



Addressing the economic, social and cultural root causes of torture

OMCT ACTION FILE: BGD 290808.ESCR

**BANGLADESH: ARSON ATTACK ON INDIGENOUS JUMMA COMMUNITY
IN SAJEK UNION, THE CHITTAGONG HILL TRACTS**

Bengali settlers, with military support, torch houses of indigenous community

The International Secretariat of the World Organisation Against Torture (OMCT) has received reliable information concerning ongoing violence against the indigenous Jumma community in the Chittagong Hill Tracts (CHT), culminating in an arson attack on 20 April 2008.

According to the information received, Bengali settlers set fire to homes of the indigenous community in at least 7 villages, after they faced opposition from the villagers to their building of houses near or adjacent to the indigenous villagers' homes. The attack took place at night and resulted in at least 76 houses being completely destroyed, as well as putting at risk the lives of the villagers. Allegedly, the Bengali settlers attacked the villages either at the instigation of the Bangladesh military forces or at least with their acquiescence. The affected indigenous community were not offered adequate compensation or alternative housing and many continue to live in the open air, without food. Further attacks took place on 18 June 2008. Additionally the military has continued to harass and intimidate the community and has brought false charges against some community members.

OMCT recalls the statement made by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities that, "ultimate responsibility for preventing evictions rests with Governments". Furthermore, forced evictions are frequently directed at the most marginalised sectors of society, involve violence and ill-treatment, and result in physical and psychological injury to those affected.

To prevent further acts of violence and other human rights violations against marginalised, indigenous communities, OMCT calls on the *Government of Bangladesh* to establish an independent commission to conduct an inquiry into the arson attack on 20 April 2008 and into the harassment, intimidation and other forms of violence perpetrated by Bengali settlers and army personnel, and to ensure that all those responsible for human rights violations are brought to trial and that the victims of these violations are adequately compensated and rehabilitated. OMCT further calls on the Government to take immediate steps to implement fully the CHT Peace Accord of 1997, to release those detained on unsubstantiated charges, and to cease all Bengali settlements in Sajek Union and the CHT.

The situation

The Chittagong Hill Tracts (CHT), situated in the South-East of Bangladesh have been home to a number of indigenous groups for hundreds of years. However, over the last 25 years or so, successive governments have encouraged the migration of a large number of non-tribal Bengali people to the CHT. As a result, land disputes together with the threat to the indigenous communities' customs and traditions has led to violence and armed conflict. A Peace Accord signed in 1997 between the Government of Bangladesh and the Parbatya Chattagram Jana Samhati Samiti (PCJSS), whilst ending the armed conflict, has not put an end to the human rights violations against the indigenous communities. The Peace Accord provides for the establishment of a Land Commission to resolve the CHT land disputes. However, more than ten years have passed since the Peace Accord was signed and no single land dispute has been resolved. As a result, conflicts relating to land disputes between the indigenous communities and Bengali settlers occur frequently in the CHT. Further, the Government has failed to implement some of the other key provisions of the Peace Accord including the rehabilitation of all returned refugees and internally displaced families, return of land taken away from the indigenous people during the conflict, withdrawal of non-permanent army camps from the CHT and transfer of some powers to the CHT Regional Council. In effect, the CHT remains a highly militarised area, with the military dominating the administration of the CHT, severely restricting the movement of civilians through excessive security and search operations and harassing the local indigenous communities.

The indigenous communities continue to be marginalised in economic, social and political terms. Land dispossession remains one of the main causes of marginalisation. Land, including forests and traditional farmlands, inhabited by the indigenous people in the CHT continues to be confiscated without the free, prior and informed consent of the affected indigenous communities. Further, the indigenous communities continue to be the targets of attacks by Bengali settlers, reportedly with the help of military forces. The Government has failed to prevent these attacks or bring the perpetrators of such attacks to justice.

