chittagong Hill Tracts have been termed as

"tribals' and the Chittagong Hill Tracts as a "tribal area". The term "tribal" bears pejorative connotations and hence, acceptance of the word "tribal" in the Accord by the JSS has further derogated the indigenous Jumma peoples.

### **Land Rights of Indigenous Jumma peoples: Lack of mechanisms**

1.The Accord failed to recognize traditional land rights of the indigenous Jumma people. The doctrine of terra nullius (does not belong to any one) has been used to grab the lands of the indigenous Jumma people.

The Accord stipulates the establishment of a Land Commission to redress land disputes arising between the Bengalis and the Jumma residents. This also tantamounts to recognising the doctrine of terra nullius. Thousands of Jummas lost their property records while the Bengali settlers got their way using forged documents. The office maintaining land records in Khagrachari district was burnt down to eliminate all records. The land issue in the Chittagong Hill Tracts is a political issue that cannot be resolved only through legalistic manner. Attempts could have been made to address some land disputes legally if the modus operandi of the Land Commission was spelt out clearly. The land rights issue is also intrinsically related to the withdrawal of the settlers and the army. The army has consistently provided direct assistance to the settlers who occupy the lands of the Jumma people even in cases where the ownership of the land by Jummas has been established under the law. However, in the absence of mechanisms to ensure withdrawal of the army within a specific time frame, the Land Commission has proved to be yet another false assurance.

2.The Accord treats the Bengalis of the Chittagong Hill Tracts in the same category. The Accord has failed to segregate the old Bengali migrants from the new settlers who were brought into the CHT under government sponsored population transfer policy. Thus, the status of the old settler Bengalis is on par with the new Bengali settlers who are responsible for forcible occupation of Jumma lands.

### **Withdrawal of Bengali Settlers**

1.The CHTs Accord is silent about the withdrawal of Bengali settlers. Hundreds of thousands of Bengali settlers were implanted in the CHTs under government-sponsored population transfer policies. Such population transfer is a crime under international law and prohibited under Article 49 of the Fourth Geneva Conventions. It constitutes a war crime.

The JSS leaders have consistently referred to a "verbal agreement" with the Government of Bangladesh on the withdrawal of settlers. When serious doubts have been expressed as to the implementation of the written agreement, what is the value of a "verbal agreement"? The reference to a "verbal agreement" indicates the immaturity of the JSS leaders. The resulting ridicule has demeaned the Jummas further.

### **Withdrawal of the Army**

1.The Accord provides that temporary army camps will be rolled back conditional upon the "improvement of the situation"! In this case, the Government of Bangladesh is judge and juror and has arrogated to itself the authority to decide what constitutes an "improvement of the situation". Consequently, the Government has shown little interest in withdrawing the army. The Jummas continue to face serious human rights abuses including arbitrary arrest, torture, detention and rape at the hands of the Bangladesh army.

### **Returnee Jumma refugees**

1.The Accord does not mention what steps the Jana Samhati Samity would be entitled to take in case the returnee Jumma refugees are not properly rehabilitated as promised by the Bangladesh government. On the other hand, the JSS is bound by the agreement to extend all out cooperation possible in the repatriation process.

### **Martyred families**

1.The Accord provides for the rehabilitation of the JSS and Shanti Bahini members. However, it failed to address the grievances of the martyred families and of those affected by military oppression.

### **Impunity for Human Rights Abuses**

1.The Accord does not make any reference to human rights violations committed upon the Jummas. About a dozen massacres were perpetrated. The Government of Bangladesh ordered a judicial inquiry headed by Justice Habibur Rahman into the Naniachar massacre of 17 November 1993. Prime Minister Sheikh Hasina ordered an inquiry into the abduction of Ms Kalpana Chakma, a leader of the Hill Women Federation. Both the inquiry commissions' reports have been submitted to the Government. The victims, their relatives and the people of Bangladesh have the right to know about these inquiries. By failing to stress the issue of accountability for human rights abuses, the JSS helped reinforce the impunity of the security forces.

The lack of accountability on part of the armed forces has been the single most important factor contributing to continuous and consistent human rights violations. If nothing else, the JSS should have urged the Government to make its own inquiry commissions' reports public, to allow the law to take its own course and not tinker with the independence of judiciary.

### **Restricted Amnesty**

1.The Accord provides that the government would withdraw all cases filed, and quash judgements passed by the courts, against the JSS and Shanti Bahini members. But, the Accord does not refer to the false cases filed against the members of the Hill People's Council, Hill Students Council and Hill Women's Federation.

### **Intra-Jumma division**

1.At a more fundamental level, the JSS since its inception demonized the feudal lords (Rajas, Dewan, Taludakdar, etc) in the CHTs, despite the fact that it was a struggle for the survival of the Jumma people. These policies were carried out to the extent that many Jummas from such feudal families were excluded from the struggle. However, contrary to what it preached, the JSS had accepted the authority of the feudal lords that it consistently demonized and vilified. While the UPDF has no problem with this step, it is yet another illustration of the inconsistent policies of the JSS.

In short, there is no basic difference between the Councils provided for in the so-called Peace Accord and the Councils introduced by General Ershad in 1989. The existing Councils have been reintroduced after a few modifications. Now the question is: if Ershad's Councils have failed to resolve the CHT crisis and bring about peace in the CHT, how can the new ones be expected to deliver the goods? The Hill District Councils were not acceptable to the JSS. Even if the present RC and Hill District Councils were acceptable to the JSS, UPDF is of the firm view that the Accord fails to meet the aspirations of the Jumma people. Therefore, the movement of full autonomy and survival of the Jummas must continue.

