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Perpetrators Roam Scot-Free: The Naniachar Killings & Impunity in Bangladesh

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I. EXECUTIVE SUMMARY AND RECOMMENDATIONS:

The Bangladeshi security apparatus in the Chittagong Hill Tracts (CHTs) has been acting as a law unto itself for the last two and half decades. The security forces have deliberately massacred innocent indigenous *Jumma*¹ peoples, solely on the basis of their ethnic origin. The Governments in Dhaka irrespective of their political ideology or brand have granted blanket impunity to the law enforcement officials for such flagrant human rights abuses. To the knowledge of the Asian Indigenous and Tribal Peoples Network (AITPN), till date not a single security personnel has been prosecuted for human rights abuses in the hill tracts! Impunity has been the single most important factor encouraging human rights abuses and thereby accentuating the conflict in the CHTs.

Five years ago, in the broad daylight of 17 November 1993, more than 40 Jummas were massacred after being hacked to death by the "illegal Bengali settlers"² and shot at by the Bangladesh army at Naniachar under the Rangamati district of CHTs in Bangladesh. According to the eyewitnesses, victims and relatives, it was a "pre-planned and well executed" massacre. Today, the perpetrators of Naniachar massacre roam scot-free creating all pervading fears in the minds of the Jummas as Bangladesh Government shields them from any prosecution.

On 20 November 1993, Bangladesh Government established one man judicial inquiry commission headed by Justice Habibur Rahman to investigate the Naniachar killings. The Inquiry Commission was supposed to submit its report within 30 days.

¹ There are complex sensitivities involved in the problem of finding an appropriate term for the refugees from the Chittagong Hill Tracts of Bangladesh sheltered in the Tripura state of India. The most common label used in the Indian press, "Chakma refugees", ignores the fact that Marma (Mogh) and Tripura peoples constitute 15 and 14 percent of the refugee population respectively.

Calling these peoples "tribals" carries pejorative connotations. The term is used here consistent with anthropological and international usage. It means a social group comprising families, clans or generations united by ties of descent from a common ancestor, a community of customs and traditions, occupying a specific geographic territory, and being independent of, or having little contact with, the dominant national society of the country in which they live.

The peoples fighting for autonomy of the Chittagong Hill Tracts have used the term *Jumma* to identify ten ethnic groups namely Chakma, Marma, Tripura, Khyang, Lushai, Khumi, Chak, Murung, Pankhoo and Bowm, emphasizing the commonality of the hill peoples. The term *Jumma* is derived from *Jum* or "slash and burn" cultivation. International human rights groups have also been using the term *Jumma* to identify the hill peoples of the CHTs. The term has been used interchangeably for analytical and descriptive purposes.

² The illegal plain settlers were brought into in the Chittagong Hill Tracts in clear violation of the Chittagong Hill Tracts 1900 Regulation restricting the entry of outsiders in the hill tracts. Moreover, article 49 of the Fourth Geneva Convention prohibits such population transfer.

A representative of Bangladeshi Permanent Mission in Geneva while exercising the right to reply during the 13th Session of the Working Group on Indigenous Populations held in Geneva from 23-29 July 1995 stated that the Naniachar Inquiry Commission has submitted its report on 26 May 1994. The Government had accepted the recommendations and started judicial and departmental proceedings against the accused and registered four cases. But, more than three and half years after submission of the report by Justice Habibur Rahman, Bangladesh Government maintains a veil of secrecy. The report of Inquiry Commission has not been made public yet.

The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions in its report to the 51st Session of the Commission on Human Rights (E/CN.4/1995/61) have stated that he was not provided with full information into the killings at Naniachar by the Bangladesh Government. The Special Rapporteur urged the Bangladesh Government to "fulfill its obligation under international law to clarify the circumstances of each alleged violation of the right to life with a view to identifying those responsible and bringing them to justice, and to take appropriate measures to prevent similar acts from happening in future".

Accountability is the first step towards a lasting resolution of the CHTs problems. Unfortunately, the CHTs Peace Accord signed by the Jana Samhati Samiti³ (JSS) and the Government of Bangladesh on 2 December 1997 failed to make any reference to human rights violations in the CHTs. The Bangladesh Government failed to send a clear message that human rights violations like the Naniachar killings would not be tolerated and the guilty would be held accountable.

