

Land Politics in Chittagong Hill Tracts of Bangladesh: Dynamics of Property, Identity and Authority

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Abstract

Studies have revealed intense competition over land in Chittagong Hill Tracts (CHT) of Bangladesh. This study examines land dispute processes within and between hill people (Chakma Community) and Bengali settlers (who migrated through government initiated settlement program in 1979) in CHT. By understanding property, identity and authority as relational; my study explores mutually constitutive processes between property and authority relations, and between property and identity relations. It investigates how property in land is claimed and defined in the context of dynamic authority relation in land control, multiple categorisations and identity claims in CHT. By carrying out a historical analysis of state-making, I argue that CHT remains a frontier because of- the distinctive legal and administrative systems, ambivalence in property system, ongoing processes of reconfiguration of institutional arrangements in land control and state's territorial strategies to control its population and space. The study employs an ethnographic approach and data are collected by engaging with disputants, institutional actors, academics, members of political organizations and civil society. Working across communities has enabled to encompass differences in narratives, practices and claims based on varied rules, sources of authority, history and identities. Dispute processes reveal that competing property claims are based on various norms (customary and statutory), varieties of land documents (formal and informal) and wide number of authority sources (formal and informal). Property rules (statutory and customary) are negotiated, continuously interpreted and reinterpreted through practices and claim-making. The findings show that in different kinds of disputes (within and between communities), there are different sets of authorities involved in recognising property in land. The study draws out various political constellation of institutions and authority relations that are formed through competition for authorising land relation. State institutions- bureaucratic, judiciary, regional government, traditional institutions, military authorities; and non-state authorities (political parties, leaders, brokers), all partake and compete in the process of constitution of property relation in 'post' conflict/mid conflict zone, suggesting that state-making or control over land/territory and property claims as an active and contested process. While the state rules and institutional competition for authority matter in shaping dispute processes, this study finds that land contestations are evolving through contestation over *dakhal* i.e. physical or forceful occupation of land, which depends on local authority structure for endorsement, individual's/disputant's position in the local power structure, proximity of the army camp and people's ability to exist on the ground by taking certain strategies and actions. The research findings show that identity formation and social positioning play significant roles in competition over land. Struggle over recognition of property in land is intricately linked to people's struggle for recognition of certain identities. Religious identities of Chakmas (Buddhist) and Bengalis (Muslim) are increasingly becoming stronger. Besides, religious identities are mobilised in relation to contestation over land. The study provides an account of recurrent and interrelated processes of constitution of property, authority and identity relations in a frontier region, which has also been at the margin of the state historically. In the absence of tenure security, the existing stalemate situation regarding the formalisation process and non-recognition of customary land rights of hill people, it is crucial to understand existing land relations in order to plan and implement development policies, particularly those related to land and forest in CHT. My research has taken a novel approach in studying land conflicts by investigating the making of property, authority and identity relations in a contested territory. It contributes to existing knowledge regarding land relations and related processes of authority and identity formation in CHT, and in regions that can be characterised as frontiers or at the margin of the state.

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Acronyms

AC Land	Assistant Commissioner (Land Office at sub-district level)
ADM	Additional District Magistrate
AL	Awami League
BNP	Bangladesh Nationalist Party
BGB	Border Guard Bangladesh
CHT	Chittagong Hill Tracts
CHTRC	CHT Regional Council
DC	Deputy Commissioner
HDC	Hill District Council
OC	Officer in-Charge (of a police station)
JI	Jamaat –e- Islami
LDRC	Land Disputes Resolution Commission
PCJSS	Parbatya Chattagram Jana Samhati Samiti (JSS in short)/ Chittagong Hill Tracts Peoples’ Solidarity Association
TNO	Thana Nirbahi Officer (Sub-district Executive Officer)
VDP	Village Defence Party
UPDF	United People’s Democratic Front
USF	Unclassed State Forests

Glossary

<i>Amin</i>	Surveyor at the Land Office
<i>Bichar/ salish-bichar</i>	Trial or negotiation meeting at the informal-village court
<i>Dakhal</i>	Possession or forceful occupation over land
<i>Dalal</i>	Land broker or middleman
<i>Dan-kabala</i>	Gift deed
<i>Jarip</i>	Survey
<i>Jum</i>	Shifting cultivation
<i>Jumiya</i>	Shifting cultivators
<i>Karbari</i>	Village Chief (the lowest tier in traditional institution)
<i>Kabuliyat</i>	Land allotment document granted by the state
<i>Khas land</i>	State owned land
<i>Khatian</i>	Rights of Records
<i>Qanungo</i>	Sub-assistant settlement officer (A revenue position junior to Additional Commissioner Land at sub-district office)
<i>Math Khasbra</i>	Index to the field map (a descriptive register of fields numbered according to the series of numbers on the map)
<i>Panchayat</i>	Village council (informal institution, set up by hill political party)
<i>para</i>	Neighbourhood
<i>Raja</i>	Circle Chief
<i>Tehsildar</i>	Revenue collector at sub-district Land Office. They also have role in updating land records (mutation and physical alteration of land plots).
<i>Na-dabi nama</i>	A ‘deed of no-claim’ (over division of landed property among the claimants)
<i>Zila</i>	District
<i>Zila/Upazila parishad</i>	Sub/district level Council

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Chapter 1: Introduction

1.1 Introduction

There is rising competition over land and an increasing number of land conflicts in Chittagong Hill Tracts (CHT) region of Bangladesh (Adnan and Dastidar 2011:43). In CHT, land struggle is intertwined with the political struggle of the hills' ethnic population. According to government records, there are 11 ethnic groups residing in CHT. Each of these ethnic groups has a unique culture, distinct from the majority population of Bangladesh (i.e. Bengalis). In my thesis, I refer to the ethnic population of CHT collectively as "hill people"¹. There has been a steady shift in demography in CHT², particularly with the government-sponsored population transfer program in 1980s the 'Bengali population has increased many fold' (Roy 2004: 116). The Bengali settlement programme is at the core of the land conflict situation in CHT (Adnan and Dastidar 2011), since, in many instances, the land allocated to Bengalis as settlers are claimed by hill people either based on their customary norms or statutory law (C.K.Roy 2000). This study focuses on land conflicts that emerged between Bengali settlers³ and hill people due to government initiated settlement program. My research explores dynamics of property, authority and identity relations by studying land disputes within and between Chakma (the largest among all hill ethnic communities) and Bengali settler communities in CHT.

The Chittagong Hill Tracts (CHT) region is comprised of three hill districts- Rangamati, Khagrachhari, and Bandarban. CHT is in the south-eastern corner of Bangladesh, bordered by the Indian states of Tripura in the north and Mizoram in the east, by Myanmar in the east and south, and by Chittagong district (of Bangladesh) in the west. It is located at the confluence of two regions – South Asia and Southeast Asia. Hill people's architecture, food, gender, relations and many other elements point east or towards South-east Asia, and crossing of a cultural

¹ Together they are referred to by various terms by different authors. These are - '*jumma*', 'indigenous people' or '*adibash*', 'hilly' people or in Bengali '*paharis*' and tribal people. The use of a certain term in some cases reflect author's position in the existing debate regarding politics of representation. For instance, Karim (1998:315) denoted hill communities as 'adivasis' i.e. indigenous people, because in her opinion the category 'tribal' is pejorative and politically injurious. While doing fieldwork, I found the informants who are from hill ethnic communities accept their identity as 'hill people', however, there are other identities which they claim and aspire for to be recognised by the state (see Chapter 7).

²The ratio of the hill ethnic population has changed from ninety one per cent of the total population in 1951 to fifty one per cent of the in 1991 in CHT (Roy 2001:180).

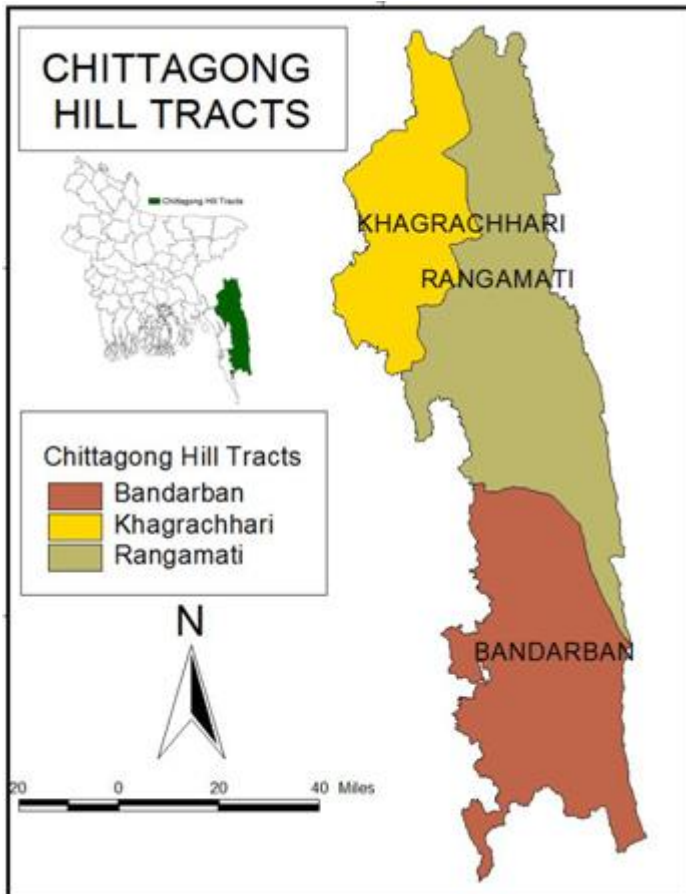
³ In this paper, settler refers to Bengalis who (or whose family) were selected as settlers from 'plain districts', brought and settled down in CHT under the government sponsored programme titled –'Settlement of Landless Non-Tribal Families in CHT' between 1979-1984. Thus, all other Bengalis that live in the study area but have not migrated to CHT under the above mentioned program are not considered as settlers. The Bengalis who came under the Settlement Program in settlement village referred themselves as- 'settler', 'people with card' (card *er lok*), 'people coming through Haji Camp' (*haji camp er lok*) and 'rehabilitated subjects' (*punorbashito praja*).

frontier becomes obvious when entering from the plains to the hills in Bangladesh (Van Schendel 2009).

Map 1.1 and 1.2 show the location of CHT in Bangladesh and the three districts, as mentioned above, known as the hill districts of Bangladesh.



Map 1.1: The map showing CHT within Bangladesh



Map 1.2: Three Hill Districts which encompasses Chittagong Hill Tracts (CHT)⁴

The hill people are different from the majority of the population i.e. the homogenous core in terms of their religion and language. In CHT, there is wide diversity in terms of religious practices. The Chakmas, Marmas, Saks and Tanchangyas are Buddhists; the Tripuras and Riangs are Hindus; the Mru, Khumi and Khyeng have a community religion; Christianity is also found among the -Bawm, Pangkhua, Kheyang, Mru and Lushai (Van Schendel 2009: 32, B. Chakma 2010:284). All ethnic groups have their own distinct language, most of them of Tibeto-Burman origins. The only exception is the Chakma language, which is of Indo-European origin (A.M.Uddin 2010). The Chakma language has its own script known as Khemr (Serajuddin 1984: 93).

In this chapter, before getting into the details of the research questions and methodology, I discuss the context and objectives of my research. I outline some of the limitations of the research, which is followed by a discussion on contributions the study makes to the existing knowledge. In the last section, I briefly outline the main contents of all chapters presented in the thesis.

⁴ Source: <http://www.assignmentpoint.com/arts/sociology/development-of-eco-tourism-in-chittagong-hill-tracts-problems-and-prospects-part-1.html> (Last accessed: October 2016)

1.2 Context

In 1860, CHT was formally annexed to British colony and it was demarcated as a Non-Regulation District where *jum* i.e. shifting cultivation practice, was allowed with restrictions. Under the CHT Regulation of 1900 most of the land in CHT are owned by the state by being categorised as Reserved Forest, Protected Forest and Unclassed State Forest (USF) since the establishment of British colonial rule. While land titles i.e. individual property rights were granted for plough lands, the colonial state neither recognised customary norms of ownership nor granted property rights over hill lands based on statutory law. However, the state formalised the collection of *jum* tax from the cultivators. Before colonial intervention, in South Asia the tribal communities that retained their distinctive farming practices were pushed into the hills and, these communities were not integrated in the systems of entitlements and revenues which defined the agrarian states (Ludden 1999). According to Ludden (1999) the colonial government's imposition of western-style private property rights and commodity production in those tribal enclaves manifested in hegemonic and conflictual inventions of state institutions. The imposition of individual property rights and the state's aggressive claims to property still continue and can be regarded as being at the core of long lasting land conflicts in the hills.

According to Ludden (1999: 179), in many regions of South Asia, in the 19th century a - 'communitarian opposition to private property rights broke out during the subjugation of tribal communities'. Although there was no broad popular resistance to the imposition of state property and private property during colonial time, in post-colonial periods, in CHT, the land conflict and the political conflict have fuelled each other. The political struggle between the hill people's organisation, PCJSS (Chittagong Hill Tracts Peoples' Solidarity Association) and the Bangladeshi state began soon after Bangladesh gained independence in 1971. In 1972, under the Constitution, all citizens of Bangladesh were declared as Bengalis, and Bengali was adapted as the state language. PCJSS protested and eventually started an armed struggle demanding self-rule and recognition of their ethnic identity in the Constitution. The armed struggle of PCJSS carried out in CHT, was declared as insurgency by the Bangladesh government in 1976. The government dealt with this insurgency situation by heavy militarization and by bringing in Bengalis from other districts to CHT under the Bengali Settlement Programme (1979-1983).

Adnan and Dasidar (2011:61) argue that bringing in Bengalis in CHT was the state's strategy of 'demographic engineering' i.e. to change the demographic make-up of the region. Besides, the state sponsored migration of Bengali population in CHT, it resulted in land alienation of hill people and communal conflict (Adnan 2004). S.M.Ibrahim, Commander of military operations during the insurgency period in CHT and retired as Major General of Bangladesh Army, noted in 1990 that 'non tribals', i.e. Bengalis, who came under settlement programme, often by fraud or forgery, gained more land than they were officially allowed or allotted. Bengalis' strategies of

gaining more land caused many land related litigations which antagonized the 'tribals' (ibid). While Ibrahim suggested that Bengali settlers were mostly responsible for emergence of land conflicts, several studies suggest land conflicts emerged because in many cases Bengali settlers received lands which were owned by hill people based on their customary norms or statutory laws (Adnan and Dastidar 2011, C.K. Roy 2000, D.Roy 2004). Besides, land was already scarce in CHT before Bengalis started settling in under the state sponsored programme (Mohsin 2000b). Even before the construction of the Kaptai dam in 1960s, the amount of cultivable lands in CHT was insufficient and the majority of displaced population (due to the construction of the dam) was not rehabilitated by the government because of scarcity of land (Mohsin 2000b: 68). Although land was not abundant in CHT even in the British colonial period (Mohsin 2000), the state interventions were justified by 'a myth' of unoccupied land available for development, which has persisted throughout the post-colonial period (Levene 1999:348). An administrative letter (sent to Deputy Commissioner of Rajshahi district for selecting settlers eligible for 'rehabilitating') stated that the reason for carrying out the Settlement Programme in CHT was - availability of "virgin land"; and distribution of this land to landless would create new livelihood opportunities and bring socio-economic development in the region⁵.

Land conflicts in CHT also emerge from multiple processes through which hill people have lost access to land. These are development interventions such as, building of the Kaptai dam, government policy of leasing out hill land to business entrepreneurs for rubber/timber/fruit tree plantations, government programmes to control *jum* cultivation, state led afforestation programmes, demarcation of hill land as reserve forests and also establishment of eco parks (Adnan and Dastidar 2011, Mohsin 2000b). The institutional arrangement and laws regarding land control in CHT are distinct from other parts of Bangladesh. The land system in CHT is characterized by legal pluralism (Adnan and Dastidar 2011). There are three types of land laws in operation: formal laws applying to the whole of Bangladesh, formal laws applying to the CHT alone,⁶ and customary laws applying to only settling matters within hill ethnic communities (ibid: 44). State ownership of land, communal rights and private property rights over land in the context of legal pluralism make the land system in CHT very complex (ibid.).

In Bangladesh, the colonial government introduced system of categorisation and state ownership of most hill lands, denying hill people's ownership and access to forest and hill lands, continue (D.Roy 2004). Governments started allocating hill lands to Bengalis and hill people since 1960s, however, the customary ownership system persists in practice. In absence of any provision to protect hill people's customary land rights, according to Adnan and Dastidar (2011:106), lands in

⁵ 70-C dated 21/01/83 from the commissioner, Chittagong Division, Chittagong addressed to the deputy Commissioner, Rajshahi.

⁶ The CHT Regulation of 1900; Acts relating to Hill District Councils, the Regional Council and the Land Dispute Commission.

CHT are 'literally thrown open for land grabbing by commercial interest groups... from outside including business houses, commercial NGOs and powerful land dealers... or real estate brokers, since there was not much organised resistance'.

The armed struggle in the CHT region ended with the signing of the CHT Accord in 1997 between the government of Bangladesh and PCJSS. Institutional arrangements has been reconfigured as per agreements in the CHT Accord. In the post-Accord period, the administrative authority is shared among traditional institutions, regional elected councils i.e. Hill District Council (HDC) and CHT Regional Council (CHTRC), and bureaucratic institutions (district, sub-district government officers and various ministries). The Land Disputes Resolution Commission (LDRC) has been created to settle land disputes and to rehabilitate hill people who have been displaced and dispossessed of their lands because of the Bengali Settlement Programme (D.Roy 2004). However, the institutions with most authority in land control, according to existing laws applicable, the regional elected government institutions (HDC and CHTRC), are still not functioning effectively regarding land control⁷. LDRC is also not functional. D.Roy (2000:53) noted that 'further legislation-including the framing of rules, regulations and guidelines- and the execution of inter-departmental agreements and memoranda of understanding will be necessary to transfer the requisite authority to these bodies'. A study on the status of implementation the CHT Accord revealed that all the major provisions, including the protection of land rights and cultural identities of indigenous people, rehabilitation of the displaced, establishment of a self-government through regional and district councils, have largely remained unimplemented (Baer 2011). Mohsin (2003:56, 121) found a 'stalemate' situation regarding the administrative system, as the transfer of the requisite authority to different bodies is being delayed.

Although the armed conflict had officially ended, CHT can be regarded as a mid-conflict region considering the complexity of conflicts and multiple forms of violence involving various ethnic groups and state agencies. During the time of my fieldwork, there were two major incidents (Chapter 3) which led to violence involving Bengali settlers' political organizations, hill political parties, Border Guard Bangladesh (BGB) and the army. While the ethnic communities are in conflict, the communities are fragmented within. Moreover, even though the armed conflict or insurgency situation ended, there is an overwhelming presence⁸ of the army in CHT (IWGIA 2012). Moreover, the influence of the army in administering CHT has not decreased as well (Mohsin 2003).

In the post-Accord period, the multiplicity of institutions has resulted in differing degrees of control over land management (D.Roy 2004: 122- 126) and overlapping claims to authority over

⁷ HDC is not functioning as a local government institution with democratically elected members with accountability to CHT people, since no election has taken place since 1989.

⁸ The ratio of population and army personnel in CHT is 66.6%: 33.4% (IWGIA 2012). There is one soldier per 40 civilian in CHT, while in rest of the Bangladesh there is one soldier per 1750 civilians (ibid.)

land. Concurrently, as the exercise of centralised authority has remained a problem and regional autonomy has not been achieved, military authority has remained an important player in the administration of CHT (Mohsin 2003). Within the present context of multiplicity of institutions and complex administrative-legal system in CHT, my study attempts to find out empirical processes of constitution of property and authority relation by examining dispute processes. Exploring the process of how certain land claims are recognised as legitimate by certain authorities illuminates the institutional competition, process of constitution of authority relation and state formation.

Historically, there have been shifts in the state's position in categorising people and identifying all these ethnic groups collectively. Simultaneously, over time, multiple collective identities have been claimed by different section of ethnic population in CHT. As indicated before, political conflict in CHT has been largely shaped by the politics of nationalism (Mohsin 1997). Since the beginning hill people's political struggle is about rightful representation of their ethnic identity and recognition of their land rights in CHT as territory. Two main collective identities have been claimed by hill people; namely the *jumma*⁹ identity and the indigenous identity. Studies suggest that certain identity claims and processes of identity formation are linked to the hill people's political and land struggles (Mohsin 2000, Chowdhury 2008, Besides, Bengali settlers' land claims have been based on certain identities such as landless and 'non-tribal' or Bengalis. There is a lack of empirical study on Bengali settlers, construction of Bengali settlers' identity in CHT and how they negotiate over identities in relation to their land claims facing land conflict. Multiple categorisations of people by institutions and multiple identity claims asserted by people provide a context in which to study how identities are invoked and (re)produced through land claims in CHT. This study investigates how land claims influence and are influenced by the identity and authority dynamics.

1.3 Research Objective

This study investigates how property in land is claimed and formed through the dynamics of authority and identity. In particular, it aims to understand the ways in which property rights to land are established, defined and redefined in the context of dynamic authority relation in land control, by studying people's claim-making and dispute settlement processes. My research strives to reveal how changing notions of identity influence land claims, and concurrently, how land claims (re)produce or influence notions of identity, in the context of multiple categorisations and representation of different groups of people involved in the contestation over land in CHT. My research also explores the roles of differentiation and power dimensions in owning land and shaping disputes.

⁹ *Jum* means shifting cultivation and *jumma* as well as *jumiya* mean shifting cultivators

With these objectives, I studied land disputes within the Chakma and Bengali communities, and land disputes that have emerged between Chakmas and Bengalis as a consequence of the Bengali Settlement Programme, carried out by the government in 1979-1983. By studying property practices, production of rules and norms, authority formation identity claims and categorisation my research also attempts to understand the process of state formation.

1.4 Research Questions

Within the context and objective mentioned above, the main research question is as follows:

How do actors invoke and (re)produce different notions of identity and authority through land claims in CHT of Bangladesh?

While the sub-questions are:

1. Who makes what property claims on land?
2. How do land claims invoke different notions of identity?
3. How do land claims invoke different notions of authority?
4. How do property claims influence notions of identity?
5. How do property claims influence notions of authority?
6. How does recognition of property claims as legitimate rights contribute to processes of social differentiation among actors?

For this research, fieldwork was carried out in two villages. I worked in a Chakma village and in a Bengali settlement village with the afore-mentioned research objectives and questions. To understand how people own land and how disputes get settled within communities, land disputes within Chakma and Bengali communities are mapped out and studied. My research also investigates land dispute processes that have emerged between hill people (Chakma) and Bengali settlers (1979-1983) as a consequence of the state sponsored settlement programme. I have also mapped out and studied land disputes between these two communities. Besides, institutional actors' narratives, perceptions and actions, I have also included their claims for authority and their categorisation of space and population in my analysis.

1.5 Research Methodology

My study investigates the mutually constitutive processes of notions of identity, authority and property in land by taking into account rules, regulations, patterns as well as practices. Drawing on social anthropological approaches, I study claim-making and actual property practices, particularly looking at the processes of land disputes/conflicts. Social anthropological approaches to the study of property rights, stress meaning, identity, power, competing rights and claims; with focus on social relation and social embeddedness of institutions and rules (Mccay 2002, Hann 1998). Comaroff and Roberts (1981: 5) study dispute processes from processual dimension that focuses on interactions and how individual's actions are constrained by others' actions, and located within shared networks of relations. Through their ethnographic work of dispute processes, they find that normative repertoires play a significant part in justifying claims, arguments, actions and decisions, whereas rules are negotiable.

This research takes an ethnographic approach in investigating patterns, social relations, and practices while contextualizing cases of land conflict within wider social settings. Rules exist in social action; however, people are constantly engaged in the process of interpretation of rules (May 2001). There is interplay between social norms, behaviour, actions and practices, as practices take place in certain contexts. Practices are understood as interpretation and re-interpretation of what the rules mean. My aim is to grasp both the actions and the meanings. Overall, the study adheres to Giddens' structuration theory which maintains that action and structure are mutually constituted. His theory goes beyond giving primacy to either agency or structure (Giddens 1984). He suggests structure is both the medium and the outcome of action/social practices. Structure enables and constrains action; at the same time, his theory stresses that action reproduces and transforms structure within wider social settings. My study focuses on understanding how claims are made in dispute processes by different sets of actors over land as property, as well as the underlying conditions of strategies, practices and the outcomes. Relations among landed property claims, ethnicity and authority are explored by focusing on how land disputes within and between communities (Bengali and Chakma) emerge, evolve and get settled in CHT. The ethnographic approach allows me to explore and take into account emic conceptions of land, land relations and land conflict (discussed in the empirical chapters).

The ethnography of land dispute processes allows to investigate how actors frame certain land claims as property rights and power as authority in dispute processes. Studying land dispute cases within and between communities (Chakma and Bengali settlers), enables the empirical exploration of variation in property relations and authority relations. Investigating cases of competing claims over land throw light on the processes by which the authority of different

institutions is challenged, eroded or consolidated within the context of an on-going contestation with regard to establishing and challenging central state's authority in land control.

Moreover, to understand how disputants and institutional actors render certain property and authority claims as legitimate, my study includes a historical analysis of changing rules and authority structure in CHT¹⁰. History is an important category of analysis in tracing changes in land control and property regimes. It allows contemporary processes of land control¹¹ and state formation to be explored within a broader historical context.

1.6 Land Struggles and Conflicts in South Asia

The issue of insurgency in South Asia is identified as a colonial legacy that frames resistance movements as criminal actions which must to be dealt with through policing rather than only through the political process (Hussain 2004 in Sundar and Sundar 2014), resulting in multiple civil wars in the region (ibid.). The shared colonial past also gives rise to similar constructions of conflicts from below as the rebels frame their movement as a struggle for sovereignty and self-determination as a part of the 'unfinished business of decolonization'(ibid:3). The armed conflict in CHT coincides with the time -period during which the Sri Lankan government referred Tamil insurgency and few insurgency movements that occurred in different states of India. In the case of Sri Lanka, the nation as Sinhalese relied on an epic past which excluded Tamils from the imagined political community (Tambiah 1992). However, to consolidate nationalist aspiration, in a context of competing nationalisms (Chatterjee 1993 in Cederlof and Sivaramakrishnan 2006) that developed in post-colonial societies in South Asia, the concerns of sovereignty, self-determination and place-based collective identities are often played out by claiming a specific relationship to nature (ibid.). As described above, the hill people's struggle against the state started with a claim implicating multicultural nationalism and recognition of collective identity attached to the hills; on the other hand, the state's counterinsurgency strategies were also framed by nationalist and developmental interest (see Chapter 4). Cederlof and Sivaramakrishnan's (2006) concept of ecological nationalism is helpful to understand land conflicts in CHT, between communities and between hill people and the state, to understand the entanglement of contested

¹⁰ Historical analysis of land control and state building in CHT based on primary and secondary sources.

¹¹ Land control means, taking from Peluso and Lund (2011:668), -"[P]ractices that fix or consolidate forms of access, claiming and exclusion for some time. Enclosure, territorialisation, and legalization processes, as well as force and violence (or the threat of them), all serve to control land. The mechanisms of land control need not always align, nor proceed in a singular, linear direction. They may be wielded in concert or competition with one another."

interpretations of environment/resources and appropriation of nature/ territory in relation to the construction of nationalism and nationalist aspirations.

While there is a shared past and a common pattern in the nationalist construction of space and also people's struggle, each nation-state within South Asia has taken different political trajectories in dealing with land struggles of population groups categorised as tribal. The Indian Constitution provides political safeguards to scheduled castes and tribal groups, including provisions for reserved seats in legislatures, representation of minorities in the cabinet and quotas in government employment. Besides, under the Constitutional framework of the federal form of government, the Indian government granted statehood to different states of the Northeast region and quite recently, to Jharkhand, to resolve people's movements for autonomy. Under the sixth schedule of the Indian Constitution, autonomous district councils have been established, in tribal areas into hills, with executive power over land distribution and use, taxation, management of forest (except reserved forest) and water resources (Karlsson 2011). Despite Constitutional provisions and laws pertaining rights to *adivasis* such as Forest Rights Act of 2006, the historic marginality and exploitation experienced by *adivasi* or indigenous communities in India is well documented (Rycroft and Dasgupta, 2011).

Chandra (2013) notes that the Indian state has two faces: there are laws and legislation to protect adivasi land rights, but the state at the same time continues to appropriate tribal land for development and security concerns. He shows how Mundas of Jharkhand, as subaltern adivasi subjects, attempt to protect their land through 'resistance as negotiation' by fitting in to two contradictory imageries - 'primitives' who are 'helpless victims' and 'savages by invoking image of tribal rebel' (Bates and Shah 2012 in Chandra 2013). Sundar (2011), on the other hand, shows how indigenous populations and subaltern groups, when facing dispossession, engage in 'law struggles' or 'legal mobilization' and participate in democratic processes. She argues that legal struggles and judicial activism are signs of maturation of liberal democracy in India (ibid.).

Unlike India, Bangladesh has struggled with authoritarianism since the subcontinent's partition (Fledman and Geisler 2012). My study provides a scope to study hill people's land struggle in the absence of Constitutional and legal provisions to support their customary land rights. Investigating land dispute processes in CHT (within and between communities) can shed light on whether and how ethnic groups can engage themselves in legal struggles or how they associate their rights as citizens with the domain of law and customs. The CHT Accord can be considered as a significant achievement in the history of hill people's continuous negotiation with the state over their citizenship rights. Examining the dispute processes enables to explore how the state-citizen relationship is evolving, as well as an understanding of the differences between hill people's and Bengali settlers' encounters with the state in mobilizing their land claims.

