

CHT Agreement: A Broad Perspective

by Mohammad Siddiquar Rahman

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Peace and amity in CHT is so essential for our national interest, that all sections, all political parties, people belonging to all tribes, race and religion should come to a consensus ...

SINCE the signing of CHT Agreement there has arisen a lot of controversy and it seems extremely important from the point of "national interest" to look at it from the historical, political, administrative and Constitutional points of view — whether the agreement is beneficial for the nation or whether there is any need for its review and reconsideration, and how.

I joined as Rehabilitation Officer and ex-officio Additional Deputy Commissioner of the Karnafully Hydroelectric project in February 1962 having been responsible for the rehabilitation of the displaced persons for more than two years and again served as Deputy Commissioner of Chittagong Hill Tracts for more than two years during which time I was the Project Director of the Karnafully Rehabilitation and Compensation projects till August 1966. In these capacities serving for more than four and a half years I had the opportunity to know the people of Chittagong Hill Tracts especially the tribal people of the area quite closely and to understand the administrative system, the tribal customs and the minds and sentiments of the people quite intimately. In this context, I consider it appropriate to give ideas and views on the perspective of the Chittagong Hill Tracts Agreement from the point of view of my personal knowledge and experience.

History and Background

Before we go into the analysis of merits or demerit of the CHT Agreement it is necessary to know the history and administrative background of the area. Chittagong Hill Tracts, a land of hills and valleys is bounded by Tripura State of India on the north, Assam (Mizoram and Aizawl) on the east Myanmar on the south and south-east and Chittagong and Cox's Bazar districts on the west. The area of land is roughly 5000 sq. miles now constituting three districts of Rangamati, Bandarban and Khagrachhari and inhabited mainly by about 13 tribes/subtribes and some Bangalies who had in the later period migrated from the bordering original districts of Chittagong and Nankhali. Peace loving and simple minded tribesmen used to inhabit the area pursuing their traditional way of life and culture. But not all of them were so peaceful. The Kukis and Lushais living in the Lushai Hills on the borders of Chittagong Hill Tracts and Assam and the Sendus in the border areas of Myanmar were aggressive and powerful people who would invade the abodes of peace-loving people in the valleys and the low hills set fire to the villages and plunder them.

Initially during the British rule Chittagong Hill Tracts was a non-regulated area administered by a Superintendent who was stationed at Chittagong and was mainly responsible for protecting the area and the people from the marauders and plunderers belonging to the more aggressive tribes of the Lushai Hills. The Superintendent was responsible to the Lt Governor of Bengal through the Commissioner of Chittagong and had loose administrative domain over the vast Chittagong Hill Tracts through the three Chiefs or Rajas namely Bohmang chief having control over the south (Bandarban and some part of Rangamati district), Chakma chief having jurisdiction over

the present Rangamati and parts of Khagrachhari district and the Mong Chief having his sway over the northern part, comprising most of the present Khagrachhari district. The Bohmang circle was inhabited mainly by the Burmese tribes, the Chakma circle by the Chakma tribes and Mong circle by the Marmas. Unlike the other regulated districts of Bengal, in the Chittagong Hill Tracts the tribal chiefs were the Agents of the British government for collection of revenue with the help of the Mouza headman. The chiefs also enjoyed the traditional authority to try tribal and customary cases within their circles.

It was a loose form of police administration primary responsible for protecting the land and the people from attacks and looting, killing and plundering by the more belligerent tribes living on the bordering hills. In order to be more effective in preventing the attacks of the Lushais and the Kukis, the Headquarters of CHT was at first removed from Chittagong to Chandraghona. The Superintendent of Chittagong Hill Tracts was then given powers to try civil, revenue and criminal cases. Later on the Headquarters of the District was moved to a more central place, namely Rangamati and the post was named Deputy Commissioner during 1867-68.