In order to address the cycle of impunity, AITPN makes the following recommendations to the Government of Bangladesh in the light of the Naniachar massacre:

1. Make the report of the Naniachar Inquiry Commission public and open for scrutiny;
2. Prosecute the "culprits" identified by the Inquiry Commission by disclosing their names, ranks and company/brigade. Prosecution of the law enforcement officials be held under normal law of the land and departmental inquiries be dropped henceforth;
3. Invite the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to visit Bangladesh; and
4. Ratify international human rights instruments including the International Covenant on Civil and Political Rights and its two optional protocols, International Covenant on Economic, Social and Cultural Rights, the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment and the

³. Jana Samhati Samiti is one of the political organisations of the Jumma peoples and mother organisation of the Shanti Bahinis.

International Labour Organization Convention No 169 on Indigenous and Tribal Peoples.

As a part of universal obligation to respect human rights and fundamental freedoms, Governments adopt and are bound by international human rights and humanitarian law standards. Governments also bear a responsibility to ensure that these rights are respected at all times. However, some Governments such as Government of Bangladesh continuously flout their international obligation.

AITPN appeals to the United Nations High Commissioner for Human Rights, UN Special Rapporteur on Torture, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, aid donor countries to Bangladesh, Governments concerned on the Chittagong Hill Tracts situation and to the human rights community both within Bangladesh and without, to use their good offices to urge Bangladesh Government to implement the above recommendations to uphold the respect for human rights of the Jumma peoples.

II. BACKGROUND OF THE NANIACHAR MASSACRE:

On 17 November 1993, Hill Students' Council (HSC) brought out a peaceful procession to protest against the army harassment at the Naniachar area. The Bangladesh army has been using a passenger shelter as a check post to harass the Jummas. Many of the Jummas were tortured and women were humiliated at this check post by the army. The Hill Students Council had earlier held a demonstration on 2 November 1993 demanding the withdrawal of the check post. The HSC also approached the District Commissioner of Rangamati. As the authorities failed to withdraw the check post, the Hill Students Council had called for another demonstration on 17 November 1993.

Naniachar Bazaar is surrounded by the lake of the Kaptai Hydro-Electric Project from three sides except the north eastern side. Around 12 noon on 17 November 1993, the members of the Hill Students Council started their demonstration.

Around 4 pm, illegal Bengali settlers under the banner of the *Bengali Sammannay Parishad*⁴ started another rally shouting anti-Jumma slogans. They were carrying lethal weapons like arrows, big knives (*daos*), iron bars, sticks etc. As they were approaching towards the rally of the Hill Students' Council, the police did make no attempt to disarm them or stop to prevent any untoward incident. Interestingly, the Officer in Charge of Naniachar Thana informed the District Commissioner about the prevailing situation around 4 pm.

Around 4.15 pm the illegal Muslim settlers attacked the unarmed Jumma students with their lethal weapons. Since it was a market day, there were a few hundred Jummas in the market. As the massacre begun, the Jummas had no path to flee as Naniachar is surrounded by lake from three sides. The Jummas who attempted to flee by swimming were caught by the army

4. Bengali Sammannay Parishad is a right wing organisation of the illegal settlers.

speed boats and killed in a despicable manner by drowning their heads under water. When the Jummas took the North Eastern side, the only land road to flee, the army had already positioned themselves and fired indiscriminately. The Deputy Commissioner when visited the spot himself witnessed the chasing of the Jummas by the armed illegal settlers late in the evening of 17 November 1993.

Asian Indigenous and Tribal Peoples Network gathered a list of 39 Jummas killed at Naniachar. Many disappeared and more than 100 Jummas were injured. Only one illegal settler died in the incident. The pertinent question is if it was a clash between the two groups, why did not the illegal settlers suffer many if not equal number of casualties. It was obviously a premeditated massacre.

III. THE LIST OF THE JUMMAS KILLED AT NANIACHAR:

The following list of the Jummas killed at Naniachar have been collected on the spot by the Hill Students' Council and an independent investigator from Dhaka after house to house interviews with witnesses, victims and relatives.