Studies suggest that in areas dominated by insurgents, military strategies for counterinsurgency development are related to land management (Peluso and Vandergeest 2011, Woods 2011).

Peluso and Vandergeest (2011:12) note that ‘in some cases counterinsurgency led to the replacement of forests with permanent agriculture based on new property regimes and state territories, intertwining both primitive accumulation and national security purposes’. Woods (2011) discusses counterinsurgency strategies involving development projects and military securitizing strategy of allocating private land concessions in ceasefire zones on the Burma-China borderland as a form of military-state territorialisation. He argues that the military regime seized (trans) national capital networks and solidify *de jure* sovereignty into *de facto* territorial control (ibid: 749). However, although counterinsurgency development programs are often tackled by the army (Sundar 2013), there is scant knowledge about the military role in the process of landed property constitution in conflict/war zones or in post-war zones in South Asia. By investigating authority formation process through legitimising property rights, my research on land dispute processes in CHT aims to provide an understanding of the formal or informal authority exerted by the military with regards to land control in insurgency or post-insurgency zones.

J. Chatterji (2012) suggests that the processes by which South Asian citizenship was constructed can best be de-constructed by looking at ‘original blueprints’ for citizenship that were crafted by the leaders of the subcontinent, by forcing people’s fluid and multiple affiliations into ‘neat national boxes’ and producing ‘with some force, bounded citizens of two nation-states’. Citizenship regimes of India and Pakistan shared symmetries and produced a category of ‘the minority citizen’ whose fundamental right to property was weakened and their freedom of mobility was taken out (ibid). In 1965, both India and Pakistan state promulgated the ‘Enemy Property Ordinance’, justifying expropriation of land owned by the ‘enemy’. India defined ‘an enemy’ as any Muslim who had migrated from India to Pakistan during Partition, and Pakistan defined the enemy as any Hindu or Sikh who had migrated to India. Hence, South Asia’s nation-states had more power over their ‘minority-citizens’ than over ordinary citizens, because the capacity of ‘minority-citizens’ to resist power was reduced by ‘draconian executive actions’ (2012:1068). J. Chatterji argues that minorities in South Asia, have ‘bare citizenship’ (ibid: 1070). In the Bangladesh era, in 1972, the Bangladesh state promulgated the Vested Property Act (VPA), mirroring the provisions of the Enemy Property Act. The order included the expropriation of abandoned property from ethnic Biharis residing in Bangladesh prior to 1971, but the Hindus became its immediate target (Feldman 2016). The Vested Property Act (VPA) and its multiple reforms (Restoration of Vested Property Act in 2001, Vested Properties Return (Amendment) Bill 2011) involve processes of construction of religious difference as a national security threat that renders Hindu citizens of Bangladesh as the *other* and secures the rights of the Muslim majority (ibid.)¹². Feldman argues that the construction of Hindus as the *other* not only justifies state expropriation of their property, but also challenges their right to own property, which dismantles citizenship rights based on equality (Feldman 2016:10). Due to VPO

¹² In Bangladesh, 75 percent of religious minority property has been confiscated and justified under Vested Property Act (Choudhury 2009 in Feldman 2016:13)

provisions, people of certain indigenous communities of North Bangladesh who are Hindus, such as Santals and Mundas, face dispossession (personal communication with the president of Jatiya Adivasi Parishad i.e. National Indigenous Council). As such, not only ethnic differences but also religious differences influence the ‘minority citizens’ or the ‘others’ capacity to secure property in land in Bangladesh. In my study on land contestation between Chakmas (who are Buddhist) and Bengalis (who are Muslims), religious differences provide an angle from which to see differences in people’s experience of the state and ability to claim property and citizenship rights.

According to Jayal, anthropological studies on citizenship in non-western states mostly focus on the divergence between *de jure* and *de facto* citizenship, but whether and how members of these states are qualified or denied full formal citizenship in specific historic locations and circumstances has not been examined adequately (in J. Chatterji 2012). By focusing on how people make land claims, my study allows people’s claims to citizenship to be explored. My study provides a scope to explore how actors belonging to different population groups experience and encounter the state with regard to their land claims.

1.7 Limitations of the Study

The dynamic of land conflict in CHT is influenced by regional politics and transnational organizations. The Bangladesh state’s relation to international agencies, such as the UN or ILO is important in the context of CHT. For instance, the Bangladesh government ratified the ILO Conventions on Indigenous and Tribal Populations (Convention No. 107) in 1972, and on several occasions, ILO raised the issue of Bangladesh violating articles of international laws. The Chittagong Hill Tracts Commission as an international organization plays a role in the politics by monitoring the situation and publishing reports on human rights violations and land dispossession in CHT. In this study, the role of international organizations and transnational activist networks in shaping the political context are not discussed, which might be regarded as a shortcoming of the research.

Based on the Westphalian logic of territory and mapping, the state is often perceived ‘as containers of the nation, clearly as well as unproblematically bounded national territories’ (Cons 2016:46), and many scholars who have studied borderland regions in South Asia have been criticized for this practice (Misra 2013). There are regional interconnections of the wars or insurgency movements in South Asia and cross border flows of weapons, rebels and refugees (Sundar and Sundar 2014). Cross-border relations are important dimensions of political and ethnic conflict in South Asian border regions (Van Schendel 2016, Banerjee et al. 2005), and lack of adequate attention to borderland dynamics can be regarded as a limitation of this study. In my analysis border making is understood in the broader context of territoriality. To situate contemporary outcomes, practices and processes of disputes in a broad historical context of state

formation, I find it useful to analyse how CHT has remained a frontier by focusing on its distinctive history of land control and property dynamics within colonial and post-colonial states' border. However, the history of border making is discussed in Chapter 4, to understand hill people's encounter with the post-colonial states.

Competition among institutions and the construction of authority relations have been studied and presented in my thesis by analysing data gathered from primary and secondary sources. However, how informal institutions and institutional actors such as the Bengali leaders, various political parties' member, militaries (formal institution exercising informal authority) compete over authority through different practices was difficult to explore in detail because of the local political context (Chapter 3). I was not able to be present and observe any informal negotiation meetings or *bichar*. Besides, my research primarily focuses on the dynamics of property constitution and how these relate to competing institutions and authority relations, rather than focusing on how authority is constituted by delineating different elements of legitimacy.

To build alliances or contest state power with the backdrop of growing Islamisation in the region, religious identities in the communities in CHT are solidifying. Land conflict and larger political conflict in the region are also played out in line with religious differences and divide between communities. The religious dimension of the conflict has been included in my analysis, but the strengthening of religious orders and the roles of actors in religious institutions have remained underexplored. Regarding land relations in the communities, my study finds that gender identity determines people's access and claim over land in both communities. However, the gendered patterns of land access, women's status and how women negotiate are not elaborated in my analysis.

1.8 Contribution

The study provides a detailed ethnographic account of land conflicts in the making. It also presents a detailed historical account of marginalisation and integration of the region within the nation state by analysing cyclical processes of frontier-making and territorialisation. It outlines land laws, institutional arrangements and categorisations employed by colonial and post-colonial state for controlling the space and the people, while also discussing how institutional arrangements and categorisations have been shaped by resistance and people's practices. It is shown that the reconfiguration of institutions and land disputes are processes related to the larger contestation regarding territorial control.

The conceptual framework of my research focuses on examining the constitution of property relations by exploring mutually constitutive processes between property and authority relations as well as between notions of property and identity. This analytical approach frames the study on land disputes and people's land struggles as an empirical investigation on how property in land is established, defined and redefined in the context of competing land claims, identity claims and

claims to authority regarding land control in a contested territory. The research approach leads to study dispute processes and map out disputes, claim-making, authorities involved, repertoires of rules and categories/identities invoked/contested in relation to land claims. The analytical approach taken for my research to study land conflicts is different from other studies that have been carried out on Chittagong Hill Tracts. I use the insights derived from local processes of disputes to explore what land disputes reveal about the formation of property in land in CHT, their implications for authority relations, identity formation and marginalisation.

My research aims to contribute to an emerging literature on state formation by examining authority and property relations (Sikor & Lund 2009) in a frontier region marked by ongoing contestation over territorial control that currently lacks empirical detail from South Asia. By carrying out an empirical investigation on the relationship between property and authority relations, my study also aims to explore whether or how the analytical understanding of mutually constitutive relationships between these notions can get challenged. Besides, apart from finding out actual property practices carried out to legitimise land rights, the study provides an opportunity to explore how legitimising discourses are played out in the process of property and authority formation in a frontier region. Studying local processes of constitution of property enables to find out emic conceptions of property and authority. This research also aims to contribute to the highly polarised debate regarding identity- based land claims in CHT. It intends to shed light on how the struggle over property in land is intricately linked to the struggle over identity claims and recognition. By doing so, it contributes to understanding not only the link between the formation of identity and land conflict, but also how social boundaries between communities are reinforced. My study shows that different actors (disputants and institutional actors) engage in defining or redefining various categories, such as indigeneity, citizenship and the nation's identity, in the context of contestation over land and territorial control.

Roth (2009:197) suggests that empirical research on property rights in relation to processes of institutional competition over legitimate authority is badly needed. My study offers a unique understanding about differences in defining property in land and its constitution through different practices in different communities. Besides, studying ongoing land contestation by using a processual approach enables to reveal wide varieties of practices (formal and informal) employed by individuals/ different groups to access various authority sources (formal and informal) as well as the complex range of individual and collective strategies used to gain control over land. Studies conducted on land rights in CHT stress legal pluralism and the role of traditional, regional, bureaucratic and military authorities in land control; however, the studies provide limited knowledge about the relation of authority and how the dynamics of authority influence land dispute processes and vice versa. Besides, these studies have not analysed how the military authority functions in relation to constitution of property relations and land control. My study intends to contribute in (in insurgency and post-insurgency periods) understanding of militarised land relations in a contested space.

Fernandes and Barbora (2008) posit that non- recognition of community land facilitates the Indian state's encroachment of tribal land and in Tripura state, enabled immigrants (from then East Pakistan) to receive allotments of land that belonged to the Tripura people. According to the authors, failure to integrate two different property systems resulted in land alienation of tribal population, conflict with the state and also conflict between communities in different states, such as Tripura, Assam and Nagaland (ibid:3-5). My research not only looks at land dispossession and resistance of hill people in similar contexts, but attempts to contribute to understanding how a century long non-integration or clash between two different property systems persist and shape people's access, property relations, conflict between communities and the political terrain.

There are studies that focus on global processes such as the market and strategies for development, contributing to the debate on land-rush or large scale land deals as development opportunities or threat (Borras and Franco 2012, White et al. 2012, Cotula 2012). Studies on land grab focus on changes in property relations due to the interplay of global capitalism, states and corporate interests. In the policies and discourses of international development agencies, there is a shift from emphasizing the utilization of land in the rural context as a way of life, towards seeing land in more commercial terms, as the location of investment, means of commodity production and opportunities for more specialized producers (Da Via 2011). However, access and dispossession are not essentially driven by market forces; belongingness, ethnicity and citizenship can also be crucial factors. In my study, I see land as what people are striving for and struggling to gain ownership of, and where conflict over territory and recognition are inscribed.

In the context of CHT, studies have been conducted on land grabs and on the formation of different identities of hill people (Andan and Dastidar 2011, Mohsin 2000b). My approach, which explores the interconnectedness of land claims, relations of identity and authority by looking at contestations at multiple level and analysing the claims, practices and actions of actors belonging to different groups, is a novel approach to studying land politics. In addition, although there are studies on land conflict between hill people and the state, as well as other powerful actors, there is a gap in the existing literature with regards to land conflicts between hill people and Bengalis (who came under the settlement programme), identified as the core of land conflicts in CHT (Adnan and Dastidar 2011). My study makes a contribution to the understanding of land politics in CHT of Bangladesh by studying empirically how land conflicts between the two communities have emerged and are evolving. Rather than focusing on one community, working across communities enables to encompass contrasting narratives and differences in framing claims (invoking of various authority, rules and legitimacy), practices, strategies and histories.

In addition, studies in CHT have mostly focused on hill communities, on land rights of hill people and their identity formation. Scholars have paid little attention to the Bengali community in CHT. My study investigates -who the settlers are, the origin of Bengali settlers and their perceptions, practices and predicament in relation to owning land and political conflict in CHT.

This study attempts to find out the history of settlement, land allotment processes, the role of various institutions and the state's territorial strategies, by analysing Bengali settlers' narratives which are mostly absent in institutional actors' narration of history and in existing literature.

My analysis of land disputes within the Chakma community also contributes to existing knowledge about norms, authorities and authority formation regarding landed property among the Chakmas. Existing studies on land rights of hill communities emphasise the customary norms and role of chief-Headman-*karbari* i.e the traditional institutions. However, my research framework allows customs to be examined as the 'outcome of a contest between various forces' (Mamdani 1996:22) and the institutional context in which such contests take place to be investigated at the village level. My study sheds light on the process of changing property relations among the Chakmas, as there are instances of circumvention of social norms and traditional institutions within the Chakma community in dispute processes.

My research attempts to contribute to policies and development interventions by identifying what institutions, actors and rules are functioning in the field of property constitution. This will be useful in planning or implementing policies. Studies show that at the national level, policies of promoting development and large scale agri-business investment are not only reconfiguring land use patterns but also land access (Broegaard et al. 2016, White et.al 2012). In the absence of tenure security, the existing stalemate situation regarding the formalisation process and non-recognition of customary land rights of hill people, it is crucial to understand existing land relations in order to plan and implement development policies, particularly those related to land and forest in CHT.

1.9 Structure of the Thesis

Following this introduction, Chapter 2 presents the key concepts that thread throughout the empirical chapters. It also provides examples of how these concepts help in making sense of the data collected. The conceptual discussion also includes local categories and concepts that have emerged during fieldwork useful to understanding property dynamics in the local context. Chapter 3 outlines the methodological approach adopted in this research. The chapter serves to discuss the fieldwork situation, challenges and how these shaped the data collection process. It provides an account of the research sites and research networks. The chapter also presents a brief description and reflection regarding research context, fieldwork situation, the use of various methods that are applied for data collection and methods of data analysis.

Chapter 4 sets out the context within which the research took place. It presents the institutional landscape, competition among institutions, and explores the continuity of rules and regulations established since the British period. The history of state making in CHT is discussed by using the analytical concepts of frontier and territoriality. I argue that CHT has remained a frontier in colonial and post-colonial periods, historically, by examining the frontier dynamics and territorial

strategies employed by the state to control resource and population. I show how the states (colonial and post-colonial regimes) at different junctures in history have attempted to replace the pre-existing authorities, rules and property regime in CHT. Presently, there is ambiguity in the administrative-legal system regarding land control and property in CHT, which is analysed by showing the contestation for authority among institutions (traditional, regional, bureaucratic and judicial). I argue that CHT remains a frontier space where existing structures are challenged, and central government imposition or regional government's authorities are not established. This chapter sets out the context for the empirical processes of property, authority and identity constitution that follow in the empirical chapters.

Chapter 5 introduces the Chakma village i.e. Chakmachari, its history, norms and practices in relation to land use, access and property relationships. In this chapter, I map out different kinds of rules, documents, authorities invoked by people in claiming their property rights as legitimate. In Chakma community, two norms of owning land co-exist and it is shown that both legal and social norms are not absolute, as both sets of rules are negotiable in dispute processes. The concept of *dakhal* i.e. possession or physical occupation, is central in owning land and property claims in Chakmachari based on social norms; however, social norms of owning land are increasingly challenged within the community. It is found that formalisation of owning property has hardened inequality in accessing land within the community. Moreover, social differences and power relations, gender and kin relations are important in establishing one's claim in cases of competing claims over land plots. Contestation over property in land has various outcomes and several authorities (formal and informal) settle land disputes within the Chakma community. Emergence, erosion and consolidation of authority of institutions over time show that authority is not fixed. Competing forms of authority within the community also allow property claims or disputes to be made even after cases have been settled.

Chapter 6 introduces the Bengali settlement village, Banglachari. In this chapter, I briefly present historical accounts of settlers' experience of the settlement programme. Different kinds of land disputes, rules and authorities involved in dispute processes are also mapped out. The rules and the dynamic of authority regarding landed property are found to be very specific to the settlement area, have evolved within its particular historical and political context. In Banglachari, although Bengalis are granted land allotment by the state with formal documents for owning land as property, having *dakhal* or possession is crucial. Land contestations and outcomes of land disputes are largely influenced by the structure of social relations. The political position in local power structures and having access to institutions/knowledge enable some actors to influence land dispute processes and outcomes.

Chapter 7 presents analyses of identity claims in relation to property claims, land contestations and entitlements. People's struggle for recognition of certain identities and contestation of certain categories are found to relate to their struggle over recognition of their property claims to

land. The chapter shows that state actors and different populations in CHT compete to define and claim certain identities such as indigeneity and nationhood. Multiple identities are invoked and formed in relation to land claims in CHT by both Bengalis and Chakmas. The chapter outlines the shift in state categorisation of hill people, and how the shifting position of the state influences hill people's land claims and entitlement. State discourse shows a shift in categorising Bengalis, who came under settlement programme in CHT, also. My findings suggest that Bengali settlers and Bengali institutional actors often mobilise similar discourses regarding categorisation of people in CHT and nationalist interests. In addition, religious differences are increasingly becoming important in social boundary making and in land contestation between communities. It is shown that the hardening of Buddhist identity and the claim of 'purification' of Buddhism among Chakmas mirror hardening of Muslim identity of the Bengalis and of the state. Hence, there is a religious dimension to politics of difference and ethnicized land politics in CHT.

Chapter 8 introduces the history of land conflicts between Chakmas and Bengali settlers by tracing how the conflicts emerged and have evolved since 1981. There are contrasts in the Bengali and Chakma narratives regarding land allotment processes under the Bengali Settlement Programme. These contrasting narratives suggest that different populations and government compete to define property, authority and territory in CHT. Ambiguities in categorising land, land records and institutional arrangements in land control (Chapter 4) shaped and are shaping the land dispute process. However, contestation does not only involve claiming legitimacy and legitimisation of authority and structures; instead, contestations over land between communities, at the village level, primarily occur through contestation over physical occupation or *dakhal*, which in this particular context means forceful occupation. Competing legitimacy claims and contestation over *dakhal* at the local level are shown by discussing the collective strategies employed by two communities. Analysis of collective strategies demonstrate that land conflicts at village level are part of a larger political contestation involving state institutions, regional government institutions, national political parties, hill political parties and civil society organizations.

Chapter 9 attempts to answer two research sub-questions: how land claims invoke different notions of authority and how property claims influence notions of authority by analysing land dispute processes. This chapter offers accounts of land conflicts between Chakmas and Bengalis by mapping out different kinds of land disputes found between the Chakmas and the Bengali settlers in Chakmachari. Within the ambiguity in land settlement and management systems (or the liminal period), characterized by contestation among institutional actors over law and authority regarding dispute settlement, my findings suggest that most disputes are settled by institutions without formal authority to sanction property rights. Combinations of authorities (Shanti committee, the Army, Headman, Bengali leader) endorse land rights and settle land disputes in CHT. There are various authorities involve in constitutions of property relation in CHT. The ability to exercise authority reside not only in formal institutions but also in informal

institutions. Authority dynamics reflect a process of contested and coordinated roles of state and non-state institutions. Dispute processes show that through *dakhal* and contestation at institutional level, Bengalis, particularly those who are capable of accessing institutions, manipulate or mobilise power, are more able to gain land.

Chapter 10 provides the overall conclusion and discussion for this thesis.

1.10 Conclusion

On the first day of my fieldwork at state institutions, i.e. D.C office and adjacent judge court in Khagrachhari district, I was introduced to the Additional District Magistrate by a Chakma lawyer – Bipol Chakma. I end this introductory chapter by outlining the conversation we had, as her statements touch upon key points of contention concerning land politics in CHT (providing the standard narrative of institutional actors regarding this conflict) and also reflect the significance of carrying out this study. After I introduced myself and outlined my research topic, she stated:

“You have selected a wrong research topic. You can say there is a land dispute when there is a definite owner of a piece of land. In CHT, lands have no owner [the ownership of land is not determined]. When there is no owner of a piece of land, how can you study dispute over that land? The lands [plots] have ‘no father and no mother’, they belong to whoever can establish claim for now [*Ekbane jomir kono bap-ma nai, jokhon jar tokhon tar!*]. There has never been a land survey. People make property claims as was in the past; whoever was carrying out *jum* on a piece of land, claimed ownership of it!”

She continued to present her perspective, even offering her own recommendations:

“There are lots of land related litigations logged in my court. I have worked in five districts before coming here [Khagrachhari district] and the patterns of land suits are totally different in CHT from any other parts of Bangladesh. The major gap [problem] is that there has not been any land survey. It is said that the lands, which are not recorded in the name of any individual, are government owned lands or *kbhas* lands. But those lands need to be recorded in government’s name then! A land has to be registered in someone’s name, be it an individual, Deputy Commissioner, Marma Chief, Chakma Chief or a *jum* cultivator; but in CHT there are lands which are not recorded in anybody’s name!”

‘My recommendation is, there are three circles in CHT. A land survey can be conducted under supervision of the Chiefs of these three circles in co-ordination with the Land Office. The traditional institution can be given the responsibility to carry out the land survey. We can use the traditional institutions positively. But they [looking at Bipol Chakma] don’t want the survey [to be carried out]. I don’t understand why their leaders [leaders of hill political parties] are opposed to carrying out the survey? [Smile].’

In stating that my research topic was wrong, the magistrate pointed out several puzzles pertaining to land disputes in CHT, namely that there is no definite owner (as nobody’s claim of ownership is solid or secure) of lands and there are ‘gaps’ or problems due to the incomplete system of land record in absence of a proper land survey. Moreover, these problems cannot be solved at the institutional level, given the as political contestation over carrying out a land survey in CHT. Adding to these complexities and ambiguities, there are intimations of a kind of lawlessness as people claim land ownership by having possession- ‘like it was in the past’. As an actor of the state’s bureaucratic institution with judicial responsibility, she also underlined the particular nature of land disputes in CHT, in contrast to other districts of Bangladesh, due to different laws and institutions that operate there. My research investigates the irony or paradox she mentioned; i.e. how actors are engaged in legitimating property claims to land and authority in the context of ambiguities in identifying the “father” or “mother” of the lands in CHT and competing forms of authority. To solve this puzzle, my thesis explores the competing claims, narratives, claim-making and actions of different actors.

As an ethnographic study of land politics in CHT, this study involves a detailed analysis of dispute cases with the aim of generating context-specific knowledge. To investigate how different notions of identity and authority are invoked and formed through land-claims and dispute settlements, disputants’ and institutional actors’ narratives regarding legitimacy claims, rules, dispute settlement processes and practices are analysed. Before explaining the methods I use and moving to the empirical sections of my study, I elucidate the concepts that I use to frame this study in the following chapter.

Chapter 2: Conceptual framework

2.1 Introduction

This chapter discusses three main concepts applied in the study and how they are conceptualized in relation to land politics in the Chittagong Hill Tracts in Bangladesh. This is followed by a discussion of how these three concepts are conceptualized related for analysing land politics (section 2.5).

2.2 Property

Property in land is understood as ‘claims that are legally and socially recognised and enforceable by an external legitimised authority’ (Agarwal 1995, p.19). According to Macpherson, property is a political relationship since ‘any given system of property is a system of rights of each person in relation to another person’ (Macpherson 1978, p.4). Hence, property is not the relationship between a person and the object, but rather, the social relations among people in regard to the object which is valued as property. Property is defined as ‘bundle of rights’ that include the right to use, the right to transfer, right to bequeath and the right to exclude others from the thing owned (Agarwal 1995:19).

Sir Henry Maine’s definition of property as ‘bundle of rights’ focuses on the legal dimension and indicates that different rights are associated with a valued object which can be tied together for one person or can be divided among different entities with different rights (in Hann 1998). Although Maine does not explain how these rights are connected (Hann 2007), the idea that rights can be differentiated emphasizes the importance of seeing property not only from a legal dimension but the social historical political dimension of it. Having legal rights does not guarantee actual ownership, and there is also a gap between ownership and effective control over land (Agarwal 1995:19-21). According to Hann, the ‘bundle of rights’ metaphor also helps to unpack rights and obligation associated with the concept of ownership, both collective and private (2007: 308).

Landed property is different from other forms of property. Macpherson states that ‘property in land and capital especially are more important in another way: they carry in them, when they are held in quantities larger than an individual can work by himself, a power to control the lives of others’ (1978, p.12). Besides, land gives a sense of identity and rootedness in people’s minds (Agarwal 1995, p.17). Land and landscape have cultural meaning and ritual significance, and are crucial for the continuity of kinship ties among the Mrus in CHT (Loffler and Brauns 1990). In making claims to land, Chakmas often stated that land is not only a source of livelihood or food (for their families to survive), but that their ancestral lands symbolise their rootedness in the

village. Those lands are precious or attached to their beings because they contain the blood and sweat of their ancestors. Therefore, although in principle any other forms of property can be converted into land, what sets land apart from other assets/forms of property is that land is limited and land claims often have cultural, political, symbolic and social aspects attached to them.

Marx defined property relations as social relations to means of production or productive resources (Plattner 1989). But in non-capitalist societies, production is not a separate realm. Therefore, in societies where ‘social property’ exists instead of private property, property relations are determined not by material forces but mediated by ‘material and non-material elements of culture’ (Nugent 1993). Anthropologists have observed diverse social organizations of rights, entitlements over resources and property relations. Gluckman (1972) discussed the co-existence of individual’s entitlement and collective control over land. He outlined that control over land exists at various layers or levels which he called the ‘estates of administration’ and the right to use the land is termed as ‘estate of production’. He found that landed property – ‘embodies a hierarchy of overlapping rights’ (Gluckman 1972 cited in Sikor 2004: 76-79). Property consists of a series of allocations that goes from one layer to another. The ‘series of [land] allocations’, among the Barotse went from king to village headmen, from village headmen to household heads, and from household heads to individuals (ibid.). A person’s social and political status or identity shapes his relation to property. The king is identified with the land and common villagers’ land claims depend on their membership of a village. Various claimants have overlapping rights at levels of ‘estates of administration’ and rights are tied with obligations. People can enjoy secure estates of production as long as they fulfil their obligations such as paying tribute to the king. In deciding land disputes, rights are justified by a broad range of moral and social goals, not by formal legal procedures. I find Gluckman’s framework, discussed by Sikor (2004), useful in understanding contrasting land relations in Chakma society regarding plough lands and *jum* or hill lands. The British government introduced a formal property system with individual property rights over plough lands, but the pre-existing property system based on the social norms of owning land among hill people continued to exist in relation to *jum* or hill land. In the pre-British era (Chapter 4), according to some administrative reports of British administrators (Hunter 1876, Hutchinson 1909), authority to control derived from king to village Head (known as *Dewans*) and from *Dewans* to common Chakma villagers who had obligations to pay tribute and labour (in certain contexts) in exchange for rights as subjects. In the British era, these hierarchies of rights and obligations persisted, but the tax system was formalised. My study finds that co-existence of individual entitlements with collective control still endures, and a hierarchy of estates of administration held by state and by Chief-Headman overlap (Chapters 4 and 5). The dispute processes show competing claims over a piece of land occur based on various norms i.e. social rules and formal legal rules. In deciding such land disputes, in the Chakma community, at the Headman court (or in cases of informal authorities), both rules are often taken into consideration and negotiated.

In the framework proposed by Von Benda-Beckmann et al. (2006), property relation encompasses norms, ideology and practice. The authors describe the property system as having three elements: 'social units (individual, groups, kinship, states) that hold property rights and obligations, the construction of an object as property; and rights and obligations that different social units have in relation to the object' (p.15). They identify four layers in which property finds its expression: ideologies; political and legal institutions or regulations; actual social relationships meaning social relations of property which include 'land use, inheritance pattern... and the implications for different forms of social inequality' (p.308); and social practices. These layers are interdependent and property elements become interconnected in social practices. In sum, according to this framework, answers to the three questions as to who (actors) has what right over what, are determined by the working of the four layers. Changes in institution or regulations might not be effective if it is resisted or contradicted at other layers such as in the layer of ideology or social practice. For instance, Agarwal (1995, pp.15–16) mentions that gender ideologies and associated social practices such as restriction of women's mobility or female seclusion may obstruct women from claiming and exercising existing property rights. In Banglachari, the Bengali settler respondents mentioned that according to Islamic law of inheritance and the norms regarding inheritance in their 'country-home' (*desb bari*) i.e. in their native villages, sons either inherit all the lands or inherit larger amounts of land than daughters. Although settlers are strong believers and practicing Muslims, the inheritance rule in the settlement village is different, in that Inheritance rule states that all children (sons and daughters) inherit an equal share of landed property in practice because of the particular history and context (Chapter 6) of settlement.

The framework of Von Benda-Beckmann et. al (2006) emphasises on the need to find out actual property practices, which is useful to understand varying and overlapping property systems within communities. It helps in exploring and understanding property constitution by looking at various rules and institutions at play in recognising property in land and how rules are challenged, modified or circumvented often in practices. Drawing on their framework, my study explores legitimising practices of institutional actors and claimants. For instance, in the Chakma village, analysis of dispute processes reveals the existence of different institutions (Bureaucracy, Headman, political parties (JSS and UPDF), Village elderly and respected persons; and different rules or norms (formal, social and political) in claiming and authorising property. To understand the constitution of property relations, I find the framework useful in tracing divergent rules and procedures that are applied in sanctioning property in land by different politico-legal institutions. The Headman as an institutional actor exercises formal authority in formalisation of land claims based on statutory laws. In cases of disputes taken to the Headman's court, involving competing claims based on social norms and legal norms, the Headman does not necessarily endorse property claims based on legal norms. Moreover, although formal rule dictates that the Headman's court has the authority to settle disputes within community, it is found that that the

Headman's authority in deciding disputes is challenged through social practices and by hill political parties' members who exercise informal authority .