Bangalees first came into Chittagong Hill Tracts from the neighbouring plains primarily for business purpose as the tribal people did not know business. They first came with lots of commodities and exotic items, and later on opened shops in "Bazar fund" areas set up by the Deputy Commissioner. But the main wave of movement of the Bengali people into the Chittagong Hill Tracts came under the patronage of the Tribal chiefs who had large tracts of cultivable land under their private ownership and had to bring agricultural labour from the bordering plains for cultivation of their lands. The tribal people, on the other hand, were not used to settled cultivation and were mostly dependent on Jhum-cultivation on the hilly lands (slash, burn and sow after rainfall).

Chittagong Hill Tracts being a non-regulated district, was administered by special laws and regulations, and not governed by the normal laws which were applicable in other regulated districts like Chittagong, Noakhali, etc. because of the special requirements of the Tribal people and for the protection of the simple tribesmen and their economic and socio-cultural interests, Chittagong Hill Tracts Regulations of 1901 was the basic code of law that governed the administration of the Chittagong Hill Tracts. Under this law Deputy Commissioner was given all powers to control the administration on behalf of the government on the one hand and to protect the interest and welfare of the tribal people on the other.

The Deputy Commissioner enjoyed absolute powers to settle any quantity of land for any tribesman and could take away any land from any body without showing any reason. No plainsman could get any settlement of land in Chittagong Hill Tracts unless he was a resident for 15 years and had no land in his district of origin. The DC could however allot land to outsider in the bazar fund area for business purpose under certain limit actions. Dy Commissioner was also the ap-

pellate authority over the chiefs who had powers to try class III cases under criminal code and the tribal cases. The DC also enjoyed the unique power to expel any non-tribal from the Chittagong Hill Tracts in the interest of good administration and welfare of the people of the area.

In the matter of magistracy no lawyer was allowed to appear in any court so that the lawyers don't unnecessarily mislead or exploit the simple minded tribesmen. Deputy Commissioner was also the civil judge while Commissioner Chittagong Division was the Sessions Judge for Chittagong Hill Tracts.

The civil surgeon, the executive engineer and in fact all other officers of the district were subordinate to the Deputy Commissioner who was also in control of all unclassified state forests other than reserved forests. The Deputy Commissioner's powers were legendary but all these were for the protection and benefit of the tribal people against exploitation by the people from the plains districts.

Gathering of the Clouds

The first shock that numbed the people of the CHT came from the construction of the Karnafully Hydroelectric project. It was a great boon for the development of the country but brought tremendous miseries and suffering to the people of CHT. As a result of construction of the Kaptai dam and the creation of a 256 sq mile artificial lake, 120,000 people were displaced and lost about 34,000 acres of cultivable lands in the fertile valleys of Karnafully, Chengi, Kassaalong, Mainy, Rainkhon and Kaptai apart from hundreds of thousand of hilly Jhum lands and plantations. The total population at that time was roughly 375,000 of which about 30 thousand were non-tribals. Almost one third of the total population were affected and displaced by the Hydroelectric project.

A project for the Rehabilitation of these people at a cost of about 28 crore taka was prepared and submitted to the central government of Pakistan but a mean 1.96 crore taka only was sanctioned for the rehabilitation scheme, for roads and infrastructure, reclamation of lands, shifting of the population to new lands, transport, education and everything. After great efforts only 18,000 acres of land could be found for reclamation and allotment to the displaced persons — just about one third of what they lost. But the poorer people could not get even one acre per person and even the largest farmers could not get more than ten acres. The simple tribesmen were not used to such colossal shift — more than 100 miles away from their homes.

As the affected people did not enjoy any tenancy right on the land, they got a meagre ex-gratia compensation for their agricultural lands, houses and structures, trees and gardens etc. Tk 200 to 600 was paid per acre according to the total amount of condensation which was barely 3 crore taka which comes to about Tk 250 per head. And all that they got was ex-

hausted within a matter of days as the simple minded tribesmen spent that in buying transistor radios and petromax lights. The government of Pakistan in Rawalpindi dismissed all our requests for greater sanction of funds for their rehabilitation saying "the tribal people of Chittagong Hill Tracts live on jungle roots and weeds — so why more funds for them. After lot of efforts we got some supplementary schemes passed by the East Pakistan government.