1. Mr. Sappya Chakma, 22 years, S/o- Mr. Ranga Lal Chakma, Naniachar Bazaar village, No 60 Chaikuri Bill Mouza, Naniachar Police Station.
2. Mr. Channo Moni Chakma, 42 years, S/o- Mr. Aditya Mohan Chakma, Naniachar Bazaar village, No 60 Chaikuri Bill Mouza, Naniachar Police Station.
3. Mrs Mangala Chakma, 70 years old, W/o- Mr. Purnakanti Chakma, Naniachar Bazaar village, No 60 Chaikuri Bill Mouza, Naniachar Police Station.
4. Mr. Ramani Kishta Chakma, 65 years old, S/o- Mr. Punya Charan Chakma, Naniachar Bazaar village, No 61 Chaikuri Bill Mouza, Naniachar Police Station.
5. Mr. Buttuya Ram Chakma, 30 years, S/o- Mr. Danyunya Ram Chakma, Naniachar Bazaar village, No 61 Chaikuri Bill Mouza, Naniachar Police Station.
6. Mr. Kaladan Chakma, 40 years, S/o- Mr. Sutradhar Chakma, Naniachar Bazaar village, No 61 Chaikuri Bill Mouza, Naniachar Police Station.
7. Mr. Fani Bhusan Chakma, 32 years, S/o- Mr. Anadi Ranjan Karbari, Firingi Para village, No 62 Sabekshyang Mouza, Naniachar Police Station.
8. Mr. Shobapurna Chakma, 20 years, S/o- Mr. Mangal Chakma, Rangi Para village, No 65 Gabhachari Mouza, Naniachar Police Station.
9. Mr. Bana Bihari Chakma, 60 years, S/o- Mr. Samachandra Chakma, Barpul Para, No 62 Sabekshyang Mouza, Naniachar Police Station.
10. Mr. Arjun Mani Chakma, 35 years, Mr. Kalindra Chakma, Rishi Bill Area, No 75 Betchari Mouza, Naniachar Police Station.
11. Mr. Nuaram alias Kandari Bap Chakma, 50 years, Mahajan para village, No 62 Sabekshyang Mouza, Naniachar Police Station.
12. Mr. Raganya Chakma, 40 years, S/o- Mr. Bashanta Kumar Chakma, Talukdar para village, No 75 Betchari Mouza, Naniachar Police Station.
13. Mr. Dharendra Chakma, 65 years, S/o- Mr. Nanda Kumar Chakma, Perachara village, No 75 Betchari Mouza, Naniachar Police Station.

14. Mr. Samiran Chakma, 38 years old, S/o- Mr. Ashok Kumar Chakma, of Kalindipur at Rangamati town, Rangamati district.
15. Mr. Jandhuram Chakma, 42 years old, S/o- Mr. Surjya Kanta Chakma, Chilyatali village, No 75 Betchari Mouza, Naniachar Police Station.
16. Mr. Dhakka Cheda Chakma, 50 years, S/o- Mr. Chandra Kanta Chakma, Dainey Sabekshyang village, No 64 Jadugachara Mouza, Naniachar village.
17. Master Kalabija Chakma (alias Master Shanti Kumar Chakma) 15 years, S/o- Mr. Raj Kumar Chakma, Marachengi Mukh, Naniachar Police Station.
18. Master Marat Sabuya Chakma, 16 years, S/o-Bira Sen Chakma, Bakhcharimukh village, Naniachar Police Station.
19. Mr. Mongsai Prue Roaza, 26 years, S/o- Mr. Aggai Roaza Chakma, Pulipara village, No 73 Nanakrum Mouza, Naniachar Police Station.
20. Mr. Mongpai Roaza, 25 years, S/o- Mr. Athui Aung Roaza, No 73 Nanakrum Mouza, Naniachar Police Station.
21. Mr. Jagat Jyoti Chakma, 25 years, Barapulpara village, Naniachar Police Station.
22. Mr. Ushai Marma, 28 years, S/o-Mr Aprusi Marma, Kamalchari village under Khagrachari police station, Khagrachari district.
23. Ms Suji Bala Chakma, address was not known.
24. Mr Mahakali Chakma, address was not known.
25. Mr Rajantalal Chakma, address was not known.
26. Mr Satya Priya Chakma, address was not known.
27. Mr Ormani Khisa, address was not known.
28. Mr Ujjal Chakma, address was not known.
29. Miss Nipa Chakma, student of Bachelor of Arts, address not known.
30. Mr Mojagali Chakma, 75 yrs, S/o- Mr Punna Kanti Chakma, Naniachar.
31. Mr Shandhailya Chakma, S/o- Chuchangmua, Harinath chara village.
32. Mr Bharat Chandra Chakma, 60 years, S/o- Mr Kalabujjya, Morachengimukh, Naniachar.
33. Mr Shuraji Mohan, 30 years, S/o- Mr Hemoranjan Chakma, Betchari Talukdar para.
34. Mr Manoranjan Chakma, 50 years, S/o- Mr Surendralal Chakma.
35. Mr Milon Chakma, 13 years.
36. Mr Prem Kumar, 16 years.