The situation in the CHT has deteriorated since the imposition of the State of Emergency in Bangladesh on 11 January 2007. The settlement of non-tribal Bengalis in the CHT has considerably increased, with the direct involvement of the Bangladesh armed forces. Bengali settlers have been erecting houses near or adjacent to the indigenous villagers' houses which has resulted in rising tension in the area. This tension culminated in an attack on the villages of the Jumma people in the Baghaihat area of Sajek Union, under Baghichati sub-district in Rangamati district in the CHT by Bengali settlers on 20 April 2008 at around 9.30 pm. Sajek Union mainly consists of reserved forest land. Any settlement in this area is considered "illegal", but indigenous families have been living in the area for generations in accordance with their customary norms and without any official title deeds.

The attack on the villages of Sajek Union followed a well-established pattern: non-tribal Bengali settlers attacking the indigenous people apparently at the instigation of the army or at least with the acquiescence of army personnel.

The events of 20 April 2008 were triggered when indigenous villagers opposed the construction of houses by Bengali settlers. In retaliation, the Bengali settlers, equipped with sharp weapons, attacked the indigenous villages and looted and then set fire to the villagers' houses.

The attack was reportedly led by Selim Bahari and Golam Molla, respectively presidents of the Baghaichari and Baghaihat branches of the Equal Rights Movement, a nationalist and fanatic organisation of Bengali settlers. Further, the arson attack allegedly took place with the direct support of Bangladeshi military forces from the Baghaihat army zone of 33 East Bengali Regiment (2) of Sajek Union, led by commanding officer Lt. Col. Sajid Imtiaz, Captain Zabaedur Rahman and RP Habilder Harun. When the military forces reached the villages, they failed to prevent Bengali settlers from setting fire to the houses owned by the Jumma indigenous villagers. Indeed, it is reported that Captain Zabaedur Rahman and RP Habilder Harun actively aided the Bengali settlers in setting fire to Jumma houses. Reportedly, at least 76 houses of indigenous Jumma villagers from 7 villages were completely burnt down in this attack which lasted for almost four hours from approximately 9.30 pm to 1.30 am.

Soon after the incident – and fearing further attacks - most of the indigenous villagers took shelter in the forest. Others took refuge in a Buddhist temple or in their relatives' houses near Baghaihat bazaar. Those who took shelter in the forest continue to live in the open air, without food. The victims were subsequently offered Taka 10,000 each (distributed by the army) to re-construct their house, but only a few victims accepted this relief (and even then many were under duress from the army) as many were too fearful of retaliation to collect the money or they refused to accept the money given that it was being distributed by the same people who had assisted in the attack on their villages. In any event, many considered the amount offered to be inadequate.

A delegation of high profile civil society members comprising journalists, lawyers, human rights activists and university lecturers conducted an on-site inquiry from 27-30 April 2008 in Sajek Union. In a press conference organised on 5 May 2008 in Dhaka, they described the deplorable condition of the victims and recommended that a judicial inquiry be carried out and that those found responsible for the attacks be prosecuted.

Since the incident on 20 April 2008, Bengali settlers have continued to forcibly occupy the indigenous community's land and to attack their property. During the first week of June 2008, a number of Bengali settlers planted various seeds and saplings on land occupied by Jumma villagers. On 18 June 2008, Bengali settlers destroyed a further five houses in the Jumma villages that had been targeted on 20 April 2008. It is reported that the Bengali settlers were again assisted by the military forces.

In addition to the arson attacks on the Jumma community's homes, the Bangladesh law enforcement authorities have also harassed and intimidated the community by arresting and imprisoning community members - particularly those who have voiced opposition to the land acquisition by Bengali settlers - on false charges. It has been reported that some

of those arrested have been subjected to torture and other ill-treatment. To provide just a few examples of this ongoing situation: On 13 May, Mr Anunay Chakma, a returnee member of PCJSS under the CHT Peace Accord, was arrested by the army under Section 16 (2) of the Emergency Power Rules 2007, which allows non-police law enforcers the same powers as the police to search and to arrest any person, without a warrant, on suspicion of acting against the interests of the state. On 14 June 2008, four villagers were arrested by army personnel at approximately 11pm in Sajek Union.¹ Reportedly, they were taken to Baghahat zone and tortured. Two were released the following day, but the other two were handed over to the police who brought false charges against them. The reason for their arrest is unknown, but it is believed that they were targeted in response to demands by the Jumma community for the withdrawal of settlers from Sajek Union and in retaliation for the boycott by the Jumma community of the Baghahat bazaar, which is mainly run by Bengali settlers involved in the arson attack of 20 April 2008.