Provincial government was already resourceless. The Jhum land had become scarce. As a result of all these the people suffered terrible economic loss, and poverty came — life was miserable and the tribal people were greatly aggrieved.

Opening up of CHT, which was so far a closed community, to outsiders, especially the contractors, labourers and adventurers from the neighbouring districts created lot of suspicions in the minds of the tribal people and took away their sense of security. One particular incident of highhandedness by a contractor and businessman and his people led to large scale panic in the minds of the tribal people who fled the country in large numbers and migrated to India and Burma in 1964. The scenes of migration were even Telecast in France and other countries of the west. At that time I was appointed Dy Commissioner of CHT to deal with the emergency and given the task of bringing back all the migrants. It took tremendous efforts to establish contact with the tribal migrants who had taken refuge across the borders, and ultimately we succeeded in restoring their confidence and bringing them back to their health and home.

Another event that crated indignation in the minds of the tribal people of CHT was the arrival of large flocks of ziratias originally belonging to Chittagong, Noakhali and Comilla districts who were expelled from Tripura. They squatted in CHT as refugees and later on became settlers. This also agitated the minds of the tribal people as they saw that lands which had already become scarce in CHT because of the creation of the Kaptai Lake and allotment of land to displaced person of Kaptai lake for rehabilitation, were being given to outsiders leaving little land for the tribals themselves, even though traditionally lands in CHT were to be reserved for the tribals. As a result of all these agitation were built up amongst the tribal people to stop settlement of land with non-tribals, to reserve Hill Tracts lands for tribals alone and to protect the integrity of the tribals.

Then came the War of Liberation at the end of which many Pakistani soldiers and Razakars took refuge in the jungles of CHT. The tribal people of CHT, as they have always been loyal to the government in power, gave support to the Pakistanis and Razakars. At the end of the war they left their arms and ammunitions to the tribal people, under these circumstances many of the headmen and prominent local leaders of the tribals were arrested

and persecuted. All these created adverse reaction in the minds of the tribals, against the government of the newly independent Bangladesh.

At this time Bangabandhu Sheikh Mujibur Rahman, in all his best intentions, for national integrity and national unity, declared that all citizens of Bangladesh irrespective of race, religion caste or tribe should be treated as Bengalees and the tribals of CHT should also be merged into the Bengali Nationhood. This was however misconstrued by the tribals to mean that the special privileges and protection given to the tribals under the special regulations of the CHT would be withdrawn. This led to the movement for autonomy under the leadership of Manabendra Narayan Larma. He demanded that CHT should be declared as a "special area" in the new constitution of Bangladesh so that

bringing in large number of Bangladeshis from other (plains) districts for planned settlement in strategic areas to provide support to the armed forces and to obstruct the operations of the Shantibahini. According to him, this was necessitated for maintaining the security of CHT from infiltration of the indigenous people from across the border. About 150,000 Bengalees were thus settled in CHT. This was taken by the tribal people as a move to reduce the tribal population of CHT into a minority community and the Shantibahini waged a whole sale guerilla warfare with the Bangladeshi army: Killings, arson and plundering while the army committed atrocities on the Shantibahini and in the areas where they operated. About 67,000 tribesmen crossed to India as refugees.

It was found that such a war

ties, insecurity and a state of war within the country.

Lot of benefits was achieved by the Agreement signed between the government and the Parbatya Chattagram Jana Shinghati Samity. The most important achievement is the cessation of war and hostility and the restoration of peace in CHT on the basis of terms and conditions of the Agreement accepted by both the sides.