IV. THE LIST OF DISAPPEARANCES AS PROVIDED BY THE RELATIVES:

1. Ms Nunu Chakma, 15 years, D/o- Mr Rangalal Chakma, Naniachar
2. Mr Kalaiya Chakma, 30 years, S/o- Mr Chandra Bilash Chakma, Naniachar
3. Mr Bilash Karbari, 40 years, S/o- Mr Chapru Chakma, Boghachari
4. Rev Bodhipriyo Bhikku, 35 years

(AITPN has a list of 141 Jummas injured during the massacre. The list of the injured is available with the AITPN.)

V. THE CULPRITS OF THE NANIACHAR KILLINGS:

According to the eyewitnesses, victims of the Naniachar massacre, and the local people, the following persons have pre-planned the massacre:

1. Lt Col Abu Naim, 40 East Bengal Rifles, Naniachar Zone
2. Major Mustafizz
3. Nayek Nasir
4. Nayek Jahangir
5. Lance Nayek Akram
6. Mr Ahmed Mia, illegal Bengali settler and member of No 1 Ward, Naniachar Union Parishad
7. Mr Abdul Latif, illegal Bengali settler, chairman of Burighat Union Parishad
8. Mr Ayub Hussain, illegal Bengali settler, Ex-chairman Burighat Union Parishad
9. Mr Amzad Hussain, Officer in Charge, Naniachar Thana
10. Mr Khaled, Sub-Inspector, Naniachar Police Station
11. Mr Fazlur, Assistant Sub-Inspector, Naniachar Police Station
12. Mr Habibur Rahman, Thana Nirbahi Officer, Naniachar

A cursory scrutiny reveals that unless the above-mentioned officials both from civil administration and military administration and leaders of the illegal settlers were involved in the massacre of the Jummas, Naniachar massacre would have never occurred. Activists of the Hill Students Council who participated in the demonstration of 17 November 1993 and managed to escape, stated that Mr Amzad Hussain, Officer in charge of Naniachar Thana was constantly informing the District Commission about the developments at Naniachar and was present at the demonstration with large number of police. Lt Col Abu Naim of 40 East Bengal Rifles, Naniachar Zone was also in touch with Major General Azizur Rahman, General Officer in Commanding of the Chittagong Division through wireless. The army was patrolling in the Naniachar market. In fact, Deputy Commissioner of Rangamati District and Regional Army Commander of Rangamati District visited Naniachar when the massacre was still continuing sporadically.

The victims who were injured and eyewitnesses of the massacre testified before the human rights groups based in Dhaka about the involvement of these individuals. If testimonies are taken consistent with the United Nations Principles on the Independence of Judiciary and there is guarantee for protection of the witnesses after investigation, many such individual culprits can easily be identified.

VI. THE LIST OF PERPETRATORS:

1. Nayek Nasir, 40 East Bengal Rifles, Naniachar Zone
2. Nayek Zahagir, 40 East Bengal Rifles, Naniachar Zone.
3. Lance Nayek Akram, 40 East Bengal Rifles, Naniachar Zone.