My study finds a local concept of *dakhal* being utilized by people in claiming and owing land, which is necessary to understand property formation and conceptualization in the local context. In CHT the notion of *dakhal* has different and multiple connotations. Different meanings and types of *dakhal* involve variant sets of norms, institutions and practices. The literal translation of the notion of *dakhal* is 'to take control' which in its most basic forms means –'land ownership is decided by the physical act of occupying a piece of land' (Suykens 2015:487). *Dakhal*, as defined in the Chakma community, embodies first occupancy and a labour theory of property. Having *dakhal* does not mean having *de jure* rights of ownership when the land is not a homestead plot¹³, but Chakmas claim to own land over which they have *dakhal* based on their traditional laws and customs. Moreover, the amended Land Dispute Resolution Commission Act of 2016, promulgates that in settling disputes, the 'existing customs and practices in forces in CHT' will be taken into account, providing legitimacy to land owned by social norms or *dakhal*. However, within Chakma community, the notion of *dakhal* is changing (see Chapter 5), as the findings show that in few cases people have access to land but they do not claim to have *dakhal*. Among Bengalis, having *dakhal* usually means having possession and having access i.e. ability to benefit from land as defined by Ribot and Peluso (2003: 153). However, the Bengalis who lives on absentee settlers' land they make land ownership claims based on having *dakhal*, and in these cases *dakhal* means *de facto* ownership. In cases of land disputes between the Bengali and Chakma community, *dakhal* is mostly used to mean maintaining possession and forceful occupation. In both cases, *dakhal* involves a set of actions or strategies to gain or to maintain control over land. In cases of dispute, both parties (disputants) make property claims to land based on land papers or legitimising institutions. However, on the ground, they contest or negotiate over having *dakhal* i.e. having effective control over land. In such cases, contestants have *dakhal* to varying degrees, which means they not necessarily have exclusive possession or full effective control. The various meanings and degrees of *Dakhal* are crucial for understanding property claims in CHT.

Property also involves violence. Based on his study outlining violence involved in enforcement of property regimes and resistance, Correia (2013) noted that property is violence reified. Narratives of both Chakmas and Bengalis indicate that violence, its memories and potential for violence are related to land dispossession. Adnan and Dastidar (2011:68-69) note that sexual violence and rape of hill women were key factors for hill communities to leave their villages and move elsewhere. Rape is systematically used as a weapon against hill women (CHT Commission Report 1991). Chakmas described experiences of direct violence such as displacement, eviction, army raid, being arrested by the army or police and 'being taken to camp' (being interrogated and in most cases tortured). On the other hand, cluster villages were established for the Bengali

¹³ According to CHT Regulation Act 1900, hill people can obtain 0.30 acres of land as a homestead plot with Headman's authorisation, without legal land title authorised by the state.

settlers fearing attack of the hill political parties (Chapter 3). Incidences of violence and potential for violence sustain through feelings of fear, insecurity and memory. There are also bodily and embodied memory of violence carried by many of the Chakma interviewees (having scars or pain) who were taken to 'the camp'. Studies on violence in Sri Lanka in 1983 (Spencer 2007) and anti-Shikh violence in Delhi in 1984 (Das 1996) demonstrate violence as a map of political process. Spencer (2007:120-121) argues that violent events occur in a 'political time' located in a 'political space'. As such, violence is not an 'extraordinary' event, rather should be viewed as 'intensified continuation of normal politics'. This is a useful approach to understand occurrence as well as continuance of violence in relation to land disputes (Chapter 3 and Chapter 8) and as a part of continued political contestation over land and territorial control.

Property and law are often depicted as apolitical, impersonal and inevitable; however, construction of property law is an arena of conflict (Correia 2013:6). This resonates Sundar's (2009) argument that in defining the rule of law in post-colonial societies, the perennial questions that remain are who defines the laws, who implements them, who contests them and why. Historical analysis of rules and institutional contestation in Chapter 4 in this thesis shows making of rules as sites of struggle. Moore defined law as a process (1978:1) in which, 'The making of rules and social and symbolic order is a human industry matched only by the manipulation, circumvention, remaking, replacing and unmaking of rules and symbols in which people seem almost equally engaged'. The empirical chapters (5, 6, 8, and 9) present how property rules and norms are circumvented, re-interpreted and negotiated both in village level contestations by disputants and at institutional level by institutional actors. Violence plays a role in how property is contested, constituted and settled (Chapters 8 and 9) which becomes apparent in the making, circumvention and enforcement of rules (Chapter 4)

2.3 Authority

Authority, according to Weber's classic definition, is successfully legitimated power. Based on Weber's (1976) definition, authority refers to 'an instance of power that is associated with at least a minimum of voluntary compliance' (Sikor and Lund 2009:8). Wolford et al. (2013: 203) describe authority as 'the capacity to assume decision-making power in a given context'. Authority is a reflection of power because it is a relationship between various parties 'in which some are able to claim and deploy the right to make meaningful decisions' (ibid: 203). This one-dimensional view of power i.e. power as decision making 'involves a focus on behaviour in the making of decisions on issues over which there is an observable conflict of (subjective) interests...' (Luke 1974: 15). The second dimension of power is also useful in understanding authority which stresses the importance of agenda setting that influences decision making. According to John Scott (2001:26), the ideas of domination and stratification are also rooted in the fundamental concept of power –'[W]here domination is the articulation of power into

enduring relations of control over other people, stratification is the articulation of power into horizontal structures based in inequalities of resources’.

Legitimation of power is a dynamic process (Alagappa 1995:19). Drawing on Weber’s definition, Alagappa suggests that the process of legitimation is “characterized by projections and counter-projections of legitimacy, by contestation of meanings, and by deployment of resources including coercion, negotiation, and possibly suppression and termination” (1995: 13). Legitimacy is constructed and maintained through specific processes of legitimation (Alagappa, 1995). Hence, legitimation is a site of struggle and entails processes through which actors and institutions attempt to legitimise their actions, vindications, decisions and their decision-making role. According to Lund (2006:693), ‘[W]hat is legitimate varies between and within cultures and over time, and is continuously (re-) established through conflict and negotiation.’ A wide variety of institutions exercise governance, and in certain contexts, institutions that compete to exercise legitimate public authority for authorising and validating claims as rights are not in the realm of government institution. Political as well as non-political associations and organizations can be active in the competition for distribution of public authority and these institutions operate in the twilight between state and society (Lund 2006: 679).

Property is distinct from access because it involves legitimacy and legitimising practices. This distinctive element about property ‘gives an entry point into the processes constituting authority’ (Sikor and Lund 2009: 7). Sikor and Lund (2009:10) argue that in post-colonial and post-socialist societies property –‘is one of the most important fields in which politico-legal institutions seem persistently to compete for authority’. They argue that recognition of property claims as legitimate also provides recognition to the institution of its own authority. Institutional authority is created, eroded or consolidated by legitimising land claims. This conceptualization of dynamics of property stresses the need to consider all institutions (formal and informal) that exercise authority in recognising property claims into analysis, to understand constitution of property. As such, linking legitimacy of land claims as property with the legitimacy of authority of legitimising institutions, provides a framework to explore why legitimacy of certain land claims can be raised and can get eroded or consolidated.

This analytical understanding allows to explore the relation of authority in constitution of *dakhal*. *Dakhal* enables to make land claims in certain contexts when endorsed by certain authorities; however, the legitimacy of land claims based on *dakhal* varies over time with changes in authority dynamics or the erosion/consolidation of the authority of the legitimising institution (Chapter 6). For instance, Bengalis’, those who are living on the lands of absentee settlers, *dakhal* or physical occupation of land, was sanctioned by authorities (leader and army), during the cluster-village era, and was recognised as valid land claims within the settler community (see Chapter 6). In the post-Accord period, the army is less involved in recognising property claims, and Bengalis in Banglachari have more access to other state institutions (bureaucratic and judicial). With

changes in the political scenario and institutional arrangements in CHT, within the Bengali settler community, land claims based on *dakhal*, granted by the army in the pre-Accord period, are increasingly being challenged by people owning title for those lands. Consequently, the settlers who owned lands with titles granted by the state, even though they left Banglachari during the times of conflict, are able to establish their property claim at the village court and legal courts. As such, *dakhal* as a process is also interconnected to authority of state institutions and non-state institutional actors.

Exercise of authority is linked to claim to legitimacy and authority relation is formed through contestation over legitimacy (Nuijten and Lorenzo 2009). My research attempts to grasp the narratives and strategies of making claims for authority and finds that various strategies are pursued by institutions or institutional actors which include among many others, physical violence, coercion and circumvention of laws, and claiming legitimacy for their own authority by invoking legislation or the past.

Lund (2008: 2) finds that the Ghana the Land Reform Act of 1979 opened up intense competition among institutions to authorise land claims and also resulted in the revival of the institution of the earth priest. He mentions three main aspects for understanding the political processes involving institutions: institutions as actors, arenas and at the same time as manifestations of power relations (2008:9). Thus, politico-legal institutions as actors are often personified by their chiefs, rulers or governors. These institutions define and enforce, or attempt to enforce, collectively binding decisions and rules. Their attempts get challenged when disputant parties do ‘forum shopping’ by taking their claims to institutions that will serve their interests. At the same time, the institutions (i.e. the fora) also ‘shop for conflicts’, which means they look for claims and disputes to manipulate and to settle in order to meet their political interests. Secondly, social institutions are also ‘constellations of social interaction’ in which members acquire, exchange resources and ideas, as well as negotiate and contest the terms of obligation and authority (Berry 1997: 1228). Thirdly, institutions also manifest power relations, developing or making use of a certain structure of entitlements which sanctions certain claims while eroding others. By doing so, an institution renders ‘competing claims to authority and resources illegitimate’ (Lund 2008:9). My study found that within and between Chakma and Bengali communities, different sets of institutions settle these different kinds of disputes. Understanding institutions as constellations of social interactions enabled me to explore, for instance, how within the Chakma community the politico-legal institutions that settle disputes compete as well as negotiate maintaining legitimacy of their authority. The process of recognition of property also reflects power relations among the institutions. For instance, disputes between Bengalis and Chakmas, Headmen contest the state’s authority to grant land to Bengalis without taking the Headman’s recommendation. Headmen challenge the legitimacy of titles granted to Bengalis by not collecting tax from them. However, the analysis of dispute processes shows that when disputes are taken to the state institutions – army camp (exercising informal authority) and at

court - the Headman's authority to recognise property in land is undermined and circumvented. There is contestation over authority among the central state actors (government, bureaucracy, army), traditional institutions (Chief-Headman) and regional government institutional actors (CHTRC and HDC), and non-state actors (political and civil society organization). Individual's (Chakma and Bengali) contestation over landed property and *dakhal* are influenced by local level competition among politico legal institutions and non-state institutions (Chapters 8 and 9). Studying authority dynamics in recognising property in land allows to explore the process of state formation.

2.4 Identity

Construction of ethnic identity and national identity can be understood from two perspectives: an essentialist perspective describes ethnic identity as a stable contingent characteristic, tied to a place to which people belong and also to their social circumstances. In contrast, a constructivist approach suggests that identities are imagined, historically contingent, always changing and negotiated. Barth argues that ethnic identities are situational, fluid and constructed (Barth 1969). According to him, identities are a creation of particular interactional, historical, economical and political circumstances.

Stuart Hall (1996: 4) argues that identity entails a process of becoming rather than being. He states that '[A]ctually identities are about questions of history, language and culture in the process of becoming rather than being: not "who we are" or "where we came from", so much as what we might become, how we have been represented and how that bears on how we might represent ourselves. Identities are therefore constituted within, not outside representation'. He conceptualises identity as 'articulated positioning', noting that '[A] theory of articulation is both a way of understanding how ideological elements come, under certain conditions, to cohere together within a discourse, and a way of asking how they do or do not become articulated, at specific conjunctures, to certain political subjects' (1996: 141–142). He defines articulation in two ways: 'as the process of making a collective identity, position, or set of interests explicit and comprehensible to an audience; and to the process of linking that position towards achieving definite political ends' (Hall 1996 in Kjosavik 2006:2). Therefore, his theory provides an understanding of how ideological elements of indigenusness come together under certain conditions and how they do or do not become articulated at certain conjunctures.

In her analysis of indigenous identity formation in Indonesia, Li (2000) uses the concepts of articulation and positioning. In her study in two different places inhabited by the same group of people. She found that contrasting conjunctures made the people living in one of these sites persuasively articulate indigenous identity. She argues that indigenusness is a 'positioning which draws upon historically sedimented practices, landscapes, and repertoires of meaning, and

emerges through particular patterns of engagement and struggle' (2000: 151). Li shows how the ideology of indigenism finds its subject in one group which is exposed to certain processes and conditions.

Taking Hall's theory of identity as an 'articulated positioning', Kjosavik (2006) describes how people in Kerala, India, re-articulated their sub-identities or micro-identities by positioning themselves as particular communities to re-negotiate with the state, after realising that under government legislation only certain *adivasi* communities would regain land. The right people have over property/land hinges on how people are categorised by authority. People also contest state categorisation, negotiate over their identity and claim certain identities in relation to their land claims. Bengalis and Chakmas negotiate over their identity and claim for certain identities in relation to their claims over property/land (Chapter 7). For instance, in CHT, Bengali settlers mobilise state actor discourse of Bengali nationalism and indigeneity to strengthen their property claims. At the same time, they invoke their identity as settlers (by invoking history and certain documents) in relation to their land claims, and in that process, reproduce their identity as settlers (Chapter 7).

Peluso (2009) explores the relations between violence, property and the production of ethnicity and landscapes in Indonesia. Production of rubber shaped the territory, people and their identity in particular ways. In gaining access to land for rubber production, identity was important. Authorities' selective recognition of claims resulted in the production and hardening of ethnic and national identities. Through displacement, dispossession and physical violence entangled to politics of citizenship and identity, rubber production is associated with what Peluso calls, 'racialized territorialities'. The relation between property, territoriality and ethnicity in the context of CHT is explored in Chapter 4. Recognition of property claims hinges on recognition of political identity such as citizenship. Concurrently, people's recognition of institutions' authority to authorise land also turns them into political subjects (Lund 2011). These mutually constitutive relations between property, citizenship and political subjectivity is explored in my research.

2.5 Conceptual Framework

The above discussion on the three main concepts used in this study show that property, identity and authority relations are understood as processes. The preceding discussion provides an analytical framework with which to look at property formation in CHT by examining land dispute processes and by setting land relations to contestations over authority and recognition. In the conceptual framework of my study, identity and authority relations are seen as related to the process of constitution of property in land. In this section, I discuss the conceptual framework employed for my research. The discussion is based on scholarly works mentioned in previous sections (2.2, 2.3 and 2.4) on the notions of property, authority and identity.

For this study, property is understood as a process. Property is not fixed and one does not have property rights once and for all. Rather, the rules, regulations and patterns of social relations of property are constantly interpreted and re-interpreted through social practices. Focusing on the elements of property relations including social practices is useful to understand the qualities of fluidity and complexities in constitution of property relations in cases of land disputes in a contested territory. Moreover, property is understood as being inherently linked to the authority vested in the institution that authorises it. Recognition of property claims as legitimate also provides recognition to the institution of its own authority. As such, exploring the process of recognising property/land claims as legitimate by certain authorities, illuminates the process of constitution of authority relations. Through their claims and by taking their claims to certain authorities, the actors influence authority relations. Furthermore, in situations where multiple institutions exist, institutions often compete for authority and the process of land claim recognition is a political one in which institutions get consolidated or eroded. Authority is understood as relational, not fixed and infinite or inherent to any institution.

The historical analysis of state formation in CHT (Chapter 4) reveals tension between fluidity and fixity in property and authority relations time and again. In the post-Accord period, land disputes are unfolding in the context of multiplicity of institutions with overlapping authority, contradictory laws and an ambivalent legislative structure. Within this context, the analytical approach taken in this study is useful in understanding contemporary processes of constitution of property relations, as it enables actual property relations to be explored by investigating property claims, rules, strategies and practices. The analytical approach also enables the authority of any politico-legal institutions, such as the central, regional government or the army, not to be taken as a given, in the process of property constitution. My analysis of local-level land contestation is not centred on applicable land laws and institutions; rather, my analytical approach gives premise to the examination of local dynamics in different communities, that allow to develop an empirical understanding of property and authority relations in land control and connecting local dynamics to land governance. The processual approach in understanding property relations allows the fluidity in property relations and authority relations to be captured in a space where the state's authority, rules and claims over land are being contested through people's struggle, political movements and institutional (regional and traditional) competition. My research approach leads to a study of land contestations at multiple sites where disputes are taken to and at multiple levels where contestations are evolving. The conceptualisation of property and authority relations as interconnected also makes it possible to find out how disputants and institutional actors actively use, interpret and redefine these concepts as an integral part of land struggles and control.

As the discussion in section 2.4 illustrates, identity is conceptualised as relational, fluid, contingent, constructed and constituted within representation. Identities such as ethnicity or indigeneity are often formed during the course of struggles over resources. As with recognition

of property, certain identities tied to entitlements require recognition from political authorities. While political authorities impose certain categorisations of population, actors negotiate over their identity and invoke certain identities in relation to their claims over property/land. The discussion in Chapter 1 shows that hill people claim multiple identities. Besides, the state's position regarding the categorisation of hill people is not fixed. With regard to Bengalis who came to CHT under the settlement programme, their land claims are also related to identities such as Bengalis and settlers. Besides, there are certain categories, for instance, tribal/non-tribal permanent residents, which are only applicable to CHT. The analytical lens taken in my study gives scope to the exploration of the fluidity in identity relations by examining how people (Chakma and Bengali) invoke and defy different identities in relation to their land claims. The empirical investigation enables the ways in which both hill people and Bengalis strive to fit into different categories while also trying to define these categories discursively and through practices to be explored, along with an understanding of the citizenship claims made by people at the margins of the state.

Hill people's struggle against the state started with a claim involving multicultural nationalism and recognition of collective identity attached to the hills; on the other hand, the state's counterinsurgency strategies, including the Bengali Settlement Programme, were also framed by nationalist and the nation's developmental interests. To study land contestation in a territory where state categories are contested and multiple identities are claimed, the politics of recognition/non-recognition and struggle over identity need to be taken into account in order to grasp the politics of land. The conceptual framework used in this study includes notions of identity and enables the dynamics of identity in relation to constitution of landed property and authority formation to be explored. This also provides scope to examine how not only group identity but individual's different identities matter in their ability to claim/own land and shapes land contestation within and between communities. My analytical approach to study land contestation by investigating the relations among notions of property, authority and identity, is a novel approach. The analytical framework is developed to study local processes of property and identity claims of people living in a frontier region, where land governance remains an unsettled project, in a context in which land disputes between ethnic groups (Chakmas and Bengali settlers) are intricately linked with the larger contestation over territorial control and land control, along with questions of state's recognition of indigenous identity and debate about national identity.

2.6 Conclusion

By understanding property, identity and authority as relational processes influencing and being constituted by practices of the actors, in this study, I focus on investigating land dispute processes and explore land politics in Chittagong Hill Tracts of Bangladesh. According to Rose,

'Property needs a tale or story, not only for the individuals or group claiming property or individuals who creates and maintain property regime, even by those who theorized property regimes' (1994: 38). The following chapter discusses the methods applied for collecting and analysing these narratives of property.

Chapter 3: Research Methodology

3.1 Introduction

This study takes an ethnographic approach in investigating patterns, social relations, and practices to generate concrete context-specific knowledge. ‘Ethnography... entails revision of analytical perspectives on the basis of reflexive living in another setting, a research practice that is not necessarily confined to sociocultural anthropology’ (Englund and Leach, 2000: 226). Subjectivist approaches in ethnography suggest that through fieldwork the resulting text is a product of interactive processes between the described and the describer, the analysed and the analyst (Clifford, 1980 cited in Ellen, 1984). Gathering data and interpreting the data are the two main aspects of any ethnographic research; in this chapter I attempt to reflect on the process of doing both to enable readers to gain a sense of the interpretation of data, which will be presented in the later chapters.

Data gathered through ethnographic methods have been augmented by historical analysis of documents and literature to explore changes in laws, rules and authorities of land control in colonial and post-colonial regimes. Historical analysis, based on documents focused on themes such as categorisation of land and people, change in land/forest use, taxation, authority formation and property systems. I also collected oral histories from the Chakmas and Bengalis (presented in the empirical chapters). History is an important category of analysis in tracing changes and in finding out how identity, property and authority claims are produced and reproduced in relation to land and political control. Administrative reports and correspondence, institutional actors’ research, publications and seminar presentations, and scholarly literature were analysed in order to understand the historical process of state-making in CHT. The history of land control and state-making in CHT was analysed using the concepts of territorialisation by the state and frontier dynamics in CHT (presented in Chapter 4).

To explore how Bengalis and Chakmas make land claims own land and land dispute processes within and between communities, fieldwork was carried out in a Chakma village (Chakmachari) and in a Bengali settlement village (Banglachari) of Khagrachhari in CHT. Names of the villages, persons interviewed and other participants have been anonymised. In sections 3.2 and 3.3, I discuss some aspects and consequences of doing fieldwork in a mid-conflict region during a violent time. This is followed by an introduction to the three sites where fieldwork was carried out (section 3.4). This section presents a brief description of each village, focusing on major features that are crucial in understanding the social setting, and thereby for interpretation/analysis of data. In section 3.5, research methods employed for data collection are discussed. In section 3.6, I discuss how I was perceived and positioned in the research settings while collecting data, followed by my attempt of I-witnessing (Geertz, 1988) in the process of

data collection. In section 3.7, the main ethical issues pertaining to the data collection process are discussed, followed by a description of how data was analysed (section 3.8).

3.2 Fieldwork in Violent Times and in a “Post”-Conflict Region

CHT is recognised as a post-conflict region¹⁴, but it is a region which officially still requires ‘pacification’ (see Chapter 4). This section depicts conflicts and the role of violence at multiple levels which I needed to take into consideration when planning and carrying out my fieldwork. While the conflict and factions presented certain barriers, these also helped me to integrate into both communities in different ways.

Fieldwork was carried out during one of the most violent periods that has ever been witnessed in the political history of Bangladesh. I started my fieldwork in October 2013, three months before the national election, scheduled for January 2014. The opposition parties of the time (Bangladesh Nationalist Party-BNP, Jamaat e Islami-JI) demanded that the election be held under a caretaker government, not by the Awami League (AL) government which was in power. The AL government did not reinstate the system of caretaker government and insisted on organising and overseeing the election procedure. This led to violent protests by the BNP and its allies. They called for strikes and blockades, which continued for three months (October–December). The strikes were off only one day of the week, on Fridays. Political activists threw petrol bombs, and attacked public and private transports to deter people from defying the strikes called by them. In several incidents they attacked or set fire to public buses containing people, without allowing them to leave the transport.) Violence in 2013 was on a significant scale, with over 30,000 wounded and over 750 lethal casualties (Suykens and Islam, 2015: 6). The strikes and unprecedented violence induced fear and restricted mobility within and outside Dhaka.

Aside from the political violence at the national level, CHT itself is a conflict-ridden place. Among the Bengali settlers there is strong support for BNP and JI, and therefore during the strikes and blockades there were risks involved in passing through Bengali settlement areas in Khagrachhari. Moreover, in CHT, certain factors can lead to ethnic conflicts (between hill people and Bengalis). For instance, a Bengali rickshaw puller was found murdered in the first week that I was in Khagrachhari town, and the situation turned tense for a few days. Moreover, while the ethnic communities were in conflict, the communities were fragmented within. At present there are three major hill political parties. There are incidents of violence and conflict among different hill political parties and their fragments¹⁵. PCJSS, which was established by M. N. Larma (see Chapter 4) in 1972, divided into two groups in 2010. One section of PCJSS continued to be led by Shantu Larma (the leader of PCJSS since M. N. Larma was assassinated in

¹⁴ Chittagong Hill Tracts: Long Walk to Peace and Development, published by Ministry of Chittagong Hill Tracts Affair in 2016.

¹⁵ *Jummo Barta* (p. 28–29), Issue no: 1 (January–June 2012), published by PCJSS.

1983). This faction is locally known as the PCJSS Shantu group. The other faction is known as the PCJSS (Reformist) group or Larma group. Another party -UPDF (United People's Democratic Front) was formed in 1998 in protest of the signing of the CHT Accord between PCJSS and the government¹⁶¹⁷. Conflict among hill political parties is termed as '*bhatrighati shonghat*', i.e. fratricidal conflict. Since 2010 there has been mutual 'understanding' between UPDF and JSS Larma group, through the signing of a 'no harm' treaty. These two parties are politically active in Khagrachhari, although UPDF has more influence. The internal conflicts and negotiations were found to be important in the settling of land disputes within the Chakma community.

There is conflict, negotiation, cooperation and competition among the hill political parties and their party members in Khagrachhari. The internal conflict situation turned tense in CHT before the election. Initially, two parties (JSS Larma Group and UPDF) decided to form a coalition in the national election of 2014 by nominating a single candidate. However, in the end, the two parties nominated their own candidates. A few weeks before the election, the spouse of the MP candidate of JSS Larma Group in Khagrachhari was allegedly abducted by UPDF. This shows that even following the signing of the treaty, there was mistrust, and mutual accusations of violence among the political parties. According to hill people, the assassination of political activists as a result of internal conflict was more prevalent than newspaper reports would suggest. In a procession and meeting organized by CHT Citizen Committee in 2013 in Rangamati, members of the committee called for unity and peace among the parties stating that killing and kidnapping by the three factions were frequently taking place in the region.

The national election was held on 5 January 2014. Many hill people believed that the candidate of the national political party, i.e. Awami League (AL) was elected as MP for the Khagrachhari district because the votes of hill people were divided. They indicated that the factions among hill political party served the government's interests, rendering hill people's chance to participate in political decision making more elusive. Most Chakma respondents thought the UPDF candidate was actually winning, but that the army and government had rigged the election. Three hill districts were the only districts in Bangladesh where all cell phone networks were deactivated on Election Day by government order, and heavy surveillance was carried out by the army, which according to the hill people reflected the government's manipulation of the election result in CHT. This shows that political contestation among hill political parties and government are played out in different arenas (see Chapter 4).

¹⁶ UPDF does not hold the position of being anti-CHT Accord at present.

The restriction on mobility, political violence at a national level political parties, inter-ethnic tensions and factions among hill political parties -constrained fieldwork activities. However, the resulting decisions and situations facilitated to build rapport and to have access to the communities. When I started my fieldwork in October 2013 there were continual blockades through till December 2013. My father accompanied me on my first trip (in October) and my brother accompanied me on my trip to Khagrachhari (in December), due to the violent political situation. Both of them were forced to stay a week in Khagrachhari, as the blockades were only lifted on Fridays. My father and brother were with me when I made initial contact with key people – gatekeepers of both communities (Chakma and Bengali) – when I moved into the house of my host family in town, and when I moved into the house of my host family in Chakmachari village. Their presence while establishing key contacts and networks, made others feel responsible, seeing me as someone’s daughter and sister, whose male family members ‘were concerned about her and wanted to protect her’ (Abu-Lughod, 1988: 150). I entered the field not just as a researcher but a ‘female researcher’. Both Bengali and Chakma are male-dominated societies, and this made me fit into my gender role (see section 3.6.1 on positionality). I knew the gatekeepers through my male family members; this helped to dissociate me from having any political position or affiliation with any person or party. On the other hand, my role as a researcher was not overshadowed by the presence of my male family members. My research was taken as important work, because of my identity as a teacher of Dhaka University, and status of being a student at a foreign university. These identities were valued in people’s perception of me. Violence and stagnation in national politics played a role in making connections with people I met. Most people showed empathy that I had to travel and work and be away from home during that difficult time. It was predicted that there would be widespread violence on the day of the election so I left Chakmachari a week before the election. When I returned to Chakmachari after the election in January 2014, there was a moment of feeling a sudden acceptance (as Geertz 1973 described) as many expressed their concern regarding my travel back and forth, and they started talking to me more openly, instead of the warm but restricted conversations I had in the beginning.

After the election, the political situation improved. However, the safety of and potential risk for me, research assistants, gatekeepers, host families and respondents were taken into consideration when planning fieldwork activities and stays. For instance, I found fieldwork sites close to town, and not remote. I gained assistance from gatekeepers who were influential, well-known and respected within the community. Although it required time and delayed doing fieldwork to ensure these conditions, understanding complexity of conflict and taking above mentioned measures were essential to minimise risk.

In terms of key safety strategies, being alert, maintaining confidentiality and data safety, contextualising research, and communicating well about my role and objective as a researcher were important in building trust, along with listening to the advice of my gatekeepers, host

families and local people in planning everyday fieldwork. Understanding local and national political dynamics and patterns of conflict (Goodhand, 2000) was also important in avoiding potential risk. While doing fieldwork, two major incidents occurred which led to violence: clashes between hill people and Bengalis occurred when a Chakma woman was found murdered after being raped. Protests were organized by hill political activists demanding the arrest of the killers and by Bengalis claiming these accusations against Bengalis were false (see Chapter 6). In the other incident, armies and BGB (Border Guards Bangladesh) clashed with villagers near Khagrachhari town, as the villagers resisted eviction enforced by the government, which was acquiring land to establish a BGB quarter in Babuchara. During these times I had to make informed decisions and reschedule interviews or other activities.