The basic condition that the tribal people should be given protection against intrusion by non-tribal outsiders in terms of settlement of land is another benefit that the tribal people will get. The intent to treat CHT as a tribal area protect the tribal culture and their interest in CHT is another important benefit given to the tribal people.

The surrender of arms by the Shantibahini and the return of tribal refugees from India is a great achievement of the agreement.

As a result of the agreement a high-profile development programme is expected to be launched in order to give the Chittagong Hill Tracts a higher level of development and also utilize the untapped resources of this vast hilly region.

The CHT agreement has

that has no rightful owner stall vest in the Republic. Article 144 of the Constitution also states that executive authority of the Republic shall extend to the acquisition, sale, transfer, mortgage and disposal of property.

As such the supremacy of the state authority in terms of ownership of land cannot be subordinated to any other local government authority or Parishad. The constitutionality of this clause needs to be further examined by experts.

(2) The Agreement provides that no land, hills, or forests under the control of the parishad within Chittagong Hill Tracts can be acquired or transferred by the government without the permission of the parishad. This clause also interferes with the executive authority of the state in acquiring or transferring any property. As such this provision needs to be reviewed. It is unthinkable that the government cannot acquire any land for a public purpose.

(3) The provision for settling all lands to the tribal people till every poor and landless tribal family has got an area of 2 acres of land is no doubt well intentioned. But there is no mention of giving lands to the non-tribals who have been permanent residents.

(4) Similarly all tribal refugees from outside as well as inside is to be given settlement of land, but no consideration has been given to the non-tribals, many of whom have become refugees inside the district.

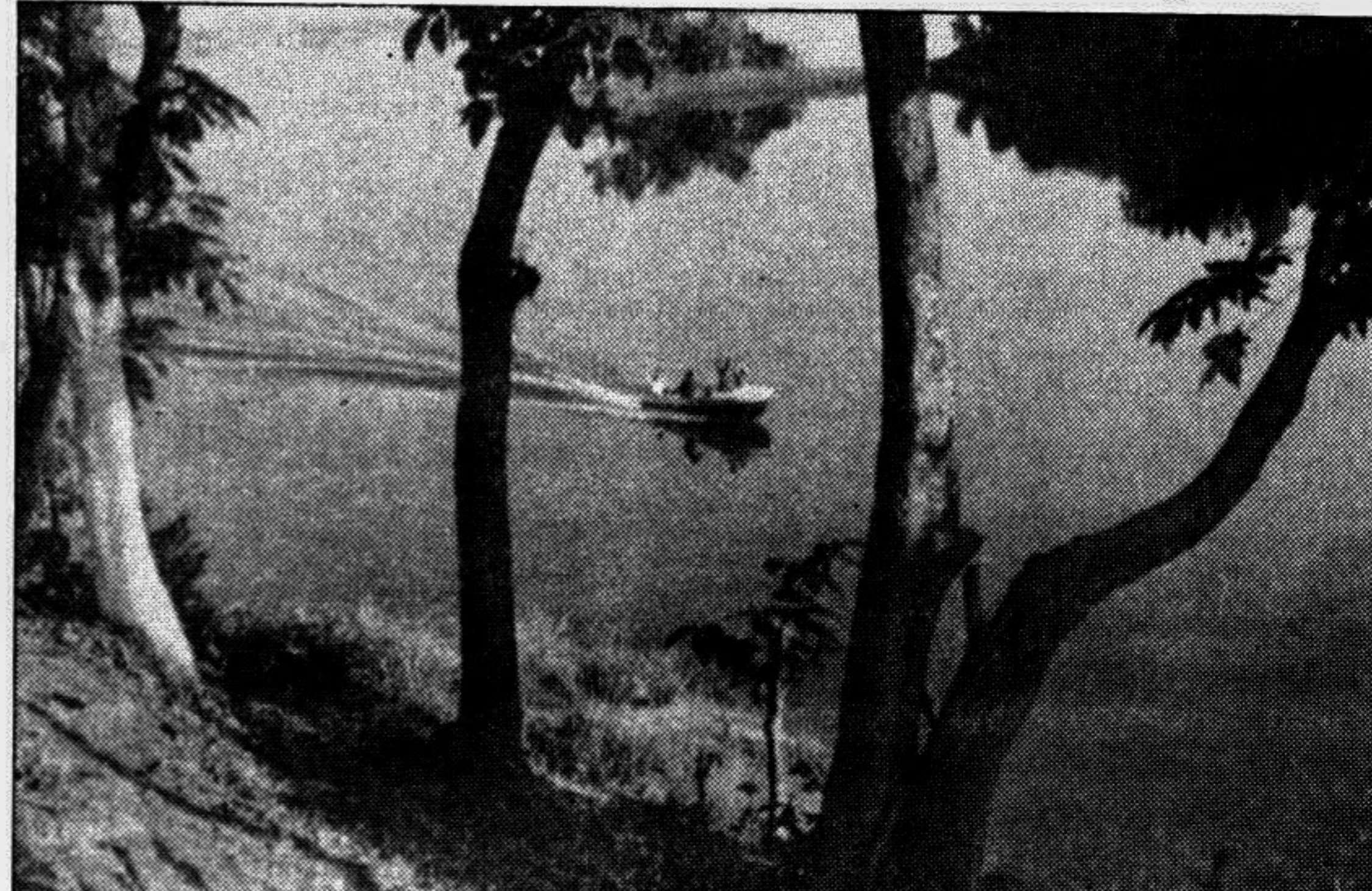
This is discriminatory and touches on the provisions of fundamental rights under article 36 of the constitution which gives every citizen the right to move and the right to acquire, hold, transfer and otherwise dispose of property in any place of the country.