4. Mr Ahmed Miah, illegal Bengali settler and member of No 1 Ward, Naniachar Union Parishad.
5. Mr Abdul Latif, illegal Bengali settler, chairman of Burighat Union Parishad.
6. Mr Shahajahan, Ex-Chairman, illegal Bengali settler, Chairman of Burighat Union Parishad.
7. Mr Abdul Latif, Ex-Chairman, illegal Bengali settler, chairman of Burighat Union Parishad.
8. Mr Babul, S/o- Bhingsir Ali, Burighat Union Parishad.
9. Mr Sirajul Islam, leader of the illegal settlers, Bagachari
10. Mr Jamaluddin.
11. Mr Ansar Ali, leader of the Bagachari camp of the illegal settlers.
12. Mr Barek, Platoon commander, Village Defence Party (VDP)
13. Mr Joynul, Platoon commander, Village Defence Party (VDP)
14. Mr Abdul Malek, Member of VDP
15. Mr Jalil, VDP
16. Mr Majibar, VDP
17. Mr Malek, VDP
18. Mr Kader Halder, Platoon commander, Village Defence Party (VDP)
19. Mr Kamal, VDP
20. Mr Shahajan, VDP
21. Mr Khalek, VDP
22. Mr Maju, VDP
23. Mr Rejaul, VDP
24. Mr Jahirul Islam, VDP
25. Mr Najarul Islam, VDP
26. Mr Ibrahim Fakir, shopkeeper, Bagachari Bazar
27. Mr Enayat
28. Mr Barek Karaji, Bagachari
29. Mr Safique
30. Mr Babul, S/o- Mr Shingsir Ali
31. Mr Musharaf, S/o- Mr Shingsir Ali
32. Mr Alamgir, S/o- Mr Shingsir Ali
33. Mr Ali Ahmed, S/o- Pranab Ali
34. Mr Maina Ali, Baghachari
35. Mr Gani Khalifa, Baghachari
36. Mr Selim Munsu, Baghachari
37. Mr Narul Islam, Baghachari
38. Mr Munsu Mollik, Dak Banglow, Naniachar
39. Mr Faruk, Dak Banglow, Naniachar
40. Mr Kala Bacha, S/o Kalo Majhi, Dak Banglow, Naniachar
41. Mr Unus Soudagar, shopkeeper, Naniachar Bazar,
42. Mr Badi Alam, shopkeeper, Naniachar Bazar,
43. Mr Naru, shopkeeper, Naniachar Bazar,
44. Mr Madan Nath, shopkeeper, Naniachar Bazar.

All these alleged perpetrators today roam a large at Naniachar area. Their presence creates all pervading fear in the minds of the innocent Jumma people. A cursory analysis reflects that the Village Defence Party⁵ personnel were involved in the massacre. Many of those involved hold important post in the local government as well as in the illegal settlers community.

VII. NANIACHAR MASSACRE AT THE UNITED NATIONS:

The issue of the Naniachar massacre was raised at the 12 Session of the Working Group on Indigenous Populations in July 1994 and at the 46th Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1994 by various Non-Governmental Organizations (NGOs) and Jumma delegates.

During the 51st Session of the Commission on Human Rights, the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions deplored the fact that Bangladesh has refused to extend an invitation to visit Bangladesh. The Special Rapporteur was not also provided with full information leading to the violation of the right to life at Naniachar killing. The European Union in its statement under Agenda Item 12 has called upon Bangladesh to allow the Special Rapporteur visit Bangladesh.

A representative of the Jumma Peoples Network raised the issue of Naniachar massacre during the 13th Session of the United Nations Working Group on Indigenous Populations held on 23-29 July 1995. In its exercise of the right to reply, the Bangladeshi delegation has said that the Inquiry Commission on the Naniachar Massacre has submitted its report on 26 May 1994 and Government has accepted the recommendations. The Bangladeshi delegation further stated that Government has initiated departmental inquiry and four cases have been registered. Moreover, a detailed reply has been sent for consideration of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The Jumma Peoples Network did formally approach the Permanent Mission of Bangladesh in Geneva on 2 August 1995 to seek a copy of the report. An official of the Permanent Mission informed the Jumma Peoples Network on 4 August 1995 that it couldn't provide a copy of the report as it is not a public document.

The issue was again raised during the 47th Session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Jumma Peoples Network requested the Sub-Commission to make the report submitted by Bangladesh public. The Bangladeshi

⁵. Village Defence Party (VDP) is civilian defence force of the illegal Bengali settlers. They are provided with 303 Rifles by the Government without any formal military training or knowledge on the use of firearms. The VDP personnel were responsible for massacre at Kalampati 25 March, 1980; Matiranga on 25 June, 1981; at Bhusan Chara on 31 May, 1984; Panchari-Khagrachari on 1 May, 1986; Matiranga 18 May, 1986; Merung 29 December, 1986; Baghai Chari 8 August, 1988; at Longudu on 4 May, 1989 and at Logang on 10 April 1992.

delegation in its reply has informed that the report was submitted to the Sub-Commission under the 1503 Confidential Procedure and to call upon the Sub-Commission to make the report public would be to ask the Sub-Commission to subvert its own rules.