As I established networks at the three research sites (see section 3.3) and understood that my identity as a lecturer of Dhaka University was helpful in interaction with actors in all networks, I became relaxed over time. I always carried a letter of introduction from the Head of Department of Anthropology of Dhaka University (introducing me and my research). Having this well-known and large institution as part of my identity, an institution which has historically influenced the national political scene, acted as assurance regarding my safety. Many institutional and political actors with whom I interacted had studied there, which helped in building rapport.

3.2.1 Restrictions on Access and ‘Being Watched Over’

During the insurgency period and post-Accord period the government of Bangladesh and its military have been restrictive factors for researchers wanting to access CHT and work among hill people. Adnan and Dastidar (2011) report that, while carrying out fieldwork, their work was interrupted by the security forces, intelligence agencies and civil officers. M.A. Uddin (2013: 372) during his fieldwork in CHT was interrogated several times at various check posts by security officers. I was told by a local journalist after I completed my fieldwork in Chakmachari that I could be 100 per cent sure that I was followed ‘like a shadow’ by military intelligence during my time in Chakmachari. The eerie feeling I had of being overheard and watched was reported as being common for people working in CHT.¹⁸

Initially, it was necessary to get approval from the DC office formally. I also needed to send a letter of introduction to the local army camp in Banglachari, which was then sent to the Khagrachhari Zone office to the Zone Commander. This was not a formal requirement, but absolutely necessary before starting fieldwork in the Bengali settlement village. In both villages, the army camps remain in the post-Accord period, along with checkpoints. Based on his experience of passing through checkpoints while working in a contested territory of Colombo, Jeganathan (in Das and Poole 2004:74-75) notes that checkpoints are established in anticipation of violence and located not at the boundaries of the state but rather, within, signifying how

¹⁸ A report published in Daily Star (11/02/15). Source: Thedailystar.net/big-brother-is-watching-you-64160 (Accessed : 08/03/2015)

boundary-making practices also run within state territories and that a state's margins are fluid. I was only stopped twice, and fortunately got away without much interaction. But the fact remains that the bamboo pole (at check posts) can come down to stop any vehicle or person in CHT, followed by interrogation.

As a precaution, I was careful to keep data secured and protected. I photocopied field notebooks, written notes of interviews, and survey data every two to three weeks during fieldwork. I kept one set of the data at my home in Dhaka. I kept the consent forms, the survey questionnaire and objective of research on top of those papers, simple and essential¹⁹. As another precaution, I left empty spaces where there should have been two questions (related to land conflict) in the survey questionnaire, thinking that these questions could be sensitive²⁰. I was aware that the questionnaires could be collected by security officials²¹. I also made sure to communicate/repeat to the institutional actors that I was working across communities to establish that I was studying how conflicts evolve from collecting the experiences and perspectives of both sides.

3.3 Research Sites and Networks

Khagrachhari district is where the Bengali settlement programme was mostly carried out, therefore, it was selected for fieldwork. The three primary sites were the Chakma village, the Bengali village and institutions of district and sub-district level in Khagrachhari of CHT. The involvement of a broad selection of informants in three different sites provided a wealth of information and a variety of distinct views, contrasting narratives that could be checked and cross-checked in order to create a broader, as well as representative picture of the processes studied. Although a major part of my fieldwork was spent in the two villages, I worked back and forth in all these sites. Fieldwork was divided into three phases – 4 months in the Chakma village, 3 months in the Bengali village 2 months in the institutions. There were four gatekeepers, who were also key informants, and they facilitated access to different field sites or networks.

Although there was a Bengali settler neighbourhood within Chakmachari (see the map 5.1 in Chapter 5). I did not interview these Bengalis who were in dispute with my Chakma respondents. To have respondents' confidence in sharing information with me – and not to add further tension to existing conflicts by crossing boundaries between communities within the same village

¹⁹ I personally explained the objectives of research and interviews to the respondents in more detail.

²⁰ Research assistants who conducted surveys with me knew the questions to be asked for those two empty spaces.

²¹ While doing research in CHT, Mohsin (2003) found copies of the questionnaire on the military officer's table.

and asking both parties about the same disputes, I selected a Bengali settlement village in the neighbouring union. The Banglachari village is 10 kilometres away from Chakmachari.

I had two gatekeepers who facilitated my entry into the hill community and the Bengali community. They introduced me to two other gatekeepers in the two villages. My gatekeeper to the hills or Chakma community was a high rank political leader of the PCJSS (Reformist) group. He introduced me to one of the ex-commanders of Shanti Bahini, Amol Dewan, who was my gatekeeper in Chakmachari. Shanti Bahini was the armed wing of PCJSS, established in 1976 and dissolved after the CHT Accord in 1997. While I was introduced to the village by a JSS leader/ex-commander, the families I stayed with had kin who were members of UPDF.

My entry to the Bengali community was facilitated by a Bengali journalist whose great grandfather was the first Bengali to settle (with land titles granted by British administrators) in Khagrachhari town and a colleague of my father. He was my gatekeeper and point of reference when introducing myself to any Bengali journalist, bureaucratic actor, police, political leader or villager in Banglachari. He introduced me to the high officials (DC, ADM, and TNO) in district administration as his niece. Because of his connection, gaining official permission from the DC office to conduct my research was easy. He introduced me to a Bengali leader in Banglachari, known as Jahan Ali Member, who then became gatekeeper in the Bengali settlers' village, i.e. Banglachari. Therefore, I had two different networks for two communities and throughout my fieldwork these two networks were separate. However, all the participants knew I was talking and mixing with people of both communities. I explained to my gatekeepers and respondents in these two networks why my research topic required me to carry out fieldwork in both communities and at various institutions. I explained to reassure them, so that they did not feel vulnerable sharing information with me, or feel suspicious towards me for moving between the two communities.

The study attempted to map out different authorities that are involved and gain an understanding of how disputes emerge, are settled and influence authority formation. Multiple government institutions are involved in allocating land and land dispute settlement. At the institutional level, I conducted interviews with institutional actors and I observed court proceedings. Moreover, the lawyers, bench clerks and *peshkars* were all open and enthusiastic about explaining court procedures and types of land disputes. I also interviewed academics, researchers and activists, both at CHT and in Dhaka, to gain an overview and different perspectives regarding the political conflict, land conflict, recognition and representation.

3.3.1 Fieldwork in Chakma Village

Chakmachari was one of the main centres where PCJSS, in their early days, organised their political activities and guerrilla war. A number of people from the village were involved in the

military, judicial and administrative wings of PCJSS during the armed conflict (1975–1997). Working in Chakmachari helped me to develop an idea of the organisational and political structures of PCJSS, and how its structure paralleled that of the state structure. The village was also under heavy surveillance from the army and there had been an army camp at the entrance to the village since 1981. During the period of armed conflict, the villagers always had to carry an ID card issued from the camp, saying ‘Bangladesh in My Heart’ on top of it, even to go to the local bazaar.²² In the pre-Accord period, this was the most important identity document through which Chakma people encountered the state in everyday life. Written documents can be regarded as state technologies of power (McConnell 2011 in Chhotray). Das and Poole (2004) point to the legibility effect (J.Scott 1998) of the state’s documentary practices. In this case, the documentary practice was not about making hill people legible to the state or securing membership or belongingness, rather it was about controlling hill people for security reason. Jeganathan (in Das and Poole 2004:76) suggests that at the heart of checking is the question –‘are you an enemy of the state...?’ He argues that a citizen is subjected, by the act of carrying identity cards, to the anticipation of being checked at the checkpoints (ibid.). Hill people’s oral accounts regarding this particular experience of encountering state suggest, practices of issuance and checking IDs made them classify as insurgents/potential insurgents with the intention of regulating them.

Villagers’ memories and experiences were valuable in exploring and understanding historically how people claim territory and certain identities. My findings suggest involvement in politics (and political parties) influences their claims and the strategies that they employ in their struggles over land (see Chapter 7 and Chapter 8). Coming from an urban background, it was astonishing for me to see people without any formal education in the village talking about socialism and politics. For instance, one compared the policies of the army government in Bangladesh with that of Indira Gandhi’s government in India. Some referred to the constitution and government policies while making identity and land claims. Although a hill village, it is neither remote nor isolated physically or politically. My gatekeeper, Amol Dewan, helped because of political reason, since he saw my research was addressing a major issue of political contestation in CHT.

The village is also an important centre for the whole Chakma community in terms of their religiousness, as the *bara bhante* (head monk) of Chakmachari is the most respected of the present time. The monastery was established in the 1960s. The *bhantes* (monks) have large influence on people’s lives (see Chapter 7) and most families (except for the very poor who gives labour for any event at monastery) donate money towards maintenance of the monastery and celebration of

²² One respondent said once while passing through a check post an army Major of a different zone tore his ID card saying – ‘It is useless’. He was scared. When he went to local army camp to get another ID card, hearing the incident the Major at the local camp laughed. He told me about the incident to describe the military gaze under which they lived, however, he concluded saying with a sadness in his smile that checking ID cards (which was absolutely crucial for him to go out and to return to his home) ‘was a game to them[the army]’ and ‘they were joking with each other’.

rituals on a regular basis. Another feature of Chakmachari is that it falls within the control area or 'administrative jurisdiction' of both JSS and UPDF. It is where the parties' demarcated territory of control is diffuse. Both parties collect money as donations on a monthly basis or after the harvest seasons from every household.²³

²³ The amount of money collected from individual households depends on the household's ability to pay. I didn't ask about collection of money, since I thought it was a sensitive topic. However, a few times people talked about it while expressing frustration about roles, political ideology and activities of the political parties in recent times. After staying for a few months in the village, it was mentioned by a neighbour that "Nowadays all political parties have one ideology – *'pet niti'* ('ideology of filling their own stomach'). I don't support or oppose any of them. When they come, I say *namaste* and give them the amount of money that they ask for."



Photo 3.1: Inside my host family's living room in Chakmachari – on walls Chairman Mao and Commander Che (top), Lord Buddha and *Bana Bhante* (bottom)

A considerable number of households can be categorised as middle class and educated since the Pakistan period. The primary school in the village was established in 1928. Later it was moved to its present location and rebuilt in the 1940s. The village is connected to major towns, institutions and markets through its population, who move to different places for education, work and business. Education is highly valued in the village. Parents mentioned that through education their children can have secure/better paid jobs, access to institutions, and become integrated in the state or become valued citizens of the Bangladeshi state.

3.3.1.1 Entering Chakmachari

I received the approval of some villagers to participate in the research before I started living in Chakmachari village. Initially, I conducted two group discussions and did one village mapping. I explained my research topic and research methods (survey, interviews and oral histories) in the group discussions, where participants included the Headman, important elderly people and also some young men.

The rapport-building process in ethnography usually follows the stages of apprehension–exploration–cooperation–participation (Bohannon cited in Spradely, 1979: 79). The process did progress according to the stages described. In the beginning, there was apprehension about the purpose of my stay and uncertainty about the types of questions I was going to ask. It could also be termed as the liminal phase of embarking on the fieldwork ritual (Ellen et al., 1993). This phase was expected due to my being a Bengali, and the cultural differences and existing power relations between the Bengali and hill people (Bengalis being the dominant group).

Bhante played a significant role in my having acceptance in the village. *Bhante* blessed my host for giving me shelter, as I was a ‘woman looking for a place to stay’, and reminded him that the Indian government sheltered many hill people for 12 years (my host family lived in a refugee camp in Tripura, India from 1986 to 1998). *Bhante* appreciated that being a Bengali woman I had come to live in the ‘hill and jungle’ and he told others in the village that my work was ‘important and good’. He said that I might have been a Chakma in my previous life, which brought me among Chakmas again, and that I had a true inclination for Buddhism. I prepared and served food with my host family at the village monastery for the monks on the days the neighbourhood (where I lived) was assigned to bring food to the temple, which helped me to integrate.

I worked with a Chakma interpreter and research assistant named Om Dewan, which was helpful to bridge the gap between me as a researcher and villagers initially. Afterwards, when we began conducting the survey and visiting different households with informant consent forms, explaining research topic, familiarity on both sides started to develop. Having a research assistant within the community had advantages and disadvantages. While he could take me around, tell me insider stories and provide additional information which helped me to grasp certain narratives and issues, his relationship to people mattered in the way people interacted with me. Some respondents were comfortable because of his presence, some did not provide sensitive information in front of Om, since he was an insider. The Chakma language is close to Bengali, therefore, after a few weeks I could understand a lot of the conversation. Once my Chakma language improved, I went back to some houses for follow-up interviews without Om.

3.3.2 Fieldwork in Bengali Settlement Village

The village of Banglachari, is 15 kilometers from Khagrachhari town. As a village its boundaries and population are constantly changing or shifting. I worked in Banglachari, commuting from

Khagrachhari town. My gatekeeper in Banglachari, Jahan Ali, an elected member of the local Union Council in the last term, considered it unsafe to live Banglachari, saying: 'The [social] environment is not good and safe'. As my gatekeepers did not approve of me staying in Banglachari, I did not insist.

3.3.2.1 Entering Banglachari

On my first day in Banglachari, Jahan Ali introduced me to a group of men at the tea stall, so that I could conduct a group discussion. All participants were either leaders working with the VDP (Village Defense Party) or student members of political parties. He then asked for the letter of introduction (for myself and the research) in order to send it to the local army camp to seek their approval. While I chatted with the respondents, I could hear Jahan explaining my research topic to a military officer of the local camp over a cell phone. After finishing this conversation, he informed me that the camp commander and the zone commander would give me a call. It was difficult and unnerving to go through the introduction stage with both the important people in the village (in an environment that was not relaxed) and the military authorities at the same time. But it was helpful that Jahan Ali had the conversation with the camp commander in front of key people within the community. While conducting the group discussion, I received the call from the camp commander. This reduced the tension of the respondents in talking to me as they watched me gaining approval from the camp commander to do my research.

In the Bengali village, I had a Bengali research assistant, Masum. Though I did not need an interpreter, it was helpful to have a male research assistant when going around the village to make connections. He was a student, not a settler, born and raised in Khagrachhari, working as a volunteer with the Red Crescent Volunteer organisation. He had visited Banglachari before to distribute winter clothes, and also the village *madrassa* (Islamic teaching centre) to have *iftar* (breaking of fast). Consequently, several people knew him already, which was helpful. Religion was important for him, which he conveyed in gestures and conversation. For instance, he would always mention the time of day based on praying times (such as before or after *Jahr* or *Asr* praying time). He supported the local Bengali political group 'Bengali Movement for Equal Rights', and supported the eradication of discrimination against Bengalis in CHT. His political position and his religiosity (both important for the construction of Bengali settlers' identity as discussed in Chapter 7) were clear to the villagers, while I explained that as a researcher I was gathering their perspectives and narratives without having any political position. The way he was viewed by the villagers was helpful in obtaining access to people.

Although my Bengali identity assisted in building rapport, some were apprehensive. I had to repeat a few times before and during interviews my objective of being there and my research topic. While most respondents in Banglachari were willing to have conversations and reached the level of 'co-operation' (Spradley 1979), there were also few people who did not overcome it and expressed their apprehension of me being an undercover journalist, a land surveyor or some kind

of informer. I tried to address this by reiterating that they could stop the interview at any point. This assurance, about which I was sincere, mostly worked in making them feel comfortable and in gaining trust.

3.4 Violence and Villages

Past and ongoing violence need to be acknowledged when collecting and analysing data. Nordstrom and Robben (1995) focus on the experiential dimension of violence, how people experience and evoke different manifestations of violence (ranging from war, protest, rape, rumours of violence, moral discourses), the implications of violence (present, future and in renditions of the past) in reconfiguring lives in situations of conflict and war. They argue that violence is an intricately layered phenomenon of many realities and -‘even the most horrific acts of aggression do not stand as isolate exemplars of a ‘thing’ called violence but cast ripples that reconfigure lives in the most dramatic of ways, affecting constructs of identity in the present, the homes and potentialities of the future, and even the renditions of the past’ (1995:6). Besides, anthropological studies have pointed to the interplay between war, political violence, authoritarian rule, and emergency powers as shaping people’s sense of community and self (Das and Poole 2004). I found all these events mentioned by Das and Poole (2004), continued to shape people’s self, community as well as their capacity to claim land individually or collectively even in post-war and post-emergency situations. People’s narratives show that events related to war or emergency situations are not essentially being bounded in certain periods of time.

My concern about violence was heightened due to the nature of my methodology of working across communities. From a methodological perspective, the behaviour, actions and responses of people needed to be understood in the historical and political context of war and internal conflict. Keeping a low profile and ‘minding your own business’ is often considered to be a survival strategy in conflict areas (Goodhand, 2000). Once I realised that in Chakmachari, ‘keeping quiet’ was a successful and ongoing survival strategy, I stopped being stressed or frustrated when conversations were blocked.

I found that hill people, or Chakmas or villagers do not represent a uniform or undivided category in terms of their political or class position (see Chapter 5). In making sense of social relationships within communities, understanding past and present internal divisions, fragmentations and conflicts was important. In Chakmachari, ex-members of Shanti Bahini spoke passionately about their involvement in politics, whereas people who stayed within the village and worked ‘over-ground’ or ‘in civil administration’, such as the *panchayat* committee or *jubo*, i.e. youth committee, (set up by PCJSS), did not speak openly about their activities (see Chapter 5). Those who worked in ‘civil administration’ or the ‘judicial division’ within the community settled internal conflicts and there were cases in which their orders and settlements

disfavoured some within the village. For instance, a member of the Youth Committee said that he once identified one *gabor* (labourer) as a spy working for the army within the village and after voicing his suspicions, that person ‘disappeared’ (abducted presumably by Shanti Bahini) from the village. After that incident, he never again voiced his suspicion about the possibility of anyone being a spy (an example of the practice of ‘keeping quiet’). The family of that missing spy, the youth committee members and Shanti Bahini members were still living in Chakmachari. I found it striking to hear about this incident, involving families living in close proximity, after couple of months staying in the village. Social relations and divisions are shaped by incidents and experiences of past conflicts; as an outsider it was difficult to fully understand these aspects in detail. Villagers’ interactions with me were also influenced by their internal relationship dynamics. As members of different political parties lived in the village, most people were cautious about talking to a Bengali researcher about internal politics, voicing their opinions and the involvement of political parties in their lives. Therefore, most people spoke in a restricted manner about the political parties’ role in the dispute process (see Chapter 5).

The Bengalis in the settlement villages experienced violence in multiple ways. Clashes between ethnic communities in some instances lead to violence. However, probably the biggest violence they experienced was when first arriving in CHT. They were left in the middle of an unknown place (‘jungle’) by armies without any shelter, food, water, without accessibility to town, roads and health care services (see Chapter 7). They experienced/experience violence perpetrated by the army (see Chapter 6).

There were also conflicts among different leaders in the village and fights among the factions under different leaders. For instance, Jorina said her father and brother were beaten up by one leader and his followers 25 years ago, over a dispute regarding collection of donations to build a mosque in the village. They were also jailed. She learnt about the court procedures when she was only 15 years old, as she was the only one who could go to town to manage the court case against her father and brother. She said, because of her experience, when one of her neighbours filed a suit charging her with theft in 2013, it took her only two days to manage get the case dismissed at the court. She had a dispute with her neighbour over the fence between their houses for years. That neighbour broke her 6-year-old son’s leg and once dug him in to a hole on a hill close to the village. Despite these experiences, she said the Bengalis were very united in CHT, particularly when there was a clash with hill people. Being wary and keeping quiet are also survival strategies in Banglachari. People fear leader’s reporting to army camp, since leaders giving ‘false reports’ resulted in them being beaten up by the militaries.

Categories, such as victims–perpetrators, dominant–dominated and powerful–subordinated, are sometimes not distinct in conflict regions. People’s memories and experiences suggest violence is not only embedded in state practices in both societies or directed by one community against another and violence as well as the probability of violence shapes villagers’ actions in multiple

ways. There is a sense of unity among people in each community for the collective memory of facing stress-related violence. They become united in facing communal conflict and protesting against the state's policy. Awareness of these multiple layers of relations and implications of violence helped me to be cautious in interactions and in interpreting data.

3.5 Research Methods

While I collected data pertaining to a wide variety of issues, such as kinship, religion, education, migration, etc., I primarily focused on dispute cases to understand property, authority and identity dynamics. I collected data on land dispute cases to empirically investigate how the disputes emerge, how events unfold, the strategies people adopt, how different actors make claims over land and how/which authorities are involved in dispute settlements. I carried out surveys, observation, interviews, oral histories and life histories in order to gather data about these processes and to understand them in their historical context. Additionally, village mapping and group discussions were conducted at the beginning of the fieldwork to gather data about area and population. Below is the description of the research methods used for data collection.

3.5.1 Survey

In Chakmachari, group discussion and village mapping were useful in establishing the locations of forest, hills and plough cultivation plots, low lands, grazing land, infrastructure, roads, the number of houses in different neighbourhoods, and water sources. This also revealed different types of land available and terminology used for different land types. The survey questionnaire was designed based on the data gathered through group discussions and key informant (gatekeeper) interviews. To earn the confidence of villagers²⁴, I started to carry out the survey before I planned to start, which helped to build my reputation as a researcher.

Chakmachari comprised 135 households in four neighbourhoods or *para* (cluster of hamlets). A household survey was conducted in three of these neighbourhoods comprising 105 households. The survey questionnaire included basic questions – age, sex, education, occupation of household members, along with their migration history. Four additional questions related to land ownership – the amount of different kinds of land they owned (homestead plot, hill, plough land, low lands by the river), how they owned their lands (if they have property rights based on social norms or they have land documents), and whether there was any conflict related to lands they owned. Doing household surveys was a very effective way to introduce myself, the research and also to build rapport. It created an opening for conversations.

²⁴ People in Chakmachari knew I was in their village for some work. I found out that sitting in the tea stall or taking walks were not considered work and they were expecting me to start working.

Although the survey questionnaire consisted of structured questions, data gathered through conversations revealed the complexity and difficulty in categorising various forms of land ownership based on different systems and various kinds of land documents people use to make land claims for different kinds of land. From the beginning, we kept the questions open (beyond coded responses in the questionnaire) and all the different responses were documented. The data gathered through the household survey in Chakmachari assisted in identifying households who had land disputes with people within the community or with Bengalis. Moreover, through the survey it was possible to understand some patterns, such as class and gender dimensions of land ownership, by knowing the amount of land different households owned and categorising households based on various characteristics (kinship, political connection, educational level, having access to institutions). In Banglachari village, I did not gain access to the old neighbourhoods for carrying out a survey. The household survey was conducted in 25 households in a new neighbourhood, which was established few years ago at the bottom of the hills of Banglachari, but respondents were not willing to participate and some were apprehensive about the purpose, so we had to stop doing it.

3.5.2 Interviews

To answer the research sub-questions – ‘How do land claims invoke different notions of identity?’ and ‘How do land claims invoke different notions of authority?’ – I focused on land claims made by people, i.e. how people claim legitimacy of their landed property and their entitlement. Interviews with those involved in land conflicts were most useful in this regard. In contrast, when collecting data on assertions of identity and authority for the sub-questions – ‘How do land claims influence/ (re)produce notions of identity?’ and ‘How do land claims influence/ (re)produce notions of authority?’ – conducting interviews with institutional actors, leaders and political actors were useful. However, separation of the data collected in terms of answering sub-questions from different actors was not always neat. For instance, Bengali leaders, Bengali/Chakma institutional and political actors also often had disputes over their own lands.

Interviews explain and place into a larger context what are observed in the field and people’s actions. I developed a questionnaire for the interviews by dividing the questions into three major concepts – property, identity and authority. I translated it into Chakma. However, keeping questions regarding property in land open to generate responses reflecting how property in land as social relation was formed from the respondents’ point of view was challenging (see section 3.6). After conducting a few interviews, I did not follow the semi-structured questionnaire. Subsequent interviews resembled conversations (Olivier de Sardan, 2008 cited in Lund 2014a) which followed a certain pattern based on my research interest.

Understanding local terms was also important. For instance, land disputes are called ‘*vejal*’ or ‘problem’. Labelling disputes as *vejal* is also significant, because *vejal* or problem suggests a process which is evolving, open and enduring without any fixed set of procedures or rules to

settle it. This supports the findings presented in the empirical chapters showing that conflicts over land which emerge from competing claims are not getting settled once and for all (see Chapter 8). Asking if there was a dispute or *vejal*, and how it began, revealed how people owned land and made claims. As discussed in Chapter 2, the notion *dakhal* was found to be important for people to own land. The interviews focused on exploring how events unfolded, which authority/authorities they took their claims to for recognition and why. In their claim-making, the categorisation of people and how people’s land claims relate to their aspired and ascribed identities were disclosed.

3.5.2.1 Interview Respondents

My methods explored both conflicts within communities and between communities. The following table shows the number of dispute cases found in two villages for each type of conflict:

Table 3.1: Land Disputes within and between Chakma and Bengali Settler Communities

Village	Disputes within Community	Disputes between Bengalis and Chakmas	Total Number of Respondents
Chakmachari	15	38	105
Banglachari	17	16	19

In Banglachari, Bengalis can be divided into two categories: settlers and latecomers. 19 in-depth interviews were conducted, of which 17 interviews were with settlers. Thus, 2 interviews were carried out with persons who did not come under the settlement programme. Of the 17 Bengali settler interviewees, 11 were original settlers of Banglachari and the other 6 interview respondents were originally settled in Dhanchari, but moved to Banglachari in 1986 when Banglachari was turned into a cluster village during the armed conflict era; they will be referred to as ‘settlers of Dhanchari’.

Of these 17 interviewees, 8 were recognised as leaders. Among these, 2 were women (members of local Union Council), emerging as leaders by getting involved with the mainstream political parties in the last 15 years. Among the 6 male leaders, 4 were ‘old’ (selected as leaders while they were in the *Hajee* camp) and the other 2 were ‘new’. Respondents for the interviews were selected by using snowball sampling. Out of 17 respondents, 16 had one or multiple land

disputes with hill people. I present their perspectives, claims, actions and strategies in the analysis of disputes between communities (Chapter 8 and Chapter 9).

I mapped out the land disputes that Chakmas of Chakmachari had within and between communities from the survey data. There were 38 cases of disputes between Chakmas of Chakmachari and Bengali settlers (Chapter 9). There were 15 disputes between Chakmas. I conducted interviews with people involved in all these cases. These households belong to different categories based on the amount of land owned, occupation, education, migration history and political networks.

During fieldwork, I conducted taped interviews with 28 institutional actors belonging to the institutions mentioned (see Annex: 3.1). I interviewed administrators in relevant offices and judges at the judiciary division in Khagrachhari district. I also interviewed actors at the national level. I interviewed two Members of Parliament – Chair and a member of the parliamentary caucus – on indigenous issues. I interviewed high-ranking officials at the Ministry of Land and Ministry of CHT Affairs. Interviews were conducted with institutional actors in order to understand their position and perspectives with regard to land conflicts in CHT, legitimacy of claim-making of settlers and hill people, politics of identity or categorisation of people, institutional arrangements in the post-Accord period, land surveys, maintenance of land records, land entitlement and the dispute settlement process. The Land Commission office at Khagrachhari town was closed at the time. No one came to that office for months, so I did not interview the Land Commission official. However, I interviewed the Chief of Marma Circle (who is a member of the Land Commission) and actors from local and national NGOs, and International CHT Commission.

All interviews conducted across the three research sites can be categorised as formal interviews they were taped and consent was taken. Data was also gathered through numerous informal conversations with people in villages, at institutions or with random people waiting at the courtyard. Even in cases of people who have been interviewed formally multiple times before, I acquired interesting dimensions and narratives regarding conflict while having conversations or chats.

3.5.3 Oral and Life Histories

Learning about the past is important in tracing changes in property and authority systems. The past is also invoked to endorse legitimacy to property, territory and authority claims by actors. Berry (2009) suggests that tradition is referred to as the timeless past in relation to land claims, and the past is also made up of events and actions which are invoked with various vindications (Lund 2013). For instance, I discussed about surveys being carried out in Chakmachari and fire accident at D.C office, as Chakmas remembered and referred to these instances in relation to their property claims (to make claims to legitimate property rights) (see Chapter 5). In doing so, I

stress the point made by Berry (1997: 1237) that ‘Past events may be represented and reinterpreted-orally, visually, tangibly or in writing-indefinitely. Even records which are withheld-locked up or left unspoken- continue to influence claims of property and power, as people speculate about their contents or propose alternatives’.

Collecting oral histories about the places, people and landed property to explore changes and how people interpret changes. Eilenberg (2012:77) found that historical claims and narratives were used to legitimise landed property, territorial and authority claims in the border lands of Kalimantan in Indonesia, and as competition over land increased among the local ethnic groups. Moreover, history is important in shaping local historical placement and ethnic consolidation (ibid.). Oral histories and narratives provide history from within and give a voice to the people who are marginalised in colonial and national history (Bal, 2000: 17). Oral histories in Chakmachari focused on its history of settlements, changes in the cultivation practices and land use, changing property and authority structures/rules, and changing perceptions about land. Moreover, oral history revealed changing religious practices, lost religious specialists and the history of political struggle. Life histories are retrospective accounts, making links ‘between past lives and present experience as well as hopes for the future’ (Bornat, 2002, p. 117). Life histories helped to construct the history of a place. For instance, Goirananda *bhante*, one of the oldest monks in the village monastery, came back from boarding school in Rangamati during World War II (in 1943/44) due to the rumour of Japan’s attacking Chittagong. His life history helped to develop a historical timeline and structure of settlements in the village.