The provision for appointment of the tribal people of CHT as sub-inspectors of police makes them parishad employees or local police and not part of the police force of Bangladesh. Since service rules are required to be uniform according to constitution, similar steps have to be taken in all other districts.

It is obvious that the main concern of the tribals of CHT was to maintain CHT as a tribal territory to protect their own tradition and culture and to stop settlement of further land in the district to outsiders. That is why control of land by the tribals through the Hill Tracts parishad has been the most important of their terms of Agreement. Such demand in their part does not seem to be very unreasonable if we look at it over the last two centuries, but how to deal with the inconsistencies with the constitution, particularly provisions coming under the mischief of fundamental rights.

One answer seems to be to amend the Constitution and declare Chittagong Hill Tracts as special area which will be outside the purview of Fundamental Rights. Peace and amity in CHT is so essential for our national interest, that all sections, all political parties, people belonging to all tribes, race and religion should come to a consensus to amend the constitution and make suitable provision for the protection and development of the tribals as well as the non-tribals of Chittagong Hill Tracts.

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The Kaptai Lake, now also a tourist attraction

special laws and regulations could be enacted for CHT to secure the protection and interests of the tribal people. But the New Constitution of Bangladesh (1972) did not give the status of a "special area" to CHT (which was a special area under Pakistan).

Larma was still awaiting for an understanding with the government of Bangladesh but ultimately crossed over to India after the killing of Sheikh Mujib when Indians were reported to have reached an understanding, giving full support to the Shantibahini including the training of the armed cadre formed in 1973. This started the insurgency movement and armed conflict between the Shantibahini and the police. The Shantibahini came in huge numbers with modern arms and the police force could not cope with them. So the armed forces came into the picture and the war of atrocities started leading to bloodshed, loss of life, and insecurity on both sides.

President Ziaur Rahman hit the last nail in the coffin by

at such colossal loss of life and insecurity could no longer be continued at the cost of such huge resources.