The fundamental issue, however, is that the report was not made public in Bangladesh despite the submission of the Naniachar's Inquiry Commission's report on 26 May 1994. The people of Bangladesh have the right to be informed about the findings of any Inquiry Commission including the Naniachar one. The Government must disclose the names, ranks and company/brigade of the security personnel responsible for the Naniachar Massacre to establish transparency on human rights abuses.

Accountability is not revenge. Accountability is not retribution. Accountability is the assertion of the civil society that barbaric methods of law enforcement will be dealt with the full force of the law. It is to strengthen the democratic institutions and uphold the law of the land and principles of democratic ideals.

The alleged order of departmental inquiry for the massacre of 39 innocent Jummas was not an attempt to establish accountability process but a routine practice to shield the culprits who should be tried under normal law of the land.

VIII. THE JUDICIAL INQUIRY COMMISSIONS IN THE CHTs:

Amnesty International reported in 1986 that the army officer allegedly responsible for ordering the villagers to assemble and the army to open fire at "Kalampati"⁶ was still serving in the Chittagong Hill Tracts.⁷ President Zia-ur-Rahman promised to establish an enquiry commission on Kalampati massacre. It never took off.

The government reportedly set up an investigating committee after Longudu massacre on 4 May 1989. However, nothing was known about the report of the investigating committee and prosecution of the culprits responsible for the death of nearly 40 Jumma people.

The Government for the first time conducted a judicial inquiry in the CHTs into the Logang massacre of 10 April 1992. The order was an apparent shift from the episodic stand of whitewashing the crimes of the security forces by the authorities in Dhaka. One expected it to be one step forward towards establishing accountability process by the democratic Government of Begum Khaleda Zia. However, the mode of inquiry violated *the United Nations Principles on the Independence of Judiciary*. Testimonies from the victims were

⁶. On 25 March 1980, the army and settlers massacred innocent Jumma peoples at Kalampati in retaliation against Shanti Bahini ambush of a detachment of soldiers on 10 March 1980. Mr Upendralal Chakma, Member of Parliament (MP) in a press conference on 1 April 1980 was unable to determine the precise number of death but "certainly exceeds 200" he said. A team of opposition MPs consisting of Mr Shah Jahan Siraj, Mr Rashed Khan Menon and Mr Upendralal Chakma found that it has been perpetrated systematically.

⁷. Amnesty International: Bangladesh, Unlawful Killings and Torture in the Chittagong Hill Tracts, ASA/13/21/86.

taken in front of the army personnel at Khagrachari in CHTs. This made impossible to testify about the massacre in which more than 200 innocent Jummas were killed. No one was prosecuted!

Moreover, the commission exonerated the security forces responsible for Logang massacre. The Commission held some Ansars and VDPs responsible for firing indiscriminately which led to the death of 13 Jummas. *But the Commission failed to prosecute the Ansars and VDPs who fired indiscriminately killing 13 Jummas as it claimed.* The Commission also failed to recommend effective measures to stop reoccurrence of such incidents.

The Commission rather emphasized on the exogenous issues to divert attention from the real issue of identifying the perpetrators of the massacre. Instead Justice Khan said "I want to put on record the presence of Army unit in the hill tracts would be necessary as long as the insurgency of Shanti Bahini continues".

In individual cases of extrajudicial execution, sufficient evidence sometimes exists to establish extrajudicial killings. However, relatives of the victims are not willing to file even a First Information Report (FIR) in the police station due to intimidation.

IX. THE ISSUE OF IMPUNITY:

By failing to ensure that the perpetrators of extrajudicial killings and other human rights abuses in the CHTs are brought to justice, the Bangladesh government effectively condones the practice that led to its perpetuation, and the perpetrators to believe that they are beyond the reach of the law.

To the knowledge of Asian Indigenous and Tribal Peoples Network, no one has been ever convicted for human rights abuses in the CHTs. In fact, prosecution of the law enforcement officials cannot take place without the permission of the Government. Section 132 of Bangladesh Code of Criminal Procedure (CrPC) says that "no prosecution against any person for any act purporting to be under this chapter (Chapter X: Unlawful Assembly) shall be instituted in any court, except with the sanction of the government"; and no magistrate, civil or military officer or any "inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey, shall be deemed to have thereby committed an offence." Therefore, criminal prosecution of the law enforcement officials has been hampered by the lack of political will. The VDP personnel also given protection under the Section 132 of Bangladesh CrPC.