Oral and life histories allowed me to see the state and state rules, not only from the state actors (presented in Chapter 4), but from people’s perspectives. I collected the history of Bengali settlements, land allotment process, conflict and dispute in CHT from the perspective of Chakmas/hill people and Bengali settlers, as their narratives provide histories from within and give them a voice. (See Chapters 6 and 8). The history of Bengali settlement from settlers’ accounts is largely absent in the literature. In collecting and analysing oral histories, I learnt there were multiple truths or information available, for instance, regarding procedures and authorities involved in allotting land to Bengali settlers, and I also learnt that my role was not to find out the truth or to say who was speaking the truth.

3.5.4 Observation

Data was also gathered through observation, by ‘being there’, taking part in different activities, ‘hanging out’ and conversing (as compared with interviewing), while consciously observing and recording what was seen and heard (Dewalt and Dewalt, 2001: 4). I did not conduct systematic observation of certain events; rather, data was gathered while ‘hanging out’ – visiting neighbours, having tea in the tea stalls, going to temple, attending weddings, attending the *biju* festival (new year festival), etc. Being there allowed me to gather insights or data which often cannot be uncovered by conversations or interviews. For instance, in Banglachari, while I was talking to a

Bengali women (latecomer and landless), suddenly there were sounds of chopping trees and she informed me that it was the new owner of the land that her family was occupying. She confronted the man who was clearing the plants on her yard, asking him to stop. While interviewing was useful, 'being there' in the villages enabled me to observe some incidents that opened up scope for further conversations and revealed conflicts (particularly those within community). For instance, in Chakmachari, an incident uncovered the contestation over inheritance among Chakmas. One evening, while we were chatting after having dinner, my hostess Dina-di (Pran-da's wife), received a call from her brother. She was informed that her niece's wedding had been arranged. Dina-di was delighted. After finishing the conversation with his brother and giving me the news, one of the first comments she made was that if her brother gave part of his land to her niece (his daughter), she would ask her brother to give her (Dina-di) a share of their father's land.

With regard to land conflict negotiation and contestation, I intended to observe particular events such as social meetings or *bichar*, where disputes are negotiated. In Chakmachari, all kinds of negotiation meetings organised for conflict resolution (at the headman court, JSS court, UPDF court and the meetings involving 'respected people'²⁵ in the village) are referred as *bichar* (Chapter 5). Bengalis use the terms- *bichar* and *salish-bichar* to refer to the negotiation meetings organised to settle disputes within and between communities. *Salish-bichar* does not differ from *bichar*. The disputes that were taken to army camp were also referred as *bichar* by both Chakmas and Bengali settlers. I did not have the opportunity to observe any *bichar*. Observation carried out at institutions involved land mutation, land transaction process and 'hearing' at the Land Office at the sub-district level, courtroom observation of land dispute cases. Amol Dewan (gatekeeper) filed a land dispute case in court, I followed up his lawsuit in the court and observed the court hearings (see Chapter 9).

3.6 Reflexivity

Interpretation by anthropologists entails introspection, and researchers recording and analysing data in terms of their own categories, attitudes and orientation (Peacock, 1986: 85). The subjectivity of the researcher shapes every step in the research design, from research question to data collection, analysis and interpretation. In this section, I attempt to do I-witnessing by reflecting on me influencing the knowledge-generating process.

Englund and Leach (2000) expressed concern that anthropologists using particular broad theoretical orientations and associated conceptual vocabulary might also obstruct anthropological knowledge grounded in ethnographic research. In understanding land politics in

²⁵ 'Respected people' include -Headman, the karbari, the elderly and educated people in the village, kin members of the disputants/parties involved, the member of Union Council (local government).

CHT, I had predefined categories and concepts such as property, identity and authority. My conceptual vocabularies and enquiries were obviously not directly applicable to the gathering of data, and it was difficult to translate the concepts into good questions. There was no synonym for 'property' in the Chakma language, although the Western concept of landed property and statutory norms have been used since the British colonial time. Besides, I understood the social and legal norms of owning property as binaries, but I found that when people made land claims, many did not make such neat distinctions. Some Chakma people (mostly the poor and labourer), when asked how or why a piece of land belonged to them, did not categorise answers by saying – 'I have paper' or 'I have *dakhal*' (referring to social norms of property) or 'everybody knows it is mine'. I found for many, still, the land belonged to them because they owned it/cultivated it or lived on it. My question 'why' or 'how' seemed in certain contexts to imply that they needed to claim legitimacy of their land claims based on certain norms, authority or paper. In some circumstances, asking whether they had land documents seemed like imposing the legal concept of owning property and as if I was making (or taken as making) a judgement about the legitimacy of their land claims. Later, by conducting a few interviews and through conversation, I developed a series of questions to investigate how people own land. I learnt to avoid predefined concepts while collecting data, instead allowing their construction within the conversation (Bohnan, 1966 cited in Lund, 2014). For instance, different meanings of *dakhal* and ownership by *dakhal* were developed through analysing people's claim making in cases of disputes and dispute processes. In the Bengali village, it was less difficult to ask questions regarding property and land, since Bengalis understand property in terms of having legal land titles granted by the state. Among them there was comparatively more knowledge and more people had experienced the legal land ownership system; they helped me to understand the land transaction processes, allotment process, court procedures, how lands are measured and about the land-index/register books at the surveyor's office.

I found that in Chakmachari, people tended to present a normative image of society (Goffman, 1969), which made it difficult to explore conflicts and power relations within the community. Some were conscious of their image to an outsider and, more importantly, to a Bengali. For instance, initially nobody told me about the conflicts between neighbours or kin. In matters of religion, I needed to be persistent to learn about the past rituals and religious practices i.e. the time before, as mentioned by Chakma respondent-'*Bana Bhante* introduced a purified version of Buddhist beliefs and practices' (see Chapter 7). I realized that as many people consider some beliefs and practices of the past to be wrong, they did not want me to know about them. I also found to an outsider Headman's role in land dispute settlement is over emphasised or it is embellished in people's perception to some degree. On the other hand, very few mentioned the role of political parties in settling disputes and at a later stage of fieldwork.

In land disputes between hill people and Bengali settlers, I was biased towards the hill people's right to the land over the Bengali settlers' claims over land granted by the state. One of the

motivations for researching land conflict in CHT was my view that- the hill people are marginalised because their identity and land rights are not recognised by the state. In Chakmachari, I was open about my position against the state's policy of not-recognising the separate identities of indigenous people in Bangladesh, the injustice in not recognising hill people's land rights and state acquisition of hill people's land. In contrast, I was less sympathetic to the Bengali settlers' struggle over land rights. Besides, some Bengali settlers, particularly leaders, employed state actors' discourse emphasizing Bengali control and domination over territory and land in CHT, which reinforced my bias towards hill people in the political and land conflict (see Chapter 7). It took time for me to understand the uncertainties and oppression the majority of Bengali settlers faced, and to see that settlers positioned themselves with power in claim-making, but most were dominated and subordinated by their political leaders, the state policies and actors.

3.6.1 Positionality

In fieldwork observations take place from both sides. Therefore, the researcher's position, his relationship with the participants and how the researcher is perceived in the field, influence the data he or she collects (Peacock, 2001). Moreover, the perceiver is included in the process of knowledge generation. In this section I reflect on how I positioned myself, how I was positioned by others in the field and how it mattered in data collection.

Student – mastori

In all field sites, I introduced myself primarily as a student doing research to attain a higher degree, i.e. Ph.D and stated that I was visiting their villages to learn about my research topic by talking to them. I stated from the start that the outcome of my research would be passing my exam (Ph.D) and publishing papers or a book where I would present findings and narratives (what they tell me) that I learnt from the research.

Introducing myself as a student researcher was important, not only to manage people's expectations, but also to communicate that I was not siding with any local or national political parties or government. However, my identity as a university teacher was equally important, or taken as my primary identity. My host family said the only reason they decided to host me was because I was a teacher. After a few days in Chakmachari, I found out that most people called me '*mastori*', which means master, i.e. teacher. As a teacher, I was respected and valued. I accepted the identity and taught two of the neighbourhood children regularly while I was there.

As a teacher of Dhaka University, in Chakmachari I was associated as belonging to the elite. I was invited to different houses where members were teachers or worked in offices. My position and identity distanced me from other people in the village who were poor, farmers, labourers or without 'jobs'. It took me some time to understand this, and eventually I developed close relationships with a few landless labour households. Most people, particularly the elite or middle

class, did not speak about land conflicts within the community causing dispossession; it was the poor or landless who spoke about these processes, giving me insights about property and authority dynamics within the community.

Bengali Muslim

As a Bengali and Muslim, I crossed the boundaries in terms of food practices. The most important factor that helped me to be integrated, according to my host families, was the fact that I 'ate everything' (*bekkin khai*). Hill people's food is a major element of distinction and segregation for the Bengalis. They are often perceived as *junglee* or uncivilised by Bengalis because 'they eat everything' (see Chapter 7). Interestingly, I was accepted in my host families and in Chakma community because I ate everything. Although the communities (Bengalis and Chakmas) live close, I found there was limited interaction between them in the private domains. While I enjoyed living in different cultures with the anthropologist's usual '[f]ascinations of field work, which have held us so long in thrall' (Geertz, 1988:24), I found that for my host families and others in the village it was also interesting to live with me, enjoy diversity and having different cultural experiences (for instance, having me cooking Bengali meals or helping them to wear sarees).

During the war, the village was regularly raided by armies in search of Shanti Bahinis. As a Bengali, listening to accounts of torture and violence carried out by the army who were Bengalis, made me feel guilty. Apart from one case where a person showed a hint of resentment in a conversation, I never felt cornered for being a Bengali while interacting with Chakmas. In the Chakma community, I was not an insider. A leader of JSS Reformist group told me 'You belong to a big race/*boro jati* (dominating ethnic group), you would not ever understand our pain and suffering'. However, I was an outsider who was respectful to the community and religion. This mattered to many people (pointed out by *Bhante*) that being a Bengali, I was staying among the Chakmas, which meant I felt safe living with them. This mattered as they have heard that not only the government officers' families, but even the army officers' families apparently cry when they get posted to CHT, and Officers do not want to come to the hills, fearing conflict and thinking hill people are uncivilised/savages.

One important aspect of perceived identity of Bengalis in CHT is their religion. In Chakmachari, at the very beginning, a woman asked me how it was to stay in a Chakma house, being a Muslim. As they were strong believers, I did not want to say I was a non-believer. I said that I was not a Muslim or a Hindu. Interestingly, this answer was accepted. Surprisingly for me, I found a few people in the village repeating my statement, with approval, when I went to talk to them in their houses in other parts of the village. Since Bengalis are often seen primarily as Muslims, saying that I was not a Muslim distanced me from the way Bengalis are perceived. People in the Bengali village did not ask about my religion, they knew I am a Muslim as my name is a Muslim name.

Both identities, Bengali and teacher at the University of Dhaka, affected my entry, rapport-building and data collection in both villages. In Banglachari, most respondents felt that I would understand their views/standpoint. Some Bengalis stated a ‘bond of nationality/ethnicity’ (i.e. *‘jati r taan’*) as the reason for accepting me and agreeing to be interviewed. Hill people were referred to by Bengalis as ‘they’ or ‘them’, and I belonged to the Bengalis’ ‘we’ or ‘us’ group. On the other hand, my identity as a teacher meant that I fell into the group of the ‘sympathisers of hill people’. Some Bengali settlers (those more politically active) viewed ‘university teachers’ or civil society in Dhaka as supporters of the hill people. For that reason, they felt it was important to share their views and experiences since those in Dhaka ‘never hear the Bengali side of the stories’. As they helped me due to the bond of ethnicity, some expected the same from me. One elderly leader said ‘I do not know what benefit we are going to get from your work. I believe you will do something good for us, you are Bengali and we share the “bond of ethnicity”’.

Being Chittagonian

My paternal home district is Fatikchari, which is the neighbouring district of Khagrachhari. Regional identity is important in Bangladesh. My regional identity was always accepted with warmth by the hill people: they said ‘you are from here!’ or ‘you live close by!’. This also put me in a ‘good Bengali’ category – those with whom hill people have had trade relations for a long time. A practical advantage of being a Chittagonian (half) is that I am familiar with the Chittagonian dialect. Chakma is similar to Chittagonian and this helped me to understand some parts of conversations, which improved with time.

Being woman and single

I was perceived as a female student and teacher, empowered by education and who could transcend some gender boundaries. This I did to some extent by talking about land conflicts, authority and property, which mainly involved men. In both the Chakma and Bengali communities very few women owned land. Moreover, land transaction, mutation, application for grants, taking credits, negotiations, confrontations and going to the authorities are mostly male activities. Sometimes being female helped in asking naive questions about property, laws and institutions.

While working and studying at universities provided me with an empowered position, being female and single placed me in a category which was seen as vulnerable and incomplete as an adult. In the villages I did not mind people asking me why I was single, since I was in their private domain. At the institutional level some institutional actors also asked the same question, which was annoying and felt like harassment.

Positioning with power

In both villages, I found that some people took me as someone who could help their children to gain admission to the university. Another misunderstanding or expectation was that I could help people in finding jobs. I was seen as someone with influence at different institutions because of my educational and occupational background. I had to explain that I had no network or political connections to help anyone in gaining admission or jobs. However, I said I could help with preparation for admission test or finding information/writing job applications. To emphasise my identity as a student and a researcher, I often mentioned risk assessment guidelines and ethical concerns to which I needed to adhere.

The politics of fieldwork as a set of personal relations, involves a process that often occurs within a context of domination and subjection, where the anthropologist is identified with the dominator (Bell et al., 1993: 47). In both villages, being there with notebooks, being urban, educated and with an affiliation to universities made me appear important; but I was also in a powerless position, as I was only able to do my work and learn if they allowed me to. I was a mix of both – a high-status person who was also ‘unimportant’. A comment made by the Judge of the district court summarised my position well. One of the bench clerks, while helping me to understand court procedures (and probably finding me naive regarding such matters) stated ‘Sir [Judge] told us to help you. We see you every day waiting and sitting around in the courtyard, and we think that you are unimportant/nobody. Sir told us that you are a person with high social status and you are ‘someone’ in your university’.

3.7 Ethical Concerns

Before collecting data, all respondents were informed about my research topic and objectives, and their consent was sought. Maintaining confidentiality of the data and assuring respondents about confidentiality were also crucial, as I came to know about land disputes within the community as well. I was aware of the risk of data collection activities creating conflict, as a result of inadvertently sharing information between respondents. I was careful in keeping respondents’ confidentiality and their trust. The fact that I never disclosed what I heard from another person helped people to trust me and share information. The research assistants were frequently reminded about the necessity of keeping confidentiality. I explained to the participants that data gathered will be used only for my thesis or knowledge generation. In the case of institutional actors, although I have not mentioned their names in the thesis, I mention their positions which makes them identifiable. I took their consent in recording their interviews and they were aware that I could quote them. I excluded any statements they made “off the record”.

In some cases, respondents did not want to disclose certain information relating to land disputes, or were uncertain whether they should disclose information. For instance, in some cases people did not want to state the names of ‘respected people’ involved in dispute settlements in

Chakmachari. In such cases, I did not stop the conversation, but I backed off and asked ‘grand tour questions’ (Spradley, 1979) about other topics of my interest, such as land use, cropping patterns, religious practices, *goz̄us* or clans.

Another ethical concern was not raising expectations among respondents. My position as a student without any political connections led to frustration for some, as there was no motivation to discuss their problems with me. On the other hand, positioning myself as a non-political student-researcher was helpful, as many respondents opened up, feeling safe and also taking the effort to explain the context of land conflict. Personal involvement in ethnographic research puts great responsibility on the researcher, and presents ethical dilemmas that arise from accountabilities to research participants (Marcus 1995) and from a sense of responsibility towards participants. Fieldwork involves an interplay between being an outsider and insider. To maintain distance as an outsider/researcher, while also becoming part of people’s lives, raised ethical dilemmas for me. In the courtyard one day, I saw Dina-di’s (my host’s) sister in law, whose land was acquired by the army camp. She came to file a lawsuit, as the Major at the army camp had suggested that she go to court. She felt relieved to see me there and asked me to come with her to the army camp. I refused. I told her I could help her in writing a petition or a letter to the zone commander, or ask someone to go with her to the camp. She did not say anything. I felt like an imposter, pretending to care about her problems while asking her questions about her land being grabbed to make army camp all these times. But as a researcher, I needed to ensure that I could continue my fieldwork, which might have been interrupted if I had become involved in conflicts.

3.8 Data Analysis

Analysis involves an iterative process, in other words, ideas and concepts are used to make sense of data, while reflection on data also changes ideas (Hammersley and Atkinson, 2007). I followed an iterative approach to the relationship between theory and research, where data collection is based on a theoretical framework that is flexible to be reshaped according to what the research on the ground reveals. May (2001) argues that social life can be understood through examination of people’s selection and interpretation of events and actions. I collected people’s narratives which represent their selection and interpretation of events and actions. Narratives provide frames to interpret situations, and to link objects, actors and institutions in preferable or understandable manners; at the same time, they can produce objects, actors and institutions (Van Assche et al. 2014). Narratives have ‘sequences and consequences: events are selected, organised, connected, and evaluated as meaningful for a particular audience’ (Riessman, 2002).

Fortmann (1995) describes a way of claiming legitimacy of property through construction and telling stories which can be defined as narratives. It involves a process of renegotiation of property rights. He found that stories are told by those who have power, in order to justify their use of power, and also by those who do not have power, in order to resist it. At the village level,

I collected narratives that present what people do and how people legitimise their land claims and delegitimise others, which illuminate how the struggle over land is linked to the struggle over rules, laws, legitimacy of legitimising authority, and recognition. At the institutional level, the actors' narratives were analysed to find out their actions and how they justify certain actions, certain rules and endorse validity to certain land claims.

Narratives collected can be divided into two types: narratives of individuals' cases of land conflicts (from the people who are involved in land disputes) and narratives about history (place, categorisation of people, authority), land conflicts and political struggle in CHT. According to Riessman, thematic analysis emphasises the content of a text. She explains that the process of thematic analysis includes finding common thematic elements and the events told in the narratives (2003: 3). These themes are inductively created from the narratives, and narratives are then organised by themes. I have analysed narratives by discovering common themes that have emerged from them. For instance, in the case of land allotment to the Bengali settlers under the settlement programme, multiple themes emerged, such as the process of occupying land by the settlers, process of granting land titles to the settlers, legitimacy of the titles, gaps and insecurity with their titles, role of the military in Bengali settlement, the role of Headmen, fear and violence and entitlements based on certain identity claims. Different sets of actors' narratives (those of Bengalis, Chakmas and institutional actors) about the process of land allotment to the Bengali settlers varied in terms of these thematic elements that emerged from various narratives. Contrasts in the narratives of actors and comparative analysis of these thematic elements of narratives enabled to find out the contested terrain of competing claims regarding land, recognition and authority. However, one of the challenges in the analysis of data collected from different sets of actors was that while synthesising and distinguishing the contrast in narratives, I was attempting to find out whose narrative was true or valid, a tendency which I later overcame.

3.9 Conclusion

In this chapter I have discussed ethnographic approach, the methods used and the challenges that I experienced in the field while conducting research in two communities. The ethnographic methods were useful to understand strategies, actions and also the meanings people attached to these. Being there and building interpersonal relations with people was useful in understanding people's perception and strategies within their context and constructions of the dynamics of central concepts, i.e. property, identity and authority from below. I also collected data at the institutional level to find out institutional categorisation and assertion on identity, land claims and authority. I have reflected on how I was positioned, perceived and how it mattered in terms of building rapport and data collection. I have also reflected on my subjectivity or identity, and how my perception about people and local dynamics influenced the process of knowledge generation.

James Clifford (1986) wrote about ethnography's partial truths and how ethnographies are inherently incomplete efforts to impose tidy boundaries on untidy subjects. I recognise the partiality of this account because of the challenges involved in knowing reality fully, translating and also in presenting the known reality.

Chapter 4: The State Rules and Authority Structure in Land Control in CHT

'On the 6th May 1784, Government wrote to Mr. Irwin, the Chief of Chittagong, desiring to have his opinion fully, whether, by lenient measures, the inhabitants of the hills might not be induced to become peaceable subjects and cultivators of the low lands.' (Lewin in Hunter 1876: 21).

4.1 Introduction

This chapter provides a historical overview of state rules and regulations in CHT in different regimes: during the British colonial period (1860-1947), during the Pakistan period (1947-1971) and during the Bangladesh period (1971-). It analyses the history of state building in CHT through two analytical concepts: frontier dynamics and territorialisation strategies employed by the state. Geiger (2008:93) suggests that CHT of Bangladesh is like Northeast India, parts of Myanmar and Indonesia, where colonial regimes never established full administrative control, leaving their post-colonial successor governments a legacy of still-open frontiers. According to Van Schendel, states first emerged in the south and west of Bengal, gradually spreading over other regions in the delta, and the state frontier closed after the British subordinated the hills and annexed the hill (2009). By analysing the history of the state building in CHT, I suggest that frontier was closed in the sense that the British subordinated the pre-existing authorities in CHT and employed several policies to control people and resources, but it re-opened in the post-colonial period. The discussion shows that frontier-making is cyclical and different dimensions of frontiers overlap or reinforce one another.

This historical analysis draws on primary and secondary data. Primary sources include colonial and post-colonial administrative accounts, reports and correspondence, government notification and orders. They also include reports, seminar presentation and articles of actors at the state institutions and political organizations (PCJSS, PCJSS Reformist), and interviews with institutional actors. The documents are collected from individuals who participated in the research as respondents and from libraries and archives²⁶. Secondary sources include scholarly literature and NGO research reports. My research takes a historical approach in investigating patterns, practices, social relations and in contextualising the case within wider social settings.

²⁶ I collected materials from the British Library, National Archive in Dhaka, Public Library of Dhaka University, Ethnic Minority Cultural Academy in Khagrachhari and BIIS (Bangladesh Institute of International and Strategic Studies) Library.

Studies suggest that state formation is the process by which compliance to political authority is achieved and studying property dynamics elucidate political processes of state formation (Lund 2016). In this chapter, the rules, construction of institutions and legitimacy/authority relations among institutions of land control and property regime are traced historically to understand contemporary processes of state formation in CHT. By doing so, it provides historical and contextual information regarding state regulations and institutional arrangements, which shape contemporary processes of state and property formation.

Studies on hill people in CHT are almost invariably built on colonial ethnography and administrative reports. The knowledge contained in these reports are being reproduced in almost every text on hill people/'tribes' in CHT, which underscores the importance of being critical of the perspectives they present and stories they tell. Said's (1978) critique of orientalism points to the politics and procedures of interpretation and representation in colonial forms, of Western knowledge as well as in the reproduction of such knowledge. Anthropological knowledge of India has been built by having a close connection with the reports and files of colonial administrators 'who sought to control and order Indian life according to the demands of imperial rule and what these agents of empire considered to be basic and universal standards of civilization' (Dirks 1997:186) that formed legitimate domains and legitimizing discourses about Britain's civilizing mission in India (ibid., Cohn 1996). Cohn (1996:4-10) highlights the reliance of colonial governance on 'enquiries' performed through various investigative modalities (e.g. historiographic, survey, enumerative and surveillance) in India by the colonial authorities. These studies and critiques regarding colonial knowledge forms and formation are relevant in studying colonial texts to understand the history of state formation in CHT. As the quote of Lewin (in Hunter 1876) mentioned in the beginning of this chapter demonstrates, hill people in CHT were perceived as unruly, and needing to be tamed/lenient; they were also romanticized as being simple, isolated and child-like (ibid.). In colonial texts, some of the hill 'tribes' were depicted as 'primitive' while a few were categorised as 'purely savages' or 'unamenable to civilisation' (ibid.:42-49). To a large extent these categorisations justified the colonial state's role of 'policing and proselytising' (Dirks 1997: 184). The colonial reports on CHT portray the region as a resource and political frontier with peculiar conditions and population, showing that the major concern of colonial knowledge production was to assess, as Ludden (2009) suggested, whether the region was conducive to bring under capital expansion and colonial administration immediately. It is important to underscore that, in the case of CHT, there was a relation between colonial rule and forms of knowledge about territory, population or subjects, social structures (e.g. political, religious, land tenure) and customs.

Van Schendel finds (2001:133), "'Tribals' are still routinely seen as somehow 'outside Bangladesh history', as people without history rather than as the very participants and products of the history of Bangladesh in the making." This chapter aims to shed light on how hill people have been the participants and products of Bangladesh's history. The emphasis is on depicting Chakma history

because my research was carried out among Chakmas. In the colonial period when English education was introduced in CHT (Hunter 1876 in Serajuddin 1984), more Chakmas attended the state-run schools than other hill communities. Chakmas were most severely affected ‘first by the Kaptai lake and later by in-migration and militarization’ (Van Schendel 1992b:125). Consequently, the ethno-nationalist movement in CHT from the beginning was largely organized by Chakma leaders (ibid.). The PCJSS leadership is mainly comprised of educated youths and middle class Chakma individuals (Mohsin 2000a: 82, N. Uddin 2010). For being politically more organized, I found that Chakma concerns came across more strongly than other communities of CHT. In the following description and analysis of historical events, I present a political history focusing on Chakmas; the voices of other ethnic groups in CHT are mostly absent.

State making in CHT took place in three interrelated processes- through introducing and establishing state rules and governing strategies; through political domination and subjugation; and by reconfiguring and replacing pre-existing institutional arrangements in governing CHT. Sections 4.3, 4.4 and 4.5, discuss these three dimensions of state building during the three regimes (British, Pakistan and Bangladesh period). In terms of reconfiguring or replacing institutional arrangements, the two key moments in history are during the British period when the 1900 Act set up the administrative structure and during the Bangladesh period when new rules and institutions emerged after the signing of the CHT Accord in 1998. Finally, by showing political contestation among the institutions over authority and laws in recognition of property in land and entitlement, I argue that the frontier lives on in CHT. Before presenting the analytical sections, I discuss the two analytic concepts in the following section.

4.2 State Formation, Frontier and Territoriality

Territorialisation represents key strategies by which the political centre appropriates and regulates the margins of the state (Vandergest & Lee Peluso, 1995). Sack (1983: 56) outlines ‘[T]erritoriality involves classification by area, theoretically eliminating or altering the need to regulate specific resources or individuals within a territorial zone. Territoriality also involves the communication of both territorial boundaries and restrictions on activities within the territory. Sack identifies (1983) that legal rights to property in land and prohibitions about usage of areas are ways in which territoriality can be asserted. Registered land titles and maps based on cadastral surveys are key texts that communicate property rights to and among state authorities. Property rights thus become textually mediated.

Peluso and Vandergest (1995) define territoriality as resource control strategy, arguing that ‘control by territorialization works by proscribing and prescribing specific activities within spatial boundaries’ (ibid. p 388) They extend the concept of internal territorialization by showing that ‘it can be usefully applied to spatial organization of government, especially the creation and control of state property under agencies endowed with territorial and functional jurisdictions’ (Vandergest and Peluso 1995 in Sivaramakrishnan 1997: 78).

Turner defines frontier as unoccupied territory with empty spaces waiting to become civilized. Frontier dynamics include casting space as 'empty', people as 'savages' and their land use as destructive or inefficient. Turner's frontier is characterized as a 'territorial container within which a Hobbesian state of nature is still in place' (Geiger 2008). Frontier is also defined as geographical regions with peculiar political, economic, social and cultural characteristics which are not found in the core areas of state control (Kopytoff 1987: 11). Frontiers are 'sites where authorities, sovereignties, and hegemonies of the recent past have been or are currently being challenged by new enclosures, territorialisation and property regimes' (Peluso and Lund 2011:668). Rasmussen and Lund (forthcoming) define frontier spaces as transitional reconfigurations of institutional arrangements and sites of contentious encounters over authority. Control over resources at the frontier require control over space i.e. territorialisation (Rasmussen and Lun, forthcoming). Historically, frontier-making and territorial strategies employed by the state are interlinked.

The discussion about state -making in CHT, in this chapter, builds around the concepts of frontier and territoriality, which also sheds light on 'legibility effects' (James Scott 1998) meaning –'production of both a language and a knowledge for governance and of theoretical and empirical tools that classify and regulate collectivities' (Trouillot 2001:126). The discussion focuses on practices such as mapping and demarcating borders, surveying, classifying forest, the land tenure system and taxation system through which, according to James Scott 1998, the state perceives and governs people and people in turn perceive the state. However, regulations and interventions are not just directed by states and other formal authorities (McElwee 2016, Lund 2006). Besides, rules and interventions do not often achieve state effects (Corbridge et al. 2005) as these often get resisted by those who are governed (James Scott 1985). Drawing on process -orientated approaches of state and state formation (Gupta 1995; Migdal 2001 in Eilenberg 2012:53), state is understood as negotiated and contested. Studies suggest that the territorial strategies employed by the state are contested, shaped and modified by people and through institutional contestation (Sivaramakrishnan 1997, Agrawal 2001). State regulations and regulatory practices are embedded in and shaped by local practices (Das and Poole 2004:2). The empirical chapters examine how rules and state- imposed categories are interpreted and contested by people and by actors belonging to formal and informal institutions. The empirical chapters of my thesis focus on people's everyday practices, actions and experiences, shedding light on state formation by presenting different actors' claim-making and actual practices to gain property in land.

Frontier and territorial dynamics pertaining to control over land and people are discussed under different regimes in CHT, in the following section (4.3), to explore the process of state formation. In sections 4.5 and 4.6, by focusing on institutional arrangements and contestation among institutions in land control, it is argued that CHT remains a state frontier and that the state's control or territorialisation strategies in CHT are being challenged.