Hence negotiations for a peace accord started by the government with the representatives of the Shantibahini and the PCJSS. President Ershad enacted the law for the establishment of the Local Government Parishad in the Hill district as a means to give some kind of delegation of power and autonomy. The negotiations were continued by the government of Begum Khaleda Zia and ultimately the government of Sheikh Hasina finally made the break-through and signed the agreement by giving greater form of autonomy and powers to the zila parishads and the Hill Tract regional parishad.

brought into being the institution of local government which is to be encouraged by the government, according to the state policy of the constitution. The principles of devolution of authority and the decentralisation of powers will serve as a model for local government in all districts of Bangladesh.

Terms of the Agreement and issues that may need to be reviewed

Lot of things has been achieved by the signing of agreement but certain important matters seem to have been overlooked as mentioned below.

(1) The Agreement provides that no khas land fit for settlement, may be given settlement, bought, sold or transferred without the prior permission of the parishad. This seems to be inconsistent with the constitution and takes away the basic right of the state to regulate the settlement, transfer or otherwise disposing of state property. Article 143 of the Constitution of Bangladesh states that any property located in Bangladesh

Challenging, Politicising and Confusing Poverty

by Monirul I Khan

ONCE it was the concept of development much talked about, now it is poverty. The devastation that took place in the second world war in the west and the intense aspiration to re-build the then recently de-colonised east created a sort of background against which the deliberation on development gained primacy. Thus in the early 1950's one could notice the evoking of several plans and programmes on how to strategise and accelerate development in two different societal situations of the east and west. What set in concretely were manifested, say in the Marshall Plan in the west or the Green Revolution in the east. Some years later somewhat in a sudden manner it came to our notice that poverty crept into a sizable section, for example, of the Asian and African population despite the efforts for development. The Bangladesh ex-

perience also indicates something like that. As a result both local and global concern with poverty's magnitude, causes and strategies to overcome it surfaced. In many developing societies like Bangladesh the meaning of development tantamounts to the elimination of poverty. A recent international seminar at Dhaka on the challenges of poverty gave us a valuable opportunity to review the issues with a fresh outlook.

Politicisation of the Concept

Poverty's value as a political capital is well known. Let us mention about recent Indian experience as reported by the Indian participants. For a period of about one and a half decades covering mid-seventies to early nineties poverty ratio declined in India registering rise in the following period. It was said that this fluctuation owed to cut in expenditure

(which was a political manoeuvre) by the successive regime. With the reduction of governmental developmental expenditure the money which was spent in the activities involving the poor shrank and thus the consequent rise in poverty. This vicissitude was much to do with increasing market orientation of the new (Manmohan's) economic policy. The change of political regime in Pakistan also left impact on the poverty elimination programme as commented by the Pakistani participants. Bureaucratic mismanagement and strategic ambiguities of the Benazir's government affected poverty alleviation programme in Pakistan and Sharif's new government is playing on the previous government's failure.

Poverty's political significance is manifold. The poor are not always burden but are also important vote mine. In order to tap that mine politicians

need to pamper them. Thus at the time of election it has become a custom to make tall commitments to the poor. Although instances are not very few to witness disjunction between what is committed and actually done. It is not only vote mine of the poor that matters, there is also other ramifications. At least two consequences can be identified immediately. Through the implementation of poverty elimination project like food for work programme, there is a sizable draining of resource for the benefit of those controlling the power structure. And the emergence of a highly educated and sophisticated bunch of the so-called 'povertocrats' has been possible because much concern was exuded for poverty. Some critics argue that the money what has gone to the pockets of the highly salaried 'povertocrats' could be better spent for the actual elimination of poverty had the poverty elimination programme been designed in a different manner giving less importance to the overrated war on hunger in a debate which is highly ideologically charged. It would be difficult perhaps to negate altogether the role of the poverty thinkers and practitioners in any type of poverty elimination programme.