For the last two decades, the denial of autonomy to the indigenous Jumma peoples of the Chittagong Hill Tracts within the framework of Bangladesh constitution has led to armed conflict and serious human rights violations. It has widely been reported in the press and documented by international human rights organizations. A series of massacres of the Jumma peoples by the Bangladeshi security forces and illegal plain settlers led to the influx of 60,000 Jumma refugees to Tripura State of India in 1986. There has been no accountability for such human rights violations. Not a single official has been prosecuted till

date for any kind of human rights abuses. And over 50,000 Jummas continue to live in Tripura State of India as refugees.

Democracy in Bangladesh can not be fully realized when 10 per cent (CHTs) of the total land area is under military administration and the ethnic minorities of the CHTs are continuously subjected to serious form of human rights violations without any accountability process. If the treatment of the under-privileged and ethnic minorities is one of the principle yardsticks of a functioning democracy, Bangladesh abysmally fails on this account. Presently, the issue in Bangladesh with respect to the minorities is not to provide special protection but to prevent the minorities especially the Jummas being "**SPECIFIC TARGETS**" of the law enforcement officials. There seems to be no concern from all the political parties irrespective of their ideology or brand.

AITPN believes that Bangladesh Government must establish accountability process as a first step towards resolution of the Chittagong Hill Tracts crisis. AITPN therefore calls upon Bangladesh Government to publish the report of the Naniachar killings without doctoring the tone, tenor, nuances and contents of the report.

APPENDIX I: The Chittagong Hill Tracts at a glance:

The Chittagong Hill Tracts (CHTs), a picturesque and mountainous area in south east Bangladesh is landlocked between North Eastern India and the Arakan Hills of Burma. Covering an area of 5,138 square miles or 10 percent of the total land area of Bangladesh, it consists of several valleys running in a north-west to south-easterly direction. The rugged horseshoe of mountains surrounding these valleys plays host to an extraordinary variety of different ethnic sub-groups and cultures, namely the Chakma, Marma, Tripura, Khyang, Lushai, Khumi, Chak, Murung, Pankhoo and Bowm. They are collectively known as Jumma for their *Jum* or shifting cultivation. Among these indigenous peoples, the Chakma, Marma, Chak, Murungs and Khumis profess Buddhism; the Tripura believe in Hinduism; and the Lushais, the Bowms, the Pankhoos and the Khyangs practice Christianity.

The Moghuls invaded Chittagong in 1666. In an old Persian document (Committee of Revenue 1784), it was mentioned as *Joom Bungoo*, which probably meant "the portion of Bengal where shifting cultivation was prevalent". The East India Company brought the Chittagong Hill Tracts under their control in 1787 and it was made a tributary state. In 1860, CHTs was brought under direct administrative control of the British India. The British promulgated the Chittagong Hill Tracts Frontier Police Regulation in 1881 and the Chittagong Hill Tracts 1900 Regulation. Under the Government of India Act 1921, the CHTs were declared a "Backward Tracts". Under the 1935 Government of India Act, the CHTs were made an "Excluded Area".

The roots of the CHTs crisis lies with the fact that the hill peoples of the CHTs have not been provided the opportunity to express their opinion through a referendum or a similar exercise whether to be a part of India or Pakistan, or remain *status quo* of being "Excluded" both from India and Pakistan. New Delhi and Karachi arbitrarily decided about the fate of the Chittagong Hill Tracts without any consent of the hill peoples.

The Jummas were 98.5% of the total population and non-muslim. Jumma political leaders rightly sought confederation with India. Since the outgoing colonial masters had not decided about the CHTs at the time of declaration of independence of India and Pakistan, the CHTs was declared a part of Pakistan only on 17 August 1947. The CHTs was exchanged with Pakistan for Zira and Ferozpur district of Indian State of Punjab.