4.3 State Frontier: Historical Analysis of State Rules and Governing Strategies

During the Mughal period, the rulers classified land with the purpose of settlement of frontiers within their empire (Cederlof and Sivaramakrishnan 2006). Mughal authorities built multi-layered systems of agrarian taxation, revenue assessment and collection, while providing entitlements to land and labour to farming communities (Ludden 2009:6). From 1666 to 1760, in Chittagong, Mughal authorities gave tax-free land grants (*sanad*) to transform forest land into arable land, for establishing permanent agricultural settlements with the aim of deepening their control in frontier regions (Eaton 1993). However, the system of entitlement, taxation and revenue collection did not penetrate into the territory which later came to be known as CHT. Mughal received tributes in cotton from hill people in return for trade privileges granted to them, which was not revenue payable to the state (Serajuddin 1984). Hence, Mughal's interference in the economic and political structures of the hill peasants is considered marginal (Mey 2006).

In the case of Sylhet, in the Northeast corner of Bangladesh, bordering the state of Meghalaya of India, Ludden (2003:6) argues that although it appears that East India Company drew borders to mark the northern boundary of Bengal Presidency in 1791, it was the Mughal interventions that initiated a long-term process through which eventually the boundary between Sylhet and Meghalaya was produced. He explains how Mughal land grants represented a powerful regime that patronized their local supporters, those who acquired land, to establish cultivation and settlement and also 'to subdue or expel jungle people'. The Mughal rulers employed different policies in CHT, and the distinctiveness of the administrative and land control system in CHT compared to other districts of Bengal, persisted during East India Company rule.²⁷ However, it was when CHT was demarcated as a district, in 1860, that the colonial state entered (Van Schendel 1990) and control over resources, territory and population intensified.

This section discusses state rules and authority structures during British rule, followed by a discussion about changes in laws and institutions with regard to land control and property regimes during the post-colonial Pakistani and Bangladeshi periods.

4.3.1 British Period

From 1760 to 1860, Chittagong district was ruled by the East India Company as representative of the British Government. During the East India Company era, policy makers perceived that there were vast tracts of empty lands in the region which could be used productively and

²⁷ The Company installed the Permanent Settlement Regulation which transformed Bengal's peasant economy; however, the regulation was not effective in the hills (Mey 2006).

efficiently by planting valuable crops and plants and by replacing existing land use practices²⁸ (Buchanan in Van Schendel ed. 1992a). Buchanan described Chakma king Taubokka as possessing huge tracts of land in Barkal (Rangamati district) which, according to Buchanan was in a 'state of nature', its value and its population potentially increasing greatly if proper cultivation was introduced (ibid: 115).

In 1860, CHT was formally brought under British government rule and demarcated as a non-Regulation district.²⁹ Another key moment in making and ordering the social and political space was when the CHT 1900 Act promulgated. CHT, as a non-regulation district, was demarcated based on the state's rule regarding mode of cultivation i.e. *jum*. In CHT *jum* was allowed (with restrictions); in the Regulation District of Chittagong, *jum* was banned. Restrictions on *jumming*, led to considerable emigration of hill people from Chittagong district to Hill Tracts and also to Arakan (Myanmar) (Hunter, 1876: 143); hill people also migrated from CHT to Tripura. The rules and authorities introduced by the state in CHT to govern people and the land are described below.

4.3.1.1 Land Categorisation: Boundaries and Mapping

Under notification in the Calcutta Gazette of 1st February 1871, nearly the whole District of the Chittagong Hill Tracts was declared to be Government Forest. The land in CHT was categorised as State Forest (USF), Reserve Forest and Protected Forest. Government forests (Unclassed state forest) consisted of 5,670 square miles out of the entire District area of 6,882 square miles. The remainder was demarcated as Reserve Forest and Protected Forest, excluding only those lands granted with private titles for plough lands or grass lands. In a quarter of the total land area of CHT declared Reserve Forest, *jum* was prohibited in 1871.

In Regulation 1 of the 1900 Act, CHT was also declared an 'Excluded Area'. In the amendment of the 1900 Act in 1935 which designated CHT a 'totally excluded area'³⁰ where outsiders' entitlement to reside and own land were restricted. Officially, the colonial authorities voiced concern over exploitation of hill people by the Bengalis, particularly the money lenders,³¹ as the reason behind this policy, constituting themselves as protector of 'tribal rights' (Van Schendel 1992b: 111). However, the colonial administration took this measure to restrict private

²⁸ In the book –'Francis Buchanan In South East Bengal (1798)', edited by Van Schendel (1992:103), Buchanan suggested that, in 'Mugban' (Mogon Union of Rangamti District), –'the hilly parts might be employed for the cultivation of cotton, coffee, cocoa, indigo, sugar, and perhaps the spices.'

²⁹ CHT was established as a separate district under Raid of Frontier Tribe's Act 1860 (Hill Peace Group 2007).

³⁰ In 1920, the Manual was amended and the CHT (Amendment) Regulation 1920 declared the CHT an 'excluded area', independent of general administration (Chakma: 2010 P: 284).

³¹ Government of Bengal, Judicial Proceedings 142-3 (December 1862) (in Van Schendel 1992:111).

accumulation of Bengali entrepreneurs since that could undermine their territorial system of surplus extraction (ibid.). The demarcation of CHT as an excluded area had consequences on the identity construction of hill people (Chapter 7) and marks the beginning of the state categorizing people and granting entitlement to live in CHT.

With the principal objectives to regularise the land settlement of the Hill Tracts and collection of revenue, the British government divided the district into circles which were further divided into *mauzas*³² (C.K.Roy 2000). CHT was divided into five circles and the boundaries were notified in the Calcutta Gazette of 8th September 1884: 1) The Chakma Chief's circle, 2) The Bohmong Circle 3) The Mong Chief's circle 4) Sadar subdivision *kehas mahal* 5) Sangu subdivision *kehas mahal*.

4.3.1.2 Regulation and Authorities

According to D.Roy (2004), the colonial government introduced new authority structure replacing previous authorities. The administration of CHT during British rule was 'part bureaucratic and part traditional'.

Traditional Authority

The Chittagong Regulation Act 1900 set the basic administrative regulation in CHT. For Bohmong's Circle, Chakma Circle and Mong Chief's Circle, three circle Chiefs were designated as tax collectors with certain judicial responsibilities within their territories³³. Each circle was divided into *mauzas* with demarcated territory, which became units of civil and judicial administration, and a unit of revenue administration. The Headman was 'responsible for resource management, land and revenue administration, maintenance of law and order, and the administration of "tribal" justice' at the *mauza* level (D.Roy 2004:125). Headmen were supervised by respective Circle Chiefs. At village level there were heads, later designated as *karbari*, appointed by the Chief. This three-tier-institution of Chief-Headman-*karbari* was termed traditional authority by the British administration (ibid.). Traditional institutions were given authority (Chief-Headman-*karbari*) to administer justice in accordance with customary laws regarding social or family issues within the community. Chief's court was the higher court in the traditional judicial system and Headman's court worked as an appellate authority over the *karbari's* judicial functions.

³² A *mauza* includes several villages.

³³ The circles are also divided into taluk divisions, which were divided into 33 blocks and 380 *mauzas*.

Bureaucracy

The CHT Act 1900 placed CHT under the administration of a Deputy Commissioner, the head of the bureaucratic authorities at district level (Mohsin, 2000b). As per the 1900 Act, 'civil, criminal, revenue and general purposes' were placed under the control of the DC (C.K Roy, 2011:32). The Divisional Commissioner of the Chittagong Division had jurisdiction over criminal matters as a Sessions Judge (Regulation 8).

All unclassified State Forest lands and protected forests were placed under the DC office (see section 4.3.3). As per the 1900 Act, no land in CHT could be leased out or transferred without the approval of DC. Generally Headman's recommendation was sought before allotting land to anybody. However, this was not specified in the CHT Regulation (Chowdhury 2012).³⁴ DC was entitled to issue orders for regulating *jum*, including closure of any area for *juming*. The Bazar or the market areas were administered in accordance with the Bazar Fund Manual of 1937.

During the British rule, CHT 1900 Act was amended in 1920, 1925 and 1937. In the 1937 amendment, the Chiefs were released from any direct administrative responsibility, reducing the authority of Chiefs. D.Roy (2004:119), the current Chakma Circle Chief, suggests that CHT Act 1900 recognised, while at the same time subordinated, customary authority to 'bureaucratically controlled state structure', by giving certain roles and responsibility to the Chiefs as state agents. The rules required consultation by the DC with Chiefs on important matters affecting administration of the CHT (D.Roy 2004). Headmen were to be appointed by the DC in consultation with the Chief. However, the DCs were given authority to expel Headmen from office on grounds of incompetence or misconduct after referring to the Chief.

4.3.1.3 Controlling *Jum* Cultivation

From the start, policy makers labelled *Jum*, the livelihood of the entire hill population, as unproductive. Hunter (1876: 77) noted that almost the whole of CHT was fit for *jum* cultivation and 98 per cent of the population was identified as '*jumiyas*' or *jum* cultivators. However, in the following paragraph, he stated, 'Nearly the whole of the land in the District may be regarded as spare land, for only a very small portion has been settled with plough-cultivators'. This shows how administrators' perception of land was different from people's lived experience, as all the lands that hill people lived on and used for growing food were considered spare. In state actors' perspective, *Jum* was also considered inefficient and harmful for the environment by them.

³⁴ It was a provision under Regulation 34 (i) (ii) of CHT 1900 Act, but taking Headman's recommendation for land transfer or grant was not made mandatory as per law (Pampoo 2009:43).

Jumiyas or hill people were perceived as nomads (Hunter 1876:79)³⁵. To sedentarize *jumiyas* was important for tax collection (see section 4.3.1.5). The state enacted laws to control *jumiyas*; for instance, every *jumiya* was ordered to establish a permanent home in a village where they must return after the *jum* season. If they disobeyed, they were obliged to pay a fine to the Deputy Commissioner or magistrate³⁶. Moreover, if a *jumiya* cultivated *jum* on land belonging to the territory of a circle Chief, and lived in the land of a different circle Chief, he was liable to pay tax to both Chiefs³⁷ (see section 4.3.1.5).

Agarwal (2005) argues that state policies concerning forest access were mechanisms of disciplining forest-dependent communities in British India. The colonial government strengthened the Forest Department's capacity to increase forest patrols gradually in CHT. In 1905-1906, the Forest Department filed 120 legal cases charging 1,059 persons with forest-related offences including *juming* in the reserve forest areas (Khan 1998 cited in Rasul 2009: 78). However, Sivaramakrishnan notes, in Bengal, government also feared the consequences of curbing *jum*. In their wisdom this would lead 'frontier tribes to migrate or resort to resistance through raiding, robbing and murder' and depopulation of forest reserves was a potential calamity for several reasons' for administrators (1997:83-84).

4.3.1.4 Land Tenure and Plough Cultivation Movement

State policies aimed to abolish '*jum*' gradually and to introduce plough cultivation to generate more revenue (Lewin 1870 cited in Hutchinson 1909), showing CHT was framed as an agrarian frontier. The plough cultivation movement i.e. introduction of policies to expand plough cultivation, continued with prohibition and restriction in *jum*.³⁸

For plough cultivation, land was granted as lease known as *amalnamah* for a period not exceeding ten years. Hunter noted '[F]or the establishment of villages and for plough-cultivation, sanction was obtained to leases being granted on very favourable terms, and Government further sanctioned an advance of £3 to each family, the advances to be repaid within five years with interest at 5 per cent, per annum' (1876: 80-81). By 1891 there were about 1,250 settlements of paddy lands in the three circles as noted by British administrators (C.K Roy 2000:74).

³⁵ Hutchinson (1909) presented an alternative perspective about nomadism of hill people. However, the idea of hill people being nomadic persists in the state's view even today.

³⁶ Rules for the Administration of the CHT 1892

³⁷ The Chittagong Hill Tracts Regulation 1900 [Rule 42(1)]

³⁸ Hunter (1876: 87) noted that plough-cultivation arose, 'in consequence of the introduction of the Forest Conservancy rules into the District, by which *juming* operations were hampered and circumscribed'.

For documenting plough land ownership, Headman maintained a book called '*jama-bandi*' or rent roll (C.K.Roy 2000: 78). Since the promulgation of 1900 Act, Unclassed State forest lands are state owned where hill people can do *jum* cultivation without land claims or rights recognised by the state. The state can acquire their *jum* lands and settle or lease to others. *Jum* lands for cultivation are allocated by the Headman to hill people at *mauza* level. Roy (2004:149) claims that although the CHT 1900 Act does not clearly specify, it indirectly acknowledges the customary norms by recognising the role of the Headman in land distribution and allocation of hill lands in accordance with customary practices and land usages (*ibid.*).³⁹

According to CHT Regulation Act 1900, hill people could obtain 0.30 acres of land as a homestead plot with Headman's authorisation, without legal land title authorised by the state. If the state resumed control of homestead land allocated by the Headman, the state was liable to compensate only for buildings, structures or trees, not for the land. For homestead plots exceeding 0.30 acres, DC's approval was required. In case of resumption, compensation for land was paid where heritable right had been acquired as per the conditions of the lease deed. The rules clearly show that all land in CHT was regarded as *kebas* or state owned land with only tenancy rights as opposed to full ownership was granted to individuals (Chowdhury 2012: 26). All these rules concerning hill lands, plough lands and homestead lands are still applicable.

In many parts of Africa, for instance, Ghana, the colonial government did not introduce the western concept of individual property rights (Lund 2008). The Land and Native Rights Amendment Ordinance 1931 promulgated that indigenes who occupied land under customary law needed no other title. However, in British India, the colonial government took control of the forests, denying ownership rights to the *adivasis* i.e. indigenous population (Guha and Gadgil 1989). The colonial government denied indigenous people's ownership rights by introducing state and individual property rights. According to Guha (2001), the Indian Forest Act 1878 that legalized the state's control over the forest, was the Chief instrument of subjugation. However, the discussion shows that a new property system with individual property rights was established in CHT by the British administration, but the old system was not totally dissolved and continued to be practiced regarding hill lands.

4.3.1.5 Tax and Revenue

Since 1789, the Company changed its policy of collecting tax in kind, and required Chiefs to collect tax in cash, from sale of produce (Serajuddin 1984: 96). In the pre-British era, hill people

³⁹ My argument in section 4.5.1 presents a critique of this statement. I find most scholars often use the term 'customary law' without being critical about the extent to which practices known as 'customary law' are a colonial interpretation, or whether/how these practices and norms have been altered by state intervention in CHT.

paid their respective Chiefs according to the ‘strength of his family’ i.e. number of people or labour involved in *jum* cultivation, but there was no land rent (Hunter 1876). The *jum* tax⁴⁰ was formalised and regularized under British rule. Every household that cultivated *jum* paid the same amount of *jum* tax to the state, independent of the amount of hill lands cultivated by the respective household (Hutchinson 1909). For plough lands, lease holders paid land revenue, collected by the Headman and paid to the government through the Chiefs (Hunter 1876). The traditional authority had a larger share in *jum* tax, while the government appropriated a larger share of plough land revenue.

Forest governance policy established state control over forest resources for extraction, enabling the government to impose and increase forest revenue by taxing and through expanding the commercial plantation of teak/timber trees. All forest lands were brought under the control of the Forest Department. Forest revenue was derived by taxing the removal of the forest produce from the Government Reserve.⁴¹

4.3.2 Pakistan Period

During the Pakistan period, the ‘excluded area’ status of CHT was changed to that of ‘tribal area’ in 1964. A non-obstante clause was inserted in 1961 to Rule 34 (B) of the CHT Regulation 1900 under which the Board of Revenue (BoR)-‘may by general or special orders authorise the DC to settle any class of land up to any quantity to a hillmen or non-hillmen’ (Chowdhury 2012: 31). Hill lands started to be allotted for horticulture and plantation⁴² not only to hill people but non-hill person. In 1964, ban on entry, settlement and acquisition of land by outsiders in CHT was completely lifted.

In 1960, a separate division was created within the Department of Forest named the *Jum* Control Division. A programme was implemented called ‘Forestation and Rehabilitation of *Jumia* Families on Forest Lands of CHT’. The objectives were to sedentarize *jumiyas* and to provide them alternative livelihood opportunities such as plantation of rubber and fruit trees. See Annex 4.2 for key events and rules during the Pakistan period.

⁴⁰ The Headman was assigned One rupee, two rupees to the circle Chief and the remaining one rupee to be paid by the circle Chief to the government as revenue. The *jum* tax rate was increased from Taka 4 (assessed in 1870) to Taka 6 soon after 1947 (D.Roy 2002:32)

⁴¹ On the 1st April 1871, the collection of all the Hill Tracts revenue tolls which had previously been leased to the hill Chiefs, was transferred to the Forest Department.

⁴² Government of East Pakistan, Office of the Deputy Commissioner, CHT (Standing order no. 1 of 1967), Memo no-95(5000)/G

4.3.3 Bangladesh Period

During the Bangladesh period, a set of rules (referred as sub-Rule 1) was inserted in Rule 34 of CHT Act 1900, which legitimised land allocation of non-hill people in CHT. The DC was provided with the authority to grant 5 acres of plough land and grove land for plantation to a single family –hill person or non-hill person. Moreover, he can also allot 25 acres of land for plantation on a commercial basis (CHT Act 1900 34[1]). Further amendments during post-colonial periods, allowed the state to give land to Bengalis and land politics based on identity began.

During the Bangladesh period, several plantation and afforestation projects were implemented to strengthen the state's or Forest Department's control over the forest and to restrict *jum* cultivation (Tripura and Harun 2003). The process of declaring more land reserve forest and protected forest to increase state control over forest resources also continues. A report (ANGOC and ILC 2006), stated that 217,790 acres of land from 83 *manzars* of three Hill Districts of CHT were declared reserved forest from 1990 to 1998. However, despite state policies to reduce and replace *jum*, 14 per cent CHT lands are under *jum* cultivation (Rasul 2009: 4); and *jumiya* rehabilitation programs continue.

In the post Accord period, new institutions, laws and acts have been created. Amendment CHT 1900 Act in 2003 curtailed DC's authority in judicial matters. Under amended Section 8(2), the Joint District Judge has jurisdiction in all civil matters, except those arising from family law and other customary laws of 'tribal people' which are solved by the traditional authorities. DC's authority in land control has also been reduced by new acts promulgated in the post-Accord period. However, until new institutions (regional government) are functional, the Act is still applicable in CHT; despite the above mentioned amendments made to the law, in practice there is a considerable degree of continuity in the rules, regulations and authority structures set during the colonial period (see section 4.5.2).

The discussion above shows that state rules have focused on organizing CHT as a space and to control people by employing territorial mechanisms such as: categorisation of land and proscribing/prescribing land use; declaring state ownership over lands; introduction of individual property rights with titles granted by state authority; formalisation and elaboration taxation systems; setting boundaries by mapping the territory; and controlling people's movement by introducing additional tax and enforcing law by setting up departments to control and punish. Classifying the forest, mapping different classified areas, introducing a land tenure system and taxation system are termed as state induced processes of legibility and standardization (James Scott 1998). Information regarding the population was also recorded in tax and land registries, monitored by the authority from local to central state. In the case of hill people of CHT, viewing *jumiyas* as nomads and their cultivation practice as primitive put them below the civilizational threshold. By framing hill people as nomads and primitives, and imagining space as empty land,

the state acquired land and owned forest, without recognising people and their rights. Making CHT a frontier space with unoccupied/spare lands and 'lands in state of nature' validated their territorial strategies. During British rule, hill people's land rights were repudiated and the state established ownership and control over land. The systems of land categorisation, property rights, tax and revenue introduced by the colonial government continued in the post-colonial periods.

4.4 State Frontier: Political Domination and Subjugation

This section describes the history of frontier making and different territorial strategies employed by colonial and post-colonial rulers to establish domination.

4.4.1 British Period

Before the British government established control, they found Chakma rulers in CHT who fixed their territory by demarcating boundaries from the plains. Chakma rulers required Bengalis to obtain *pattas* to cultivate land within their territory and pay rent to Chakma *rajas* (Serajuddin 1984). They had courts of justice to punish trespassers. However, the Company government viewed these rules as 'tribal lawlessness' (ibid. 93). When the Chakma rulers resisted Company rule by not paying tribute. To subjugate the Chakma king and people, the Chittagong District authority issued an official order banning Chakma people's trading rights in 1775 and also put – 'an embargo on the supply of necessaries to the hills, and the stationing of troops to guard the routes there'⁴³. The Chakma Chief fought for his authority and independence⁴⁴, but eventually Chakma Raja Jan Bux Khan surrendered in 1787. The Chakma capital in Rangunea known as Rajanogor fell to the British (Qanungo 2013: 53), and the government gained control over Chakma territory (Serajuddin 1984, N. Uddin 2010). Later, British administrators referred to CHT as a frontier because of raids committed by 'independent tribes' ('kuki' and Lushai) (Hutchinson 1909:8-11).

4.4.2 Pakistan Period

Under the provisions of the Indian Independence Act, 1947, the Indian subcontinent was partitioned based on the two-nation theory. A Boundary commission was assigned by the British government to draw boundaries between the emerging states of India and Pakistan i.e. to separate Muslim and non-Muslims majority areas, an event known as Partition. However, the definition of 'areas' and 'other factors' to be taken into consideration when demarcating borders

⁴³ Proceedings of the Committee of Revenue, 6 May 1784 in Serajuddin 1984.

⁴⁴ In an administrative letter, Government of Bengal by W.B.Oldham on 17th July 1898 mentioned Chakmas as 'troublesome' because of their resistance to the colonial authority.(Selections from the correspondence on the Revenue administration of Chittagong Hill Tracts,1862-1927'

were vague in the rules of dividing the sub-continent (Van Schendel 2004: 40). Within this context, 'The Hill Men Association' formed by the 'tribal' Chiefs in 1946 proposed a princely state status for CHT like neighbouring Tripura and a confederation under the administrative control of the central government of India (Shelley 1992: 26-29). Despite their proposal, CHT, with 98 per cent non-Muslim population, was made part of Pakistan. However, initially there was lots of confusion regarding the final decision and Indian flags were raised in CHT district commissioner's office by the hill leaders which was taken off on 21st of August i.e. 6 days after the independence of Pakistan. CHT and its people were looked upon by the Pakistan government 'with an eye of mistrust and suspicion for being anti-Pakistani during the partition' (Shelley 1992: 79). Van Schendel (2004) asserted this was the beginning of the processes of marginalization, repression, and subsequently armed rebellion in later years. As Pakistan state was created as a state for the Muslims, CHT with its non-muslim population was an anomaly; being neither Muslims nor Bengalis, they never gained full citizenship in Pakistani and Bengali nationalism (Van Schendel et. al 2000: 298).

There has not been any study on CHT as a borderland to understand interlinked processes of state, nation and border making or to explore people's perceptions, identities, everyday life experiences, cross border relations and practices which, according to Van Schendel (2004:4), are crucial in reproduction and subversions of borders. The historicity of border-making is important in understanding hill people's relations, their encounter and experience as citizens of post-colonial states.

During Pakistan period, state-sponsored and aid-dependent development initiatives started. CHT from the state's perspective was framed as a frontier with empty lands and forest resources which needed to be exploited for national development. Two large projects were carried out: the Kaptai dam and Karnafuli paper mill. The mill was granted the right to extract raw materials from the forests for 99 years, while hill people were denied rights to use forest resources. Kaptai hydroelectric dam, constructed in Rangamati district of CHT, submerged 40 per cent of arable land and displaced 100,000 hill people ⁴⁵(Parveen and Faisal, 2010). About 40,000 hill people migrated to Arunachal province of India where they still have not received citizenship (CHT Commission Report, 1991). This is known as *bara parang* in Chakma language meaning great exodus. The Pakistan government's project of building the Kaptai dam is perceived as a strategy to dominate and control the population in CHT who were deemed 'unruly' (S.K.Chakma, 2012).

4.4.3 Bangladesh period

In 1971 when Bangladesh was established, CHT people were perceived by the government as Pro-Pakistani, which politically marginalized them (N.Uddin, 2010). In this period, a new dimension to frontier making in CHT emerged from the state actors' perspective. Bangladeshi

⁴⁵ This incident is known among the Chakmas as 'Bara Parang' or the Great Exodus (Chakma et al. 1995).

nationhood is constructed as homogenous with no recognition of plurality of cultures, religions, languages and histories within the country.

Unequal power relations between the central state and the hill people in CHT was apparent from the start. In 1972, the Constitution of Bangladesh was adopted based on four state principles: 'nationalism', 'socialism', 'secularism' and 'democracy'. Nationalism was defined in the Constitution as 'the unity and solidarity of the Bengali nation deriving from its language and culture...' Thus, any discrimination based on religion was prohibited; but the state was clearly discriminatory against people of different languages and cultures. The ethnocentric and hegemonic attitude in state-making played a part in creating hill people's political struggle and nationhood (Mohsin, 2000a). M.N.Larma⁴⁶, the founder of PCJSS, rejected this state sponsored model of nationhood (Chapter 7), declaring in Parliament that he was a Chakma and not a Bengali.⁴⁷ PCJSS started an armed movement aimed at establishing self-autonomy, restriction on influx of non-tribal people in CHT, recognition of their separate entity in the Constitution and overall preservation of the distinctiveness of their languages and cultures.

Two major strategies were implemented by the government to establish control over CHT during the Bangladesh period: militarization and Bengali settlement, both implemented through a discourse of nation building, national security, national integration, sovereignty of the state and patriotism. Implementation of Militarization and the Bengali Settlement Program (1979-1983) began during military rule in Bangladesh. The militarization in national politics and militarization in CHT took place in parallel. After the first Prime Minister of Bangladesh- Sheikh Mujibur Rahman was assassinated in 1975, there was a coup and counter coup through which Major General Ziaur Rahman assumed power, and a military regime was established. Major General Zia ruled as Chief Martial Law Administrator from 1976-1977. Zia's rule was legitimised by a referendum in 1977 and martial law was formally withdrawn. He overtook power and formed a political party in 1978 named Bangladesh Nationalist Party (BNP). He was assassinated by a group within the military in 1981. However, his political party came to power in 1981. In 1982 there was another military coup, as the then Army Chief Ershad imposed martial law and assumed power as Chief Martial Law Administrator. He suspended the Constitution, banned all political parties and became president in 1983. Later, he formed a political party called Jatio Party (JP) and lifted the ban on political activities in 1985. Since the Constitution was suspended during martial law⁴⁸, the two strategies were implemented either in a situation of -state of

⁴⁶ He was Member of Parliament of East Pakistan Provincial Assembly in 1970 and also a Member of Parliament in the 1973 election (an independent candidate from Hill Tracts).

⁴⁷ Proceedings of the Debate in Bangladesh Gono Parishad (i.e., Constituent Assembly), Bangladesh Jatio Sangsad Bitorka, Vol. 1, No.6, 23 January 1974 cited in Ibrahim (1991:17)

⁴⁸ From 1976-1990, either there was martial law or the two political parties founded by these two army personnel ran as governments.

exception or under a military run government regime. In the following two sections, the military view and administrative correspondence are analysed as narratives presenting a state-centric perspective regarding CHT to explore frontier dynamics and territoriality. Their perspectives and discourses are important for justifying the state's intervention. Most of the literature discussed here is authored by army personnel, which gives an overview of state actors' perspectives of the political history of CHT, settlement programme and militarization as government policies.

4.4.3.1 Militarization

The armed wing of PCJSS i.e. Shanti Bahini was formed in 1974 and since 1976 the situation in CHT was identified as an insurgency. According to IWGIA report (2012), CHT was heavily militarized during the Bangladesh era. From the army perspective, 'In 1974 when the Army was first deployed, it was only a part of the brigade force [...].The number of SF camps gradually doubled, tripled and increased manifolds' (Akbar 2002: 2). In the 1980s, one military person was deployed for every five to six hill people in CHT (Levene 1999: 354).

From the military perspective, militarization was necessary to deal with the problems of national integration and nation building by controlling the insurgents. Ibrahim⁴⁹, employed as military Commander of the counter-insurgency operation in CHT in 1987, framed 'the problem' of CHT as that "[O]f national integration, nation-building, a problem of territorial integrity, a problem of maintaining law and order and a problem of 'balancing off' the political economic deprivation of the past"⁵⁰(p,3). He noted that hill leaders were of Marxist-Maoist ideology and though formally by 'autonomy' they demanded separate legislature, in their propaganda and training literature they emphasised 'liberating the homeland from occupation' (Ibrahim 1990:54). State discourse of development and security goals was combined with discourse regarding left movement in case of Jharkhand of India as well (Basu 2011:1298). Later, in 1978, PCJSS leaders demanded to have a confederation, which in Ibrahim's opinion was a demand to have 'a state within the state, although the Constitution of Bangladesh proves for a unitary form of government only' (1991:27). They posed a graver security threat, because insurgents were supported by neighbouring India (ibid.).

Armed forces were deployed as security forces in October 1976 as an 'Aid of Civil Power' and Bangladesh government entrusted the responsibility to the Bangladesh Army to conduct counter

⁴⁹ This is a report written as an individual study project by Brigadier Syed Muhammad Ibrahim as USAWC (US Army War College) Military Studies Program Papers in 1990.

⁵⁰ Chittagong Hill Tracts: Military's Unconventional Role in Peace-Making. The document was collected from BISS Library. It is not a published paper, a research report. There was also no date, but it was written after the CHT Accord was signed in 1997. He noted that he attempted to present military point of view, since most people who wrote about CHT were non-military persons.

insurgency operations (Rokonuddowla 2007: 1). ‘Security Forces (after Bengali Settlement program was implemented in the 1980s), included Bangladesh Army Battalions, Bangladesh Rifles Battalions, Armed Police Battalions, elements of the district police as available in all districts of the country, Ansar Battalions and Village Defense Party or VDP platoon (volunteers from Bengali villages) (Ibrahim 1990 :27).