Confusing Poverty

The concept of poverty is ridden with different confusions. First it starts with its definition and then its measurement. Should poverty construe the lack of income in a relative sense or inadequate intake of calorie compared to a point set by the experts? One can find the use of both in poverty literature. Or should it go beyond? There is an opinion that confining the meaning of poverty to lack of income or inadequate calorie intake only is not fruitful. They add the dimension of human development to define poverty. Not

having education, security of life or housing should be considered while defining poverty. On the other hand the income or calorie proponents of the poverty concept may like to argue that income is a primary indicator which will also give indication about education or social security. However, it is not always true. Take the case of a food for work labourer. If he can manage work round the year he may be able to cross poverty line upwardly but he may not have amassed that much income required to send his children to the schools. To ensure access of the children of the income poor people to school there should be specialised programme. Pertinent example might be what is now implemented in Bangladesh in the name of 'non-formal primary education'.

It has to be decided first what one would mean by the term 'respectable living'. Should it only mean earning certain amount of income or more than that? One needs to extend the meaning of poverty at least to design programmes geared to development for the elimination of inhuman or unacceptable condition. If we confine to income meaning of poverty then what would happen to improving health or removing social discrimination? For example, a non-Muslim Hindu poor in Bangladesh or a non-Hindu poor in India is exposed to at least two types of problems. One is emanating from the poverty situation and the other as a minority. In different communal riots the section who are at the same time poor and minority are subject to dangers greater in scale since they lack in capacity to take defense like the rich minority. Now in Russia one may have wealth (thus not poor) but may perennially be exposed to the threat of mafia. You may also take the issue of environment or psychological situation. A poor in rural area and a poor in

urban area are exposed to different types of sufferings. A rural poor is not exposed to air pollution or other environmental hazards which an urban poor is.

One may also add the dimension of power structure into it. A poor distant from power structure and a poor close to power structure are not same. In the villages the poor who are attached to union parishad chairman or member is better off than those not being so. Thus many poor become desperate to get close to some powerful mentors which eventually lead to the creation of 'patron-client relationship'. One may finally say in this respect that one cannot dispense the notion of development while defining poverty. Its elimination is related to attain certain goals which are the essential components of the ideology of development. While income or calorie are easily quantifiable but its focus is of course narrow in the definition of poverty. Moreover it is too much economicist.

It is true that there is a close association between one's economic condition and other situations like social status or health but they are not always strongly associated. You need to have health programmes to teach people on hygiene or controlled family. You need to spend a lot also to invent vaccines. Why do we talk of quality of education? Because we want to teach people certain morals and lessons which may not be possible through the existing education strategy. So there are people who are culturally poor. If you give money into the hands of a poor member of the underworld it may shed him off the name poor but he may remain an anti-social element. Thus when one proposes not to confine to the income or calorie dimension of poverty he has in his mind a greater concern. His approach is holistic. If we think this way then we can properly understand why the government of Kerala (India) or Sri Lanka gained so much by laying

emphasis on education and health programmes while fighting against poverty.

Challenges

Poverty experts in Bangladesh opine that poverty has declined in Bangladesh. However, their observation is more subtle than simple. The poor are stratified. Some are moderately poor while some are hard core of it. In the recent years through the implementation of different development and anti-poverty programmes in Bangladesh the moderately poor have been able to improve their condition while the hard core poor remain to continue to suffer in the same manner. One thing was important to consider how the moderately poor could improve their situation. It was their association with the developmental organisation and through it access to credit to undertake income generating activities. In terms of creditworthiness, it is said, the moderately poor are of better strength than the hard core poor. Their proximity to the power structure and access to resource may also be taken into account. This is now believed that the hard core poor are devoid of any such advantages. Moreover, it is informed by one Bangladeshi participant that there is a slight worsening of poverty situation in the recent time although in terms of housing, health or education there is improvement. Therefore, one great challenge lies in lifting the hard core poor out of poverty.

An important ideological challenge against poverty elimination programme emanates in different societies from the global embracing of capitalism as the guiding socio-economic order. The advocates of capitalism propagate that market forces would determine individual access to resources and entitlements. Such outlook tends to ignore any programme that is oriented to providing support to the people not taking part in the market process. Ac-



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by Jim Davis

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