Pakistan accused the Jummas of being "Pro-Indians". The Chittagong Hill Tracts Frontier Police Regulation Act was repealed in 1948. Then, Pakistan Government constructed Kaptai Hydro Electric Project with the help of the United States Agency for International Development (USAID). The dam submerged 40% of the total cultivable land area and displaced 100,000 Jummas. Little compensation was paid. The Chakma problem in Indian State of Arunachal Pradesh is a consequence of this hydel project.

In 1972, after Bangladesh independence the Jummas leaders sought legal-constitutional status for the CHTs. Prime Minister, Sheikh Mujibur Rahman declined to oblige, stating that the Jummas were Bengalees. This has only created fears amongst the Jummas. The Jummas were still demanding the separate status through constitutional means.

However, the assassination of Sheikh Mujibur Rahman on 15 August 1975 changed the scenario. Martial law was declared in the country and the normal system of government broke down. Political activities were restricted under Political Parties Regulations Ordinance 1976. Thousands of political activists belonging to the Awami League (and later BAKSAL), Jatiyo Samajtantrik Dal (National Socialist Party), Biplobi Gana Parishad (People's Revolutionary Army), Muslim Bangla Movement, National Awami Party (Muzaffar Group), Democratic League and others were put behind bars.⁸ Many political leaders fled the country and took asylum.

The Jummas also had no space to press the demand for autonomy through constitutional means. The Jana Samhati Samiti, the political party of the Jummas, having no other option went underground in 1976. It was the beginning of the decade long armed struggle in the CHTs.

Hundreds of thousands of illegal Bengali muslim were moved into the Chittagong Hill Tracts in clear infringement of the CHTs 1900 Regulation⁹ since 1947. According to census figures, in 1941 the muslim population was 2.94 per cent of the total population of the CHTs and it has risen to 6.29 in 1951, 11.77 in 1961, 22.83 in 1974 and 35.18 in 1981. The Bengali muslim population in the CHTs formed 45.20 per cent by November 1983.¹⁰

⁸. Suhas Chakma; "Chakmas won't go back", The Patriot, New Delhi, 19 May 1993.

⁹. The Chittagong Hill Tracts Manual of 1900 AD was kept in tact till July 1989 when President H M Ershad introduced Hill District Council Bill. Though legislation was introduced to repeal the CHT 1900 Regulation, it is yet to come in force.

¹⁰ Source; Government Census, 1991

Around half a million peoples were infiltrated under "Population Transfer Policy" of the military government in the late 1970s and early 1980s. The illegal settlers were allotted five acres of hill land or four acres of mixed land or 2.5 acres of wet rice land as incentives. They were also provided free transport, food and protection.

These illegal settlers were brought into the CHTs to assist the army in counter-insurgency operation. Besides police and other paramilitary forces, more than 35,000 regular army are presently stationed in the hill tracts. According to one estimate, there is one army for every 10 Jummas in the CHTs.

"Hundreds of Jummas if not thousands" were killed in pre-planned massacre by the illegal settlers and the security forces. Since 1971, Bangladesh security forces have perpetrated over a dozen massacres.

Thousands of Jummas fled their hearts and homes in 1979, 1981 and 1984 and sought refuge in India to escape from massacre. After bilateral discussions, the Government of India forcibly repatriated them. No international agencies were allowed to monitor the repatriation process.

More than 50,000 Jumma refugees presently live in the Indian State of Tripura. No national or international NGO have been allowed to operate in the refugee camps. When the repatriation of the Jumma refugees took place in 1994, United Nations High Commissioner for Refugees was refused permission to check the voluntary repatriation of individual returnee refugees.

Bangladesh Government and the Jana Samhati Samiti had several rounds of discussions in an attempt to solve the crisis. In 1985, the military officers and the JSS held seven rounds of discussion without any success. After restoration of democracy in 1990, Bangladesh Government and the JSS have started their negotiation in November 1992. Three years later, dialogue is on the verge of collapse although the cease-fire agreement has been extended till 31 December 1995.

The Jummas are demanding autonomy within the framework of Bangladesh constitution. And the Jummas enjoyed most of these demands since 1881. The Jummas had separate police force under the CHTs Frontier Police Regulation III of 1881. The entry of the outsiders was prohibited under the CHTs 1900 Regulation.

The primary issue in Bangladesh with respect to the Jummas is not to provide special protection but to prevent the Jummas being "Specific Targets" of the law enforcement officials. There seems to be no concerns from all the political parties irrespective of their ideology or brand to allow the Jummas live with their distinct identity.