Geiger notes that in frontiers that are situated at international borders where indigenous people have taken up armed struggle- ‘political authority resides in the army barracks and police headquarters’ (2008: 115). The CHT Commission (1991) reported ‘There is some civil authority, but the military are the most obvious and pervasive authority in the whole area’. The development administration was also militarised as the CHTDB was headed by GOC in the 1980s (CHT Commission, 1991:39). Chittagong Hill Tracts Development Board (CHTDB) was established in 1976⁵¹. The role of CHTDB in development is controversial (ibid.).⁵²

After the CHT Accord was signed, one third of the Bangladesh army remained deployed in CHT (Mohsin 2003: 69), with 400 temporary army camps (PCJSS 2013), although according to the CHT Accord all were to have been withdrawn from CHT (section 17). In the post-Accord period, to maintain peace and development, the army launched a programme named ‘Operation Uttoron’. In a seminar⁵³ attended mostly by government and army officials, the keynote speaker stated that ‘apart from upholding national sovereignty, the government should continue to employ the security forces in the CHT to promote sustainable peace, harmony and development’ (p:4). The above discussion shows that state actors justify continued military intervention by framing CHT as a frontier where national sovereignty is threatened. The military justifies the existence of the camps by stating that there are still concerns over stability and security in the region. In the empirical chapters, ‘state’ and ‘military’/‘army’ are used to imply state and army officials governing the territory, populations and resources, which administer in complicity as state administration goals and military strategies combine.

⁵¹ The Chittagong Hill Tracts Development Board was established as an autonomous body by an Ordinance (Ordinance No. LXXVII of 1976). Source: <http://www.chtdb.gov.bd/> (accessed : October 2016)

⁵² The government also initiated through CHTDB the ‘plough cultivation program’, which shows a continuation of colonial policy and perception. CHTDB established ‘Tribal Cultural Centre’ and infrastructure for tourism. Studies suggest (Deman 1990, Mohsin 1997, Chittagong Hill Tracts Commission Report: 1991 & 1994) that a large portion of the government’s budget for development in CHT gets spent on defence which remained hidden.

⁵³ Proceedings of a seminar entitled ‘CHT – Revisiting the Peace Accord’, organised by the semi-autonomous government research institution Bangladesh Institute of International and Strategic Studies (BIIS) in 2012; presented by Major General Ashab Uddin (National Defence College, Ministry of Foreign Affairs).

4.4.3.2 Bengali Settlement Programme (1979-1983)

Analysis of administrative documents and institutional actors' narratives reveal two main discourses legitimising Bengali Settlement Program (1979-1983), development discourse and nationalist discourse. The following discussion shows land allotment as a counter-insurgency development strategy involving national security concerns and the military on the ethnic frontier of Bangladesh.

Approximately 400,000 Bengalis were brought into CHT through the settlement program (Adnan and Dastidar, 2011). The reasons given for carrying out the settlement program in the government administrative letter⁵⁴ was availability of "virgin land" in CHT. Distribution of those lands to the landless would give settlers new livelihood opportunities and would bring socio-economic development to the region⁵⁵. The letter contains instructions regarding settler selection criteria, the selection process, the process of transferring settlers and the amount of land the settlers would be granted. Administrators were also instructed to carry out arrangements as a top priority because the Bengali settlement program was of 'national importance'.

The Settlement Program, from a military point of view, was a 'patriotic and futuristic' decision which 'strengthened the position of the GOB (Government of Bangladesh) while consolidating counter insurgency operations' (Akbar 2002: 3). It was carried out to '[A]chieve a demographic balance of tribals and non-tribals...' (Ibrahim: 31), to control the insurgents, to have state's control over the territory which was mostly inhabited by 'tribals'. It was framed as necessary for assimilation of 'tribals'. According to Ibrahim (1991:37):

'By being 'alone' in their large habitat, the tribals had started having their peculiar political demands. It was necessary that the tribal population should be integrated or assimilated into the larger Bangladeshi society so that they could be induced to thinking (politically) within the framework or parameters of a bigger community rather than in isolation.'

"...it was necessary to ensure that any decision of the people of CHT, even if taken democratically should not be injurious to the integrity of the country'

This shows CHT framed as a frontier with unruly people making 'peculiar demands', and backward (incapable of thinking politically). Because of the state's territorial integrity and hill

⁵⁴The letter and the minute of coordination meeting were the only official documents that I could have accessed. They were given to me by one of the leaders of the Bengali settlers who is politically very active. He showed me these documents- to illustrate the official procedure of settlement program, to prove the importance attached to carrying out the program, to strengthen the legitimacy of the program and to strengthen their land claim as settlers.

⁵⁵ 70-C dated 21/01/83 from the commissioner, Chittagong Division, Chittagong addressed to the deputy Commissioner, Rajshahi (Please find in Annex: 4.1)

people's incapability, settlement program was necessary so as hill people were not left 'alone'⁵⁶. There are also practical advantages of the Bengali settlement program for the army. As Akbar (2002:3) notes, who was also posted in CHT as an army personnel, Bengalis fought and collected information about 'insurgents'.

British writers in the nineteenth-century described hill people as 'primitives', 'savages' and 'wild hill tribes', and these terms are still used in contemporary writings in Bangladesh (Van Schendel: 1992 :102). The idea of empty land and tribal people being nomadic has persisted in the post-colonial period. When the Kaptai dam was constructed without prior consultation with the hill people whose lands were taken up. The relocation scheme for displaced people was inadequate due to lack of budgetary allocation and also because 'tribal' people were labelled as 'nomadic' (Parveen and Faisal 2002:202). In the Bangladesh period, CHT remains a frontier with lots of empty lands/ 'virgin lands'.

CHT has been categorised as a 'backward' region in colonial and post-colonial periods.⁵⁷In the post-colonial period (since partition), it has turned into a borderland. Borderlands are portrayed as symbolic representations of a/the state's sovereignty (Van Schendel 2004) and studies have found that borderlands are also places where state authorities are eager to govern and exercise power (Eilenberg 2012). Becoming a borderland added another layer in the state's attempts to penetrate to control and to consolidate its authority. International or inter-regional politics also play a role in the contestation between the state and hill people. In the Bangladesh period, from the state's perspective, CHT has been a territory where the Bangladesh nation state's unitariness and sovereignty have been challenged by the hill people's political demands and movement. These perspectives link with Bangladesh governments' policies which are largely directed at the subjugation of 'tribal' people in CHT.

4.5 State Frontier: Reconfiguration and Replacing of Institutional Order

"In 1855 the Kalindi Rani⁵⁸ was declared sole representative...The Kalindi Rani struggled hard for the recognition of a proprietary right in the soil and for a permanent settlement, but it was ruled in decided

⁵⁶ The Bengali settlement program is termed as a counter-insurgency strategy for demographic engineering, which is continued in the post accord period, according to Adnan and Dastidar (2011:62). Ibrahim's statement gives evidence to this argument.

⁵⁷ The Government of India Act 1935 and Constitution of Pakistan 1956 (D.Roy 2004: 118); Hill indigenous people are categorised as a "backward section" of the population in The Bangladesh Constitution in Articles 14, 28 and 29 (C.K. Roy, 2000: 47) Hill District Council Act and Regional Council Act 1998 referred to hill people as ' backward tribal people'.

⁵⁸ The first Chakma queen after CHT was formed in 1860.

terms that Government was the sole proprietor, and that the right to a permanent settlement was never to be recognised.” (Hutchinson 1909: 24)

The reconfiguration of frontier spaces is explained - '[A]s the reshuffling of institutional orders as new resources emerge alongside new property regimes, new forms of authority and the attendant struggles for legitimacy over ability to define property uses and users (Elias 1970)' (cited in Rasmussen and Lund, forthcoming). Frontier spaces are- 'transitional reconfigurations of institutional arrangements and sites of contentious encounters over authority' (ibid: 2.). According to them (Forthcoming: 4) - 'Frontiers are linked to processes of land control and are actively created through social and political struggles'. This section sheds light on the institutional competition and struggle for authority in land control as well as the political struggle regarding authority formation in land control in CHT.

Van Schendel notes the different political forms or state rules in CHT as 'vestiges of indirect rule (the office of three Chiefs or Rajas), a regional system of taxation and land rights and forms of representation (for example a 'Regional Council') that differ from the rest of Bangladesh' (2009: 26). The frontier lives on in CHT as 'the Bangladesh state continues to uphold regional regulations and political forms originating in the colonial period.' (ibid.). Rasmussen and Lund (forthcoming) argue that frontier making involves a process of formation and erosion of institution through which the governing institution builds, maintains or loses its authority. Drawing on their argument, I argue that it is not only by upholding regional regulations and political form that frontier lives on in CHT, but through on-going processes of contestation over authority relations among institutions of land control as well.

Section 4.3 has outlined how the colonial state rule established a new property regime by granting legal rights to property and establishing new forms of authority. In the history of state building in CHT there are two key moments when institutional arrangements were configured. Firstly, during the colonial period. Secondly, in the post-Accord period, in Bangladesh era. The following sub-sections shed light on reshuffling and establishing of authority structures in the process of authority formation in CHT at these two junctures.

4.5.1. British Period: Traditional Authority as a Colonial Construction

In this section, I argue that the reconfiguration of frontier space in CHT took place during the colonial period, through changing the pre-colonial authority structure with a traditional institution which was largely a colonial construction. It also argue that the institutional arrangements and new property regime established during colonial times were shaped by the process of contestation among authorities.

According to Berry (1997) ‘customary’ rules and practices are, in many cases, relatively recent, ‘invented’ or significantly redefined to serve the needs of colonial administrators. In many parts of Africa, for instance in Congo, a colonial system of ‘indirect rule’ was established to control vast tracts of territory without building up a comprehensive administrative apparatus, to reduce costs. As such, ‘native Chiefs’ were employed as intermediaries of government, based on what was termed ‘traditional legitimacy’ (Verweijen and Vlassenroot, 2015). This required a homogenous and territorially fixed administrative unit (ibid.). In Ghana, the colonial administration gave recognition to certain authorities (Chiefs) as custodians of land while ignoring others political entities (earth priests) that were incongruous to the colonial idea of native political structure and land rights (Lund 2008). Moreover, establishing a system of ‘indirect rule’ involved amalgamation of independent settlements and political entities by recognising a number of Chiefs as paramount Chiefs and establishing a hierarchy of seniority (ibid.). Similarly, in CHT, the colonial government implemented ‘indirect rule’ (D.Roy, 2004) by introducing a system of traditional authority in a standard form that had been implemented in other regions in the Indian sub-continent. Formalisation of Headman and *karbaris* (village Headman) roles also resulted in the homogenisation of varied systems of village and clan Chieftainship, since different ethnic groups in CHT had different governing patterns.

In the pre-British era, Chakma villages were administered by *Dewan* or *roaja* (Lewin 1872). *Dewans* were Chiefs of the village and heads of the clan, who collected *jum* tax (Hutchinson, 1909: 93)⁵⁹ and paid it to the Chakma Chief who collected tax through lineage or clan connections. *Dewans* had subordinates known as *Khisas*⁶⁰. Tax was paid based on ethnic identity, not on the territory they lived in. Thus, Chakma Chiefs had the authority to collect tax from a Chakma person no matter where he lived and cultivated *jum*. The British administration territorialized a Chiefs’ jurisdiction (Van Schendel 1992:109-110) by demarcating circles, which was previously clan based. The headmen were made responsible for the collection of tax from any hill person living in their *manzās* irrespective of ethnic identity. Thus, many Chakmas whose settlement areas fell within the *manzā* territory of a Marma Headman or Marma Chief became subjects of the Marma Chief.

Administrative correspondence⁶¹ among the state’s bureaucratic officials suggests that the creation of circles and three circle Chiefs, also led to an amalgamation of settlements, and

⁵⁹ Using the term capitation tax or poll tax would be a misnomer in such a case, according to Hutchinson (ibid.)

⁶⁰ They were exempted from the payment of revenue and from giving unpaid labour to a *Dewan* (Hunter 1876).

⁶¹ The administrative correspondence or letters discussed in this section and next subsection are taken from - ‘Parbottoy Chattagramme Bhumi o Bhumi Rajoswo Byabosthar Udbhob ebong Kromobikash’, translated from ‘Selections from the Correspondence on the Revenue administration of Chittagong Hill Tracts (1862-1927) by Gynendu Bikash Chakma, published in 2003 by Tribal Cultural Institute, Rangamati, CHT.

assemblage of ethnic groups and clans. For instance, according to W.B.Oldham⁶², several population groups within Mong Circle were different in terms of religion, ethnicity and lineages. The area demarcated as Mong circle government assigned a ‘Mug’ person as the Chief, who was not ‘really a Chief’⁶³ with control over all the groups or clans living in the area. He was chosen since he was well known and had vast tracts of lands. Some Chiefs of different ethnic groups and clans whose jurisdiction fell into state demarcated Mong circle were turned into Headmen under the *mauza* system.

4.5.1.1 Contestation among Institutions for Authority

The process of forming traditional authority involved contestation and negotiation among traditional institutional actors and actors of the colonial bureaucratic government. The new policies of revenue and taxation system were contested by the Chiefs and Headmen. For instance, Hunter (1876) mentioned that one reason for the slow expansion of the plough cultivation movement was that traditional authorities (Chief and the Headman) were not encouraging hill men to take up plough cultivation, since they had a larger commission on the ‘*jum*’ tax and all plough-cultivators were exempted from paying capitation tax⁶⁴ to the hill Chiefs. The Chakma Chief also evaded CHT Regulation 1892 by collecting tax from Chakmas residing outside his Chakma Circle. As a result, Chiefs were strictly ordered to collect tax within their demarcated revenue circle, not from anyone who lived outside⁶⁵. This can be seen as contesting colonial rule by continuing with the previous taxation system, outlawed by the state administration.

The circle Chiefs negotiated with the bureaucratic actors over authority delegated to traditional institutions. In a petition, dated 28th February 1898, sent from the three Circle Chiefs to Lieutenant Governor of Bengal Sir Alexander Mackenzie (1895-1898), the Chiefs appealed to revoke or amend colonial policies regarding the *mauza* system and of giving appointment to Headmen. They stated the creation of *mauza*, *taluk* and circles had fundamentally changed the authority/ruling system in CHT (in G.B.Chakma, 2003: 236-245) by breaking down their clan based social organizations. Moreover, the rule entitling the Assistant Commissioner with the

⁶² W.B.Oldham’s, (Chief Commissioner of CHT), letter (dated 17th July 1898) in response to the recommendation sent by the Assistant Commissioner of Chittagong Hill Tracts on the petition of the three circle Chiefs to reconsider some rules of the 1892 Regulation in CHT.

⁶³ He was first appointed as *sarbarakar* (manager) and was later appointed as Chief (G.B.Chakma 2003).

⁶⁴ This capitation tax was *jum* tax paid by each household head who were *jum* cultivators (Hutchinson 1909).

⁶⁵ The Chakma Chief preferred to continue the old system of collecting tax from his tribe members even if they lived outside his demarcated circle, however, this ‘irregular rule’ of collecting tax was replaced urgently by Richard Temple, the lieutenant-governor of Bengal, in the meeting at the office of the Government of Bengal in July 1876.

authority to appoint Headmen eroded the authority and prestige of tribal Chiefs, since traditionally the Chiefs appointed Headmen.

The claims and appeals made by the traditional Chiefs were not considered valid by the high government officials and none were granted by the government⁶⁶. For instance, according to W.B.Oldham (G.B.Chakma, 2003: 263), Chief Commissioner in 1898, only the Chief of Chakma Circle was a Chief of his tribe and clan, while the Chiefs of Mong and Bohmong circles were not chief of their tribes as such. The authority of other Chiefs was territorial since they were made Chiefs by the colonial government. Therefore, there was no basis for them to state that the *mauza* system broke down their traditional social systems (ibid. 266). He stated that the circle/*mauza* system did not break down Chakma's social or political structure as well.

Commissioner Oldham stressed that the *mauza* system and Headmanship in CHT were replications of administrative strategies employed in Santhal Pargana which were proven to be successful. He suggested that the Chiefs should not be entrusted with the authority to appoint Headmen (ibid: 274)⁶⁷, further noting that appointing a village Headman started in 1893, and therefore there was no legitimacy in the authority claim that the Chiefs traditionally appointed Headmen. However, in response to the petition, the Assistant Commissioner was instructed to consult the Circle Chiefs in appointing Headmen.

Correspondence among institutional actors reveals how these authorities negotiated and contested for authority, and also shows how the authorities attempted to legitimise their claims for authority. While the Chiefs mentioned tradition to make claims of authority to select Headmen, the administrators emphasised on the regulations enacted by the government and challenged what the Chiefs defined as tradition or custom. There were differences in historical narratives utilized to support authority claims. Moreover, the discussion on the construction of traditional authority by colonial government shows that local customs and practices were simplified in administratively convenient formats.

4.5.2 Pakistan Period: State Institutions and Land Control

During Pakistani rule, the central state's control over land and authority to acquire land were further enhanced. Chittagong Hill Tracts Land Regulation 1958 facilitated state acquisition of land for building the Kaptai dam (see section 4.4.2). Under this provision, service of personal notice can be dispensed with and land acquired immediately via a public notice. Compensation paid to the lessee or tenant depends on their lease deed, as per the law, which ensures that no

⁶⁶ Commissioner of Chittagong from the Chief Secretary of Bengal (543 P-D, dated 7th October 1898).

⁶⁷ W.B.Oldham's, the Chief Commissioner of CHT, letter (dated 17th July 1898) in response to the recommendation sent by Assistant Commissioner of Chittagong Hill Tracts on the petition of the three circle Chiefs to reconsider some rules of the 1892 Regulation in CHT.

objection can be raised against state acquisition of land (G.B.Chakma 2014)⁶⁸. In 1955, measures for land registration were adopted in CHT (Parveen and Faisal 2010: 201)⁶⁹.

4.5.3 Bangladesh Period: State Institutions of Land Control and Authority Relation

The CHT Accord 1997 stipulated new laws to change the authority formation regarding land control and jurisdiction in CHT. This section discusses the institutional arrangements regarding land control and contestation among institutions in the post-Accord period in CHT. To comply with the CHT Accord, the government passed the Chittagong Hill Tracts Regional Council Act of 1998, the Hill District Council (Amendment) Act of 1998, the Chittagong Hill Tracts Land Disputes Resolution Commission Act of 2001, Chittagong Hill Tracts Regulation (Amendment) Act of 2003 and Land Dispute Resolution Commission (Amendment) Act 2016.

There are three administrative structures in CHT at present:

- Traditional institution (circle Chief- Headman *Karbaris*)

- Elected regional administrative institutions (Hill District Council, CHT Regional Council)

- Civil administration (Headed by Deputy Commissioner)

⁶⁸ Chakma, G.B. (2014). '*Parbatya Chattagram Bhumii Bebosthapona o Bartaman Prekshait*', Seminar presentation at Rangamati Hill District Council on 31/05/14.

⁶⁹ According to the surveyor of Khagrachhari district Land Office the survey documents were updated in 1956 and 1964. However, these surveys did not entail the processes of detailed cadastral survey (see section 4.6).

The figure 4.1 shows the land administrative structure in post- accord period in CHT.

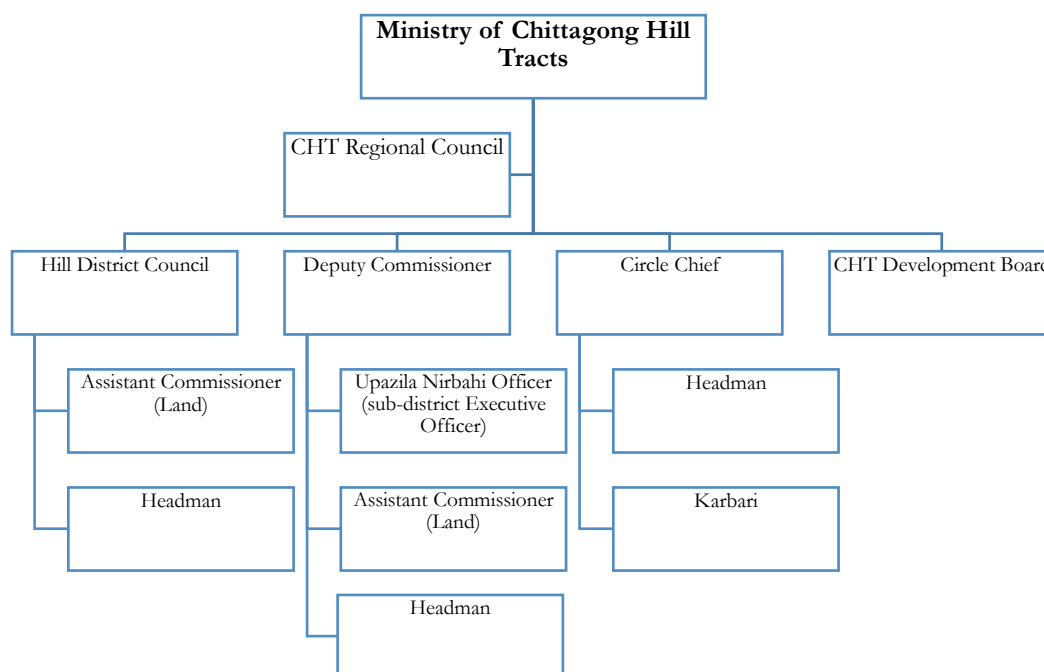


Figure 4.1: Land Administrative Structure in the Post- Accord Period

In the post-Accord period, administrative authority is shared between traditional institutions, regional elected councils i.e. Hill District Council (HDC) and CHT Regional Council (CHTRC), and district and sub-district government officers. The Land Disputes Resolution Commission was created to settle land disputes to rehabilitate hill people displaced and dispossessed of their lands because of the Bengali Settlement Program (D.Roy, 2004). All of these institutions are supervised by the Ministry of Chittagong Hill Tracts Affairs (D.Roy, 2004:124). Among the bureaucratic authorities, the Deputy Commissioner (DC), at *Upazila* or sub-district level the *Upazila Nirbahi Officer* (TNO) and AC Land (Additional Commissioner of Land Office have roles in land allocation and transfer.

As per the HDC (Hill District Council) Act 1998, HDCs are the most powerful institution; however, regarding land administration, the HDC Act has not been acted upon (D.Roy, 2004). HDC's approval is necessary for all land transfers in CHT (Dastidar and Adnan, 2011). However, all HDCs are interim councils, run by members selected by ruling party members (PCJSS, 2013). It is not functioning as a local government institution with democratically elected members with accountability to CHT people. The Supreme Court gave notice to the government to hold an election, which has not taken place.

CHTRC (Chittagong Hill Tracts Regional Council) is established to supervise and coordinate HDC in three hill districts, to monitor development issues and to work with the Land

Commission in CHT. For CHTRC and HDCs, the post of chairmen's are reserved for hill persons. Members of CHTRC are elected by members of the three HDCs but there has not been an election. Consequently, CHTRC is still functioning with an interim council. The Land Commission is also non-functional, and the government recently passed the Land Commission Act 2016 after years of negotiations with CHTRC (discussed in the following section).

4.5.3.1 Contestation among Institutions for Authority in the Post-Accord Period

In the post-Accord period, I argue that there is contestation among institutions for authority, as central government institutions compete with regional government and traditional institution for authority to consolidate state control over CHT. Competition among the institutions takes place within the context of contradictory laws and an ambivalent legislative structure. There are contradictions in Acts based on the CHT Accord 1997 and pre-existing laws which have not been annulled or modified (following the enactment of new laws in the post-Accord period). Moreover, there are contradictions between rules and practices. In this section, I present some instances of contestation between central government institutions and regional government and traditional institutions.

Hill District Councils and Deputy Commissioner's Office

According to the Hill District Council Act 1998 [Rule, 64 (1)], all land transfers, buying and selling of land, mutation, allotment of land have to be sanctioned or have prior approval of the Hill District Council⁷⁰. The law reduces the authority of DC to grant land allotments and restricts state acquisition of land by requiring the HDCs' approval. However, the district administration continues exercising authority by authorising state acquisition of land in CHT and by granting land allotments. In 2000, the Ministry of Chittagong Hill Tracts Affairs (MoCHTA) instructed Deputy Commissioners in all three districts to cancel cases of allotment and lease of lands given out without approval of the Hill District Councils (Pampoo 2009: 31). However, district administrations did not cancel leases because, as per the CHT 1900 Act, the Deputy Commissioners are not legally bound or accountable to MoCHTA for retracting any of their actions (ibid). In interview, the DC of Khagrachhari district stated that 'DC is the sole authority in land matters in CHT as 1900 Act is the mother law in CHT [still]?'.

⁷⁰ At present, land leases are sanctioned only for building religious and educational institutions or for public institutions. Moreover, individuals are granted lease under plantation or development programmes initiated by the government. Granting land allotment and issuing of *kabuliyat*, or formal title or lease document, to hill people and non-hill people has been suspended since HDC was created in 1989.

District administration has continued to exercise authority based on CHT 1900 Act. The enactment of the Hill District Council Act 1998 with existing CHT 1900 Act shows that multiple laws are presently applicable in CHT with some overlapping provisions which allows different institutions to claim authority based on different laws. This also shows bureaucratic actors are contesting for authority with regional institutions, despite these regional institutions and laws are crafted by the state.

Traditional Institution and Deputy Commissioner's Office

The CHT Accord significantly enhanced the role and power of traditional institutions (Chief-Headman-*karbari*) and customary laws have been more formally acknowledged in land distribution and management (D.Roy 2004). For instance, according to the Accord and Hill District Council Act 1998, all land leases and transfers need to be sanctioned and approved by the Headman at *maunza* level. As per the Accord, the HDC Act 1998 promulgates that the identification of a person as a 'non-tribal permanent resident' will be determined by the relevant Headman/Chairman of Union Council/Municipality Council and by the concerned circle chief; these authorities can issue permanent resident certificate. The 'non-tribal permanent residence certificate' as per the Accord, which is crucial to hold landed property and reside in CHT (PCJSS 2013: 26). The authority to issue these certificates also exhibits authority to give recognition for entitlement (Chapter 7).

However, contradicting the Accord, the Ministry of CHT Affairs (MoCHTA) issued an instruction in 2000 authorising the DC to issue non-tribal permanent resident certificates. The DC office was issuing 'permanent resident certificates' to Bengalis in the Bengali cluster villages (PCJSS 2013: 26). CHTRC objected and consequently a decision was taken to cancel this instruction sent by MoCHTA to Deputy Commissioners, but no order was issued by the Ministry to annul the instruction (*ibid.*). This demonstrates that institutional actors also compete over authority to give recognition of identity (inclusion/exclusion of people based on their ethnic identity) as per the new categorisation created in CHT in the post-Accord period.

As shown in Figure 4.1, in the post-Accord period, the Headmen have to work with multiple institutions, bureaucratic, regional and traditional. However, they see themselves as overworked, with multiple responsibilities in a complex administrative system, while their authority is strengthened in law but weak in practice. While Headmen perceive the government is marginalising them as institutional actors, the CHT Headman Network has been built as an attempt to enhance the capacity of headmen. The aims are to maintain solidarity and strengthen the traditional institution. The network was created with support from national and local advocacy organizations. According to Headman of Chakmachari, it enables them to know each other. Moreover, the trainings they receive increase their capacity and knowledge regarding land management and help to create an alliance when any Headman faces a problem.

CHT Regional Council and Government

There has been contestation between the Government and CHTRC regarding Land Commission Act from the beginning. The government passed the CHT Land Dispute Resolution Commission Act in 2001 without consulting the CHTRC, in violation of the CHTRC Act 1998, according to PCJSS (2013). Moreover, 19 provisions in that Act are contradictory to the CHT Accord. Section 7(5) of the Act, for example, states, ‘... if no consensus is reached, the decision of the chairman alone shall be considered as the decision of the Commission’. This provision empowering the Chairman, was opposed by CHTRC because it centralizes power to the Chairman. Besides, according to the CHT Accord, Clause 6 (b) land disputes will be adjudicated in accordance with the ‘traditional land-laws, customs, and practices, enforced in the CHT but in the CHT Land Commission Act 2001, in Section 6, it was only referred to as ‘laws and rules’ which provided for statutory laws and rules to be applied rather than traditional land laws and practices (PCJSS 2013). CHTRC continued to oppose several provisions of the 2001 Land Commission Act and recommended amendment of the Act. In on-going negotiations between the Government and CHTRC, in 2009, the Chairman of the Land Commission sent notice to district and sub-district levels to file land law suits at the Commission. In 2010, the Chairman, a retired Chief Justice, sent notice to the Land Ministry and Ministry of CHT Affairs to carry out a cadastral survey in CHT, without consulting other members of the Commission beforehand. This was a violation of law, ironically by a retired Chief Justice.⁷¹ Facing protest from the hill people’s political parties, student organization, citizens’ committees and regional government institutions, the instructions related to survey were not implemented and the Chairman was discharged.-Not a single case has been settled by the Commission since 2001, as it has remained non-functioning. After years of negotiation between CHTRC and the government the ‘CHT Land Disputes Resolution Commission Act (Amendment) Bill 2016’ was passed in August 2016. The clause “existing laws and customs in forces in the Chittagong Hill Tracts” has finally been incorporated into the amended Land Commission Act of 2016.

⁷¹ In the CHT Accord 1997, it was agreed that a land survey will be carried out in CHT after resolving all land disputes and rehabilitation of the displaced people (both returned refugees from India and internally displaced) is completed. As per the CHT ACT 1998, the government is required to consult CHTRC before implementing and conducting a land survey.