To date, there has been no official investigation into the arson attack of 20 April or into the harassment, intimidation and other violence perpetrated by the settlers and army personnel. Not one person (Bengali settler or army/law enforcement personnel) has been prosecuted for the attack. The violence and human rights abuses continue to be committed with impunity.

Economic, social and cultural rights and violence

OMCT wishes to draw attention to the fact that, under Article 11 of Indigenous and Tribal Populations Convention 1957 (No. 107)², Bangladesh has a duty to recognise “*the right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy.*” Further, such populations should not be removed without their free consent from their habitual territories except in accordance with national laws and, where they are removed, must be fully compensated for any resulting loss or injury.³

Furthermore, Article 11 of the International Covenant on Economic, Social and Cultural Rights establishes the right for everyone to an adequate standard of living.⁴ This includes the right to adequate housing, which in turn includes the right to protection against arbitrary or unlawful interference with privacy, family, home and to legal security of tenure and thus the right to be protected from forced eviction.

OMCT reaffirms that forced evictions are, *prima facie*, incompatible with the principles of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and, since they involve gross violations of a range of internationally recognized human rights, are justifiable only in the most exceptional circumstances and in the full respect of international standards.⁵ These principles, in addition to the prohibition on carrying out

¹ The arrested were Sunil Bikash Chakma, Phorakaji Chakma, Sumon Chakma and Badichan Chakma.

² <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C107>. Bangladesh ratified this Convention on 22 June 1972.

³ Article 12.

⁴ Bangladesh acceded to the ICESCR on 5 January 1999.

⁵ Also stated in General Comment 4 of the Committee on Economic, Social and Cultural Rights (CESCR), paragraph 18.

[http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument)

evictions at night or in a manner that violates the dignity and human rights to life and security of those affected, are also outlined in the Basic Principles and Guidelines on Development-Based Evictions and Displacement prepared by the UN Special Rapporteur on Adequate Housing.⁶ These Basic Principles and Guidelines also expressly provide that “States and their agents must take steps to ensure that no one is subject to direct or indiscriminate acts or other acts of violence, especially against women and children, or arbitrarily deprived of property or possessions as a result of demolition, arson or other forms of deliberate destruction [...]”⁷

OMCT recalls the pronouncement of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities addressing legal responsibilities in forced evictions in which the Sub-Commission unambiguously states that “ultimate responsibility for preventing evictions rests with Governments”.⁸ Further, the ICESCR General Comment 7 expressly refers to the responsibility on State parties to “ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies”.⁹ Similar provisions are also found in the Basic Principles and Guidelines on Development-Based Evictions and Displacement.¹⁰

Forced evictions are frequently directed at the poorest and most marginalised sectors of society, involve violence and ill-treatment and result in physical and psychological injury to those affected. In this respect, OMCT emphasises that eviction policies result in homelessness and loss of livelihood, and hence exacerbate the already poor living conditions of the individuals and communities that are targeted, including women and children.

In the case of the Jumma indigenous people, their situation both derives from and is exacerbated by their socio-economic vulnerability as indigenous or tribal people. In respect of the attack on 20 April 2008, the indigenous communities were forcibly evicted with physical violence, resulting in their right to security of person and right to life being

⁶ “6. Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.” *Basic principles and guidelines on development-based evictions and displacement*, A/HRC/4/18 5 February 2007.

<http://www.hic-mena.org/documents/FE%20Guidelines%202007%20en.pdf>

⁷ *Basic principles and guidelines on development-based evictions and displacement*, A/HRC/4/18 5

February 2007, paragraph 50. <http://www.hic-mena.org/documents/FE%20Guidelines%202007%20en.pdf>

⁸ Resolution 1991/12 of 26 August 1991 on the issue of liability for forced evictions,

<http://www.unhchr.ch/html/menu6/2/fs25.htm#2>

⁹ CESCR, General Comment 7 on the ICESCR. *The right to adequate housing: forced evictions*, UN Doc. E/C.12/1997/4 (1997), paragraph 9.