Photo 4.1: Land Dispute Resolution Commission Office (Khagrachhari District)



Photo 4.2: Khagrachhari Bus Terminal ⁷²

The Commission circulated notice to file land litigations to the Commission and started registering cases in October 2016⁷³. Bengali political organizations in CHT protested against the

⁷² Source: <http://thedailynewnation.com/news/103457/> (Accessed: December 2016)

⁷³ Since October 2016 Land Commission has started to function and circulated notification to submit land litigations. According to newspaper reports over 16,000 litigations have been filed at the end of October.

amended act and demanded for cancellation Land Commission Act 2016. The picture above shows a day-long strike being observed at Khagrachhari town in August 2016.

The above discussion shows multiple institutions simultaneously exercising authority in CHT relating to land control. In the post- Accord period, competition among the institutions is within the context of contradiction of multiple laws and the government institutional actors promulgating contradictory laws/orders. With the signing of the Accord, new laws, acts and institutions evolved in CHT with potential changes of authority in land control. However, regional government institutions (CHTRC and HDC) have remained ineffective in establishing authority in land control while competing for authority with other state institutions to circumscribe state control over land in CHT.

Thus, it is shown that this is a liminal or transitional period in institutional arrangements. There is on-going institutional contestation with new institutions emerging but not fully functional, and the pre-existing institutional arrangement not entirely replaced, showing that the frontier lives on in CHT. Mohsin (2003:61) states that the 'existence of so many parallel bodies and layers of administration in the region has created a chaotic situation, with confusion as to who or which body is in control'. On the other hand, D.Roy (2004:61) asserts that these multiple layers act as checks and balances, preventing anyone from becoming too powerful. However, in the absence of council elections, an administrative stalemate has been created that makes the military the 'most important player' in the administration of CHT (Mohsin 2003:120) and 'centralization remains a problem as local autonomy has not been achieved' (p.121). I argue that the 'stalemate' situation and ambiguity result from continuous competition among institutions to establish or to contest central the state's authority. Regarding land control and resolving disputes, there exists an impasse as well as liminality and ambiguity.

Sivaramakrishnan (1997) and Agrawal (2001) show how state rules are shaped by conflicts and struggles at both local and institutional levels. Sivaramakrishnan's (1997) study focuses on internal conflicts among government institutions, to examine the state formation process. He found that forest conservation in Bengal and territorial management were modified by the conflicts within the government (bureaucratic institutions); also due to political and biological diversity of targeted landscapes and the specific history of local administration in particular regions (p. 90). Agrawal notes (2001:13) that facing people's protest and unwillingness to comply with forest rules enacted by colonial government, there was a shift in the nature of state control over forests and forest categories were redefined. Their work contributes to discussions about the model of state in society as theorized by Migdal (2001). Migdal criticizes the idea of state as omnipotent and as an undifferentiated actor, arguing that state-building involves alliances, coalitions, and conflicts among social forces in multiple arenas, including components of the state (2001: 123).

Taking Migdal's idea of the state as heterogeneous, Sivaramakrishnan's (1997) study demonstrates the conflicts among bureaucratic institutions and how internal conflicts within

state systems influence policies. His discussion suggests that the state is not a coherent institution. Rather, there is competition among different components/institutions showing the state as a 'site of contestation' (Jessop 2007: 37). State administrative institutions and institutional actors compete for authority in recognising property and identity, showing that 'the legitimacy of authority needs to be continuously (re)-established through conflict and negotiation (Sikor and Lund 2009). According to James Scott (1999:45 in Geiger 2008:93), frontiers and frontier conflicts remain because frontiers are not ephemeral side-effects of European expansion, but the consequence of state-making projects in general. There is now a period of transition in terms of institutional arrangement, in this long transitional period since the Accord was signed, the central state is attempting to consolidate its authority by contesting with regional and traditional institutions. The empirical chapters show that central state control and territorialisation in CHT is challenged not only through institutional contestation, but also by political activism of the hill political parties, civil societies and Bengali settlers' political organizations.

4.6 Who Owns Land in CHT?: Competing Institutions, Ambiguity in Legislation and Contestation Over Land Survey

Competition among institutions takes place within an ambivalent legislative structure. The Constitutional legitimacy of the Hill District Council Acts of 1989 and the CHT Regional Council Act of 1998 have been challenged in the Bangladesh Supreme Court through two writ petitions. In 2010, the High Court termed the CHT Regional Council Act and some sections of HDC Acts as unconstitutional (PCJSS, 2013: 22). The petitioners alleged that having a separate regional council for the CHT violates the unitary framework of the Bangladesh republic. They also alleged that the 'reservation of the office of chairperson of the CHT Regional Council and that of the hill district councils solely for 'tribals' and the authority of the circle Chiefs to grant permanent resident certificates relegate the Bengali inhabitants of the region to "second class" citizens and thus, offend the equal rights or non-discrimination clauses of the Constitution.' (Roy, 2004:119-120). The government appealed against the High Court's verdict in the Supreme Court. Roy (2004) indicates that Constitutional amendment was necessary to recognise the 'special administrative status of the CHT and of the cultural identities' for endorsing legitimacy to the Accord, and to the laws and institutions that have emerged with it. However, none of these statuses have been recognised in the Constitution so far. There are also contradictions between the Accord and Acts that evolved to implement the Accord (for instance, Land Dispute Resolution Act 2001 discussed in the previous section).

Besides legislative contradictions and institutional competition, delayed implementation or non-implementation of some important clauses of CHT Accord occur due to contestation among the national political parties. During the signing of the Accord, the AL- led government assured

PCJSS that the Accord would provide a Constitutional guarantee if AL attained the requisite majority in Parliament in future, which they lacked at that time. BNP (Bangladesh Nationalist Party) and JI (Jamat e Islami), the opposition parties when the Accord was signed, rejected the CHT Accord arguing that it was a threat to the independence and sovereignty of the country as it contradicted with the Constitution of Bangladesh (M.A.Uddin 2010: 27). BNP and its allies constituted the government in 2001, and the implementation of the accord was delayed (ibid.). The AL- led Grand Alliance Government have been in power since 2008 with a two-thirds majority but Parliament did not provide Constitutional recognition to the CHT Accord.

Ambiguity in land system in CHT is often labelled as a problem of non-recording or non-legibility. Land ownership in CHT is ambiguous as no survey has been carried out, which makes the status of state owned land as well as individually owned land contentious. The first Cadastral Survey (plot by plot survey) was conducted, during British rule, between 1888 to 1944, in all of Bangladesh excluding CHT. The survey procedures consist of preparing, detailed maps of all the fields in a village for settlement of land revenue and preparation of records of rights. The survey and settlement operations are maintained in documents known as 'Land Records'. The preliminary record writing consists of preparation of the *dag chitha* and the preliminary records of right i.e. *jamabandi* and tenant's *khatian*. A piece of land within one boundary is possessed by one person or persons jointly. Every plot of all settled or unsettled land is given a number called *dag no.* The *dag chitha* or Field-index (plot register) is written according to the Serial Number of the fields in the village. Different *khatians* had been prepared during different surveys. For example, C.S. *Khatian* was prepared during the cadastral survey (1892-1898) under the Bengal Tenancy Act, 1885; S.A. *Khatian* was prepared during the State Acquisition Survey under the State Acquisition and Tenancy Act, 1950; R.S. *Khatian* was prepared during the Revisional Survey (1925-1930); and B.S. *Khatian* was prepared during the Bangladesh Survey.⁷⁴

Judicial and administrative institutional actors confirmed that no surveys have been carried out in CHT that follow the legal administrative procedure. Laws, such as the State Acquisition and Tenancy Act and other laws regarding land survey⁷⁵, are not applicable in CHT, therefore, the enactment of a 'special'/another law is essential for conducting a land survey in CHT (Judge, Joint District Judge Court, Khagrachhari). There was no law enacted for carrying out any survey in CHT, hence, the *khatians*, *math-khasara* or 'survey materials' have been created without any law

⁷⁴Source: Chancery Law Chronicles, Bangladesh Online Case Law Database <http://www.clcbd.org/lawdictionary/160.html>, accessed: October 2014.

⁷⁵ The rules and Acts that cover the survey in Bangladesh are Survey Act, 1875, Survey and Settlement Manual 1935, the State Acquisition and Tenancy Act 1950, the Tenancy Rules 1955, the Technical Rules 1957, Land Administration Manual 1990.

being specified.⁷⁶ Hill people own plough lands with *khatians* i.e. Rights of Records, but these *khatians* were given out without following all necessary procedures involved in land survey. This weakens hill people's claim over land by having *khatians*. However, some survey procedures have been carried out in CHT, as evidenced in the creation of the *mauza* maps, giving serials of the plots with a *dag number* and updating the *jama-bandi* or the land record book (last updated in 1964). Two surveyors (Land office, Khagrachhari) stated that land titles, record books and *math-khashra* were updated during Pakistan period in 1956 and 1964. In Chakmachari, the villagers and Headmen mentioned of 'survey' or '*jarip*' being carried out in 1954/55 and 1964/65. The institutional actors (Bengalis and hill communities) could not specify or describe what set of procedures that were followed. It was apparent that the institutional actors have different positions in referring to that sets of procedures as survey or not as they differ in their position in attaching validity to land documents issued based on that. The ambiguities surrounding the 'survey' and the strength of land documents relate to the land contestation and politics of recognising land rights.

This raise another question, in absence of a proper survey, how was it possible to identify *khas* land for state acquisition and to settle Bengalis? Some institutional actors (DC and surveyor) I interviewed at the Land Office claimed and insisted that 'government' distributed *khas* land to Bengali settlers which were identified by using the survey map. However, some institutional actors stated there was no *khas khatian* (volume with records of *khas* land) indicating *khas* lands in CHT and it was not possible to identify *khas* lands from any document (interview with Additional District Magistrate and AC Land)⁷⁷. Differences in statements regarding the possibility of identifying *khas* lands from maps or volumes reflect institutional actors' views and their positioning in land politics⁷⁸.

When Bengalis were settled in CHT under the settlement program, during the second military regime, in 1984, the government took an initiative to conduct a land survey in CHT by passing the 1984 Ordinance. But in 1986, two survey staff were allegedly abducted by the Shanti Bahini. Thereafter, the project was stopped by a statutory regulatory order (SRO) dated 22/10/88. In 2010, as described in the previous section, the Chairman of the Land Commission sent notification to the Land Ministry to start the survey process which was stopped after protests.

⁷⁶ The rules and Acts that cover the survey in Bangladesh are Survey Act, 1875, Survey and Settlement Manual 1935, the State Acquisition and Tenancy Act 1950, the Tenancy Rules 1955, the Technical Rules 1957, Land Administration Manual 1990.

⁷⁷ There is no *khas-Khatian* book in CHT which is available in all other districts in Bangladesh according to the AC Land of Khagrachhari Sub-district Office. The AC Land identified it as a major problem in terms of land acquisition and distribution in CHT. However, there is an estimation of total *khas* land available in Khagrachhari in Land Office, and according to surveyor in that office there is a survey map (1964/65) on which all *khas* lands are indicated.

⁷⁸ One of the high official at Land Office disclosed to me about non-existence of *khas khatian* and that *khas* land was not identified to settle in the Bengali settlers by telling me to turn-off my recorder.

On both occasions, if the surveys had not been resisted, hill people's ownership of land based on their social norms would have been eroded. Both these attempts were taken after the settlement of Bengalis. Therefore, through these surveys Bengali settlers landed property would have become solidified as they were granted titles by the government. In both cases, attempts to conduct a survey were resisted, preventing customary ownership from being replaced completely by state laws. Thus, the lack of a survey is related to ongoing contestations that were part of a larger political struggle over property and territory. On the other hand, within the present context most land in CHT still remain state owned and central state's authority over land remain strong. Without a Cadastral survey (CS) and Revision Survey (RS), DC stated during interview, 'No one owns land in CHT. Whoever says he owns land in CHT is actually a lease holder'⁷⁹. DC has the authority to acquire any land as deemed necessary'.

To conclude, there are multiple levels of ambiguity in land control and ambivalence relating to land records/ registration in CHT. Firstly, it is unclear how these land documents or records, (maintained at the land office) were produced, following what 'survey' procedures and laws. There is scant information in the scholarly literature about the law, legality, legitimacy and procedures of land documents issued to people or maintained in the land office. Secondly, this ambivalence leads to another ambiguity relating to the status of land documents. Without a survey being carried out how secure or strong the *khatians* and *kabuliyats* are?

Central and regional government institutions are contesting over the terms of carrying out the survey, and competing over whose/which land claims will be validated in the survey, over which their authority in land control hinge on. Within the context of ambiguities at multiple arenas, the authority and property in land are not fixed and secure in CHT. CHT remains a frontier as legible property regime has yet not established. During British rule, the state penetrated through instruments of statecraft (James Scott 1998), such as maps, censuses, statistical bureaus and also through new property regimes including tenure, deeds, revenue and taxation. However, discussion in this chapter shows that a legible property regime with legibility of tenure has not been fully achieved. Although the state established statutory laws in land as private property in colonial times, customary laws of land ownership have not been replaced.

Finally, religious and language dimensions of the frontier are present in CHT as well. Geiger posits that it is not the geographical distance separating frontier from centralities that determines national political processes and development dynamics, but the socio-cultural distance. Diverse religions are practiced by the hill communities in CHT aside from the state religion i.e. Islam (see Chapter 1). The growing significance of Islam in politics and state making in Bangladesh coincides with growing militarization in CHT, and both started during the first military rule in

⁷⁹ In the hills, allotment means the right to use or to have '*bhog-dakhal*'. CHT Manual Act 1900 (Rule 34) requires a person with allotted land to take recommendation/approval from the Headman, Circle Chief and Deputy Commissioner (DC) to transfer (inheritance and transaction) his land to another person and people with land allotment are labelled as '*bhog dakhalakar praja*'.

1976.⁸⁰ The demographic makeup of CHT shows that Islam has gradually become the dominant religion while other religious orders have not been replaced (see Annex 6.1). Religious difference is an important dimension in conflicts between hill people and Bengali settlers. The Buddhist identity of Chakmas has strengthened gradually during the period of armed conflict and particularly in the post-conflict period. This will be discussed in Chapter 7.

4.7 Conclusion

This chapter has provided a historical analysis of state formation in CHT by looking at frontier and territorial dynamics. In terms of rules, rights and authority structure in land control, there is a degree of continuity from colonial times. Viewing hill people as nomads and their cultivation practices as primitive implies they have no land rights and that the land is empty. These narratives frame CHT as a frontier that can be occupied. The state's attempt to control *jum* and categorizing *jum* land i.e. hill lands as empty continues in the post-colonial period, and CHT has been constructed as territory with unruly people or insurgents i.e. against state authority. In the colonial period, government policies were designed to increase revenue and establish state authority. In the post-colonial period policy objectives were directed to controlling resources and territory, as security and sovereignty became major concerns of successive governments.

It is shown that the politics over governing the territory is interwoven to the ambivalence and contradiction in the property regime in CHT. There is competition among institutions for authority in land control and recognising landed property. The competition among institutions over authority takes place within a context of laws and regulations providing authority to these different institutions are not being clearly specified or enacted and existing laws are in contradiction. I have demonstrated that the frontier lives on by showing the unfinished way of institutional arrangement in land control.

Although the state established statutory laws in land as private property since colonial times, customary laws of land ownership have not been replaced. In Sack's (1983) term, the state's territorialisation through granting legal property rights which is textually mediated is incomplete in CHT and there is a political struggle for recognition of social norms of owning land as property. In the post –Accord period, the struggle for recognition of customary ownership of land is taking place at institutional level through contestation over the functioning and acts of the Land Commission. This suggests property laws are not apolitical and law has become 'an arena of conflict' (Correia 2013: 6) in post-Accord period. The establishment of statutory law of private property ownership has also been resisted through institutional competition and by

⁸⁰ According to the IWGIA (2012) report, 'Compared to only 592 mosques and 35 madrasas in 1981, there are now around 2,297 mosques and 1,552 madrasas, which outnumbers the institutions of religions followed by the hill people.'

resisting survey operations. The question who owns land in CHT has been perennial, and as shown, it continues to this day to be the question around which political conflict revolves.

My research aims to understand state formation through the dynamics of property formation by focusing on legitimacy claims and practices of actors involved in land contestation (between and within communities). The chapter provides a historical and contemporary framework for situating the processes of property and authority formation, discussed in empirical chapters. It presents the state rules, regulations and institutional arrangements, which gives a context to exploring processes of state and property formation through analysing empirical data on rules, actions and practices pursued by different actors in land dispute processes. James Scott stated that the state introduced a legible property regime and '[E]stablished a whole new institutional nexus. However, simple and uniform the new tenure system was to an administrator; it flung villagers willy-nilly into a world of title deeds, land offices, fees, assessments and applications. They faced powerful new specialists in the form of land clerks, surveyors, judges and lawyers whose rules of procedure and decisions were unfamiliar' (1998:48). In CHT, the state has not established a fully legible property regime, however, the world of title deeds, offices, fees and application exist. The following chapter explores Chakma people's claim making and property practices within the property regime described in this chapter.

Chapter 5: Land Disputes within Chakma Village: Changing Property Relations and Dynamics of Authority

“In the past, there were lots of hills available near the village where people used to cultivate *jum*. In *jum* fields people used to grow everything that was essential - rice, vegetables, spices, cotton... *jum* fields were like bazars...people could get everything they needed. Now people cannot find hills for *jumming* and no one does *jum* cultivation anymore?. –Goirananda Bhante (aged 85)

5.1. Introduction

This chapter introduces the Chakma village i.e. Chakmachari, its history, norms and practices in relation to land use, access and property relations. It sheds light on who owns land in Chakmachari and how. As discussed in Chapter 4 and 1, two property norms exist in CHT: social norms and legal norms. Benjaminsen and Lund (2003) note that customary law is a product of colonisation, as colonial power accepted and recorded certain versions of indigenous traditions as customary law. In CHT, customary norms of land rights have not been coded or recognised by the formal authority. My findings suggest that customary norms of land ownership, as described by Chakma people, show the influence of state institutions and legal norms of land control. I argue that social and legal norms of owning land co-exist and become mingled, and that these norms are not always distinct in people’s claim-making.

There is a complex blend of formal and informal documents, formal and informal practices, and social and legal norms in the process of owning land among Chakmas in Chakmachari. Various kinds of land documents are used as evidence of owning a piece of land. I have categorised the documents that people hold and use to legitimise land claims as legal titles, formal documents but not titles, and informal land documents. In land transactions, to secure their land rights and claims, making of written documents known as “local deeds” through institutionalisation of informal practices, are widely practiced. The informal formalisation process in making deeds and contracts show that formalisation processes are not the state’s exclusive preserve (Benjaminsen and Lund 2003: 3, Mathieu 2001). Cleaver (2003) and Mathieu (2001) argues that the distinction between formal and informal is often blurred in local resource use practices. Similarly, among Chakmas often there is no neat dichotomy in categorising their land documents and property practices as either formal or informal.

Von Benda Beckman et al. (2006) suggests the re-making and circumvention of rules can be seen and explored in social practices (see Chapter 1). Studies suggest that property rules are flexible and rules negotiated (Nuijten and Lorenzo 2009). In their ethnographic fieldwork among

Tswana, Comaroff and Roberts (1981) found ‘rules consisted of a loosely constructed repertoire rather than an internally consistent code’ and ‘although they were invoked in argument and decision-making, it proved extremely difficult to predict outcomes by applying them deductively to the facts of any particular case’ (1981: 18). They argue that while rules are negotiated, normative repertoires play a role in the arguments and decisions that occur in dispute processes. I found that in Chakma village, statutory and customary rules were contested and negotiated through practices. By exploring land dispute processes, I found that in Chakma community both customary and statutory laws of owning property are not fixed but constantly interpreted and circumvented through practices and in claim-making. My analysis of dispute processes suggest that social norms of owning land are increasingly being challenged by legal norms and I argue that property relations in land are changing among Chakmas.

Property is understood not as a relationship between people and a thing, but between people about things. Property relations are intermingled with multiple other dimensions of social life (Nuijten and Lorenzo 2009: 81). For instance, Sabeen argues that they are intricately connected to family obligations, community life and power relations (1984). My findings suggest that social relations of property are embedded in kin relations, gender relations and power relations in the Chakma community. My study finds that village-level competition, conflict and power relations influence the system of owning property on land. Unequal access to land and inequality in owning formalised landed property are rooted in class identity, and social relations.

The chapter presents the analysis of several land dispute cases ‘to map out what conflicts are typically about, who is typically involved, what authorities are typically engaged, how claims are typically argued, and how conflicts typically unfold’ (Lund 2014b). Studying these dispute processes in Chakmachari reveal that multiple institutions (traditional and non-state authorities) exist and exercise authority in settling land disputes. Authorities that resolve disputes are the Headman court, including village seniors (elderly kin members), JSS and UPDF. The plurality of institutions opens alternative avenues for people, allowing disputes settled in the past by one of the institutions to be re-opened or re-negotiated. According to Lund (2008: 3), individual and institutional contestants’ pursuit over land involve them in competition over authority, resulting in its consolidation, reconfiguration and erosion. Studying the political dynamics of property, i.e. the processes whereby land claims are settled or contested, illuminates ‘how authority is established and challenged among competing politico-legal institutions’ (Sikor and Lund 2009:2). Analysis of dispute processes and property dynamics shows the consolidation, reconfiguration and erosion of the authority of traditional institutions and non-state actors/institutions over time. This shows that authority (understood as legitimate power) is not fixed or inherent to any institution. Which authority disputants go to for resolution depends on the type of dispute, and the disputants’ connection with the actors of a particular institution. My analysis shows that the Headman’s authority has been contested and undermined within the Chakma community, and

Chakmas hold land through a combination of rules, formal/informal authorities and formal/informal titles.

In this chapter, firstly, I present the history and a brief description of the village, followed by a discussion about land ownership patterns in the village, showing inequality. Section 5.5 highlights various norms of property relations in the village and formal/informal documents as well as practices for owning land. This is followed by a discussion of how norms co-exist, overlap and are contested (section 5.6). Section 5.7 maps out different kinds of land dispute processes and authorities involved in dispute settlement. Section 5.8 focuses on competing institutions and the authority dynamics in land dispute settlements.

5.2. Chakmachari

Chakmachari is approximately 15 kilometres away from Khagrachhari town. At the entrance of the village is the village monastery or *kyang*, situated by the main road that connects Khagrachhari district with Rangamati district. The road was constructed in 1988⁸¹. The army camp, established in 1978/79, is across the main road, opposite to the village. To the north, Chakmachari is bordered by the River Chengi, which runs along the village, separating it from Fulchari *mauza*. On the east side is a Marma village known as Magistrate-para, while to the west is the main road and a reserve forest.



Photo 5.1: The River Chengi in Chakmachari

⁸¹ The construction of the road was mentioned many times because people whose lands were officially acquired received compensation from the government. Many Bengalis received compensation by showing their titles. In a list of people given compensation in Chakmachari *mauza*, the majority of the people are found to be Bengali settlers. This document of having compensation is used as evidence of ownership of land in cases of dispute (see Amol *Devan's* case in Chapter 9) which eventually strengthen the Bengali plaintiff's claim.



Photo 5.2: The tea-stall at the entrance of the village on the bottom of the hill of the monastery

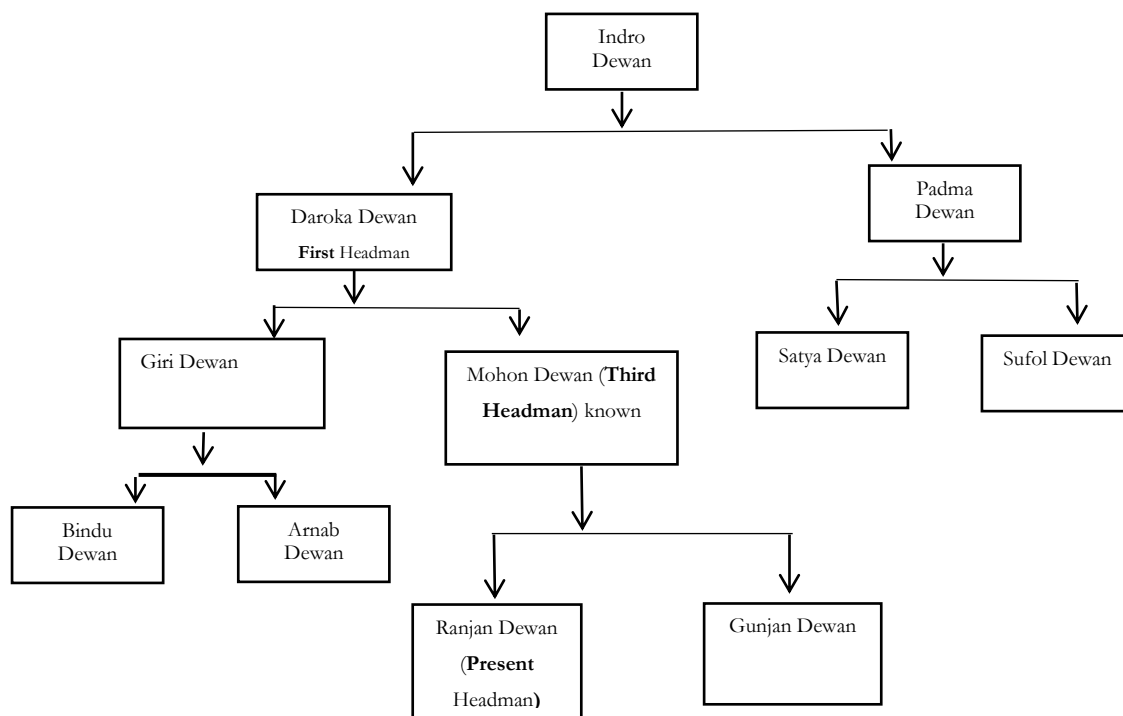
In the village, there are 135 households (source: group discussions and village mapping). In the majority of households, the household-heads' main occupation is agriculture. However, many households have members with other occupations like -small trade, construction work, driving *tuktuk*, teaching at schools or employed in GO or NGO offices. For instance, my gatekeeper, Amol Dewan cultivates his land, while his son works in the police. In some households, members have gone to cities, Chittagong or Dhaka, to work in the garments factories. People mostly cultivate rice (twice a year) and grow vegetables in the winter on plough and low lands. Recently, some have begun to cultivate tobacco, on a contract basis, by taking loans from the Gold Leaf Company. People explained that there is hardly any profit from rice cultivation since the input costs are rising each year. Hills once used for *jum* are mostly now used for plantation of fruit or timber trees. Some do small *jum* on the hillside but not on the entire hill and usually grow spices. Fruit plantations or teak tree plantations are profitable, but require a lot of investment. Only five households in the village had 1-3 acres of plantation on their hill land.

5.3 History of the Settlement

According to oral histories, the first settlement in Chakmachari was established by two brothers, Indro and Chandra Dewan at the beginning of the 20th century, during British rule. They migrated from Rangunea, which fell in the Chittagong or Regulation district when the state mapped and demarcated the boundary between Chittagong and CHT (Chapter 4). Their descendants state that the probable reasons for migration were either a fight with 'Maghs'

(Marma) or the search for land⁸². The time of their migration coincided with the moving of the Chakma frontier and the Chief's residence from Rangunea to CHT. Chandra Dewan and his family moved to the other side of the Chengi River to Fulchari *mauza*. Plenty of plough lands were available in these two villages and the surrounding area, and most were owned by these two brothers. Chakmachari was registered as *mauza* when the state rules were established in CHT and the first Headman registered for Chakmachari *mauza* was appointed in 1881. Indro Dewan had two sons, Daroka and Padma Dewan. Daroka became Headman of Chakmachari *mauza* around 1943/44 and from then on, Headmanship stayed in his lineage⁸³. Their family belonged to the *Wangza Goza* (clan) i.e. the Chakma Chief's lineage.

Below is the Headman's family tree (via the male descendants) beginning with Indronath Dewan.



According to Satya Dewan (aged 80), his grandfather, Indro Dewan, owned 40 acres of plough land in Chakmachari (all registered in his name), of which his father Padma inherited 20 acres (land registration document issued in 1956/57). Mohon Dewan, known as the 'Old Headman' in

⁸² They referred to a Chakma proverb to explain that Chakmas had conflicts with 'magh' and to escape that if they went to forest they needed to fight 'bagh' (tiger).

⁸³ From the oral histories it can be gathered that the preceding Headman was named Rangamow and was from another *mauza* and lineage. Rangamow (Rai Talukdar) fled after he was accused of stealing paddy collected from the people to store as government stock. Since Daroka Dewan's family was a large landowning family and was well known, when he applied to the sub-divisional officer (SDO) for the post of Headman he was appointed.

the village, said ‘All our lands were registered by my father in the British period.’ The oldest monk in the village monastery, Goirananda *Bhante* said that in the British period, the government was strict with revenue collection. If someone failed to return their tax, the police would come to acquire (he used the word ‘acquire’) the land to be auctioned off.

Indro Dewan ‘brought’ sons-in-law for his two daughters.⁸⁴ One was married to Apon Dewan, who migrated to Chakmachari with his brother. Pratik (nephew of Apon) said they migrated because there was not much plough land in their native village. The Headman ‘gave’ Apon 27 acres of plough land after the wedding. The other daughter married Sugata Khisha, the great-grandfather of the present *karbari*. Sugata (who later became the *Karbari* from the village) was given approximately 20 acres of plough land by the Headman.⁸⁵ The Headman, Daroka, also brought a son-in-law for one of his daughters and gave his son-in-law 12 acres of plough land in the neighbouring Batchari *mauza*. During Pakistani rule, another of his sons-in-law, Pranam, migrated to the village with 5 brothers, after being displaced by the building of the Kaptai