[http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument)

¹⁰ “States should apply appropriate civil or criminal penalties against any public or private person or entity within its jurisdiction that carries out evictions in a manner not fully consistent with applicable law and international human rights standards.” *Basic principles and guidelines on development-based evictions and displacement*, A/HRC/4/18 5 February 2007, paragraph 22. <http://www.hic-mena.org/documents/FE%20Guidelines%202007%20en.pdf>

seriously compromised through the arson attack on their homes. The denials of these economic, social and cultural rights were carried out so violently that they can be considered to amount to cruel, inhuman or degrading treatment. Furthermore, for many of the affected families, their right to an adequate standard of living continues to be violated by the failure of the Government to remedy the situation.

The attack against the Jummas on 20 April 2008 is simply one example of the failure of the Bangladeshi Government to ensure the protection and promotion of the human rights of indigenous communities in the CHT. Not only did the authorities fail to protect the indigenous communities, it is reported that the armed forces themselves were involved in the attacks. Since 20 April 2008, there have been further attacks on the Jumma community. Additionally, the military have continued to harass the community and has even deprived certain members of the community of their liberty on the basis of unsubstantiated charges.

OMCT is concerned at the violence that has been directed at the community and at the treatment of the community by the military forces. Given that the events of 20 April and 18 June 2008 appear to follow a regular pattern, OMCT is concerned that these events such as these will reoccur.

OMCT condemns the fact that the Government of Bangladesh has breached its international obligations under the ICESCR, and has consistently ignored the international principles governing forced evictions including the ICESCR General Comments 4 and 7 referred to above, as well as the Declaration of Basic Principles for Justice for Victims of Crime and Abuse of Power, which provides basic compensatory principles for victims of evictions.¹¹ The effect of all these violations is to exacerbate the socio-economic vulnerability of communities that already experience serious marginalisation. The Government of Bangladesh therefore has the obligation to take immediate action to put a stop to the violations committed against the Jumma people in Sajek Union and to provide adequate reparation. This should involve genuine consultation with and participation by those affected.

Requested Actions

Please write to the Government of Bangladesh urging it to:

- Put an immediate stop to all attacks against indigenous communities and individuals in the Chittagong Hill Tracts;
- Establish an independent and impartial Judicial Inquiry Commission to conduct an inquiry into the attack on 20 April 2008 and into the harassment, intimidation and other violence perpetrated by Bengali settlers and army personnel and to publish its report within a fixed time period, identify those responsible for the violations (be they in the army, in the police forces or Bengali settlers) and bring them to justice;

¹¹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in 1985, http://www.unhchr.ch/html/menu3/b/h_comp49.htm

- Provide adequate compensation and undertake prompt rehabilitation of persons affected during the arson attacks in Sajek Union, including reconstruction of houses and compensation for lost property and belongings;
- Release all the indigenous Jumma persons held in army camps or prisons on unsubstantiated charges;
- Cease all Bengali settlements in Sajek Union and the CHT and rehabilitate them outside CHT with dignity;
- Take immediate action to implement CHT Peace Accord of 1997;
- In accordance with the CHT Peace Accord 1997:
 - a) Activate the Land Commission, to review and settle all land disputes;
 - b) Withdraw temporary military camps and military rule from the CHT; and
 - c) Enable full functioning of the civil administration, including through effective functioning of the CHT Regional Council.

Please also call upon the Government of Bangladesh to meet all its obligations under the International Covenant on Economic, Social and Cultural Rights, including the obligation that all economic, social and cultural rights are enjoyed without discrimination of any kind.

List of addresses

Government of Bangladesh and other Bangladeshi institutions

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Please also write to the Bangladeshi Embassy in your country.

Please also write to the embassy of Bangladesh in your country.

Information on action taken and follow-up

OMCT would appreciate receiving information on any action taken in relation to the matters dealt with in this Action File so that it might be shared with OMCT's network and others interested in this issue. Please quote the code of this appeal on the cover page in contacting us (BGD 290808.ESCR).

Geneva, 29 August 2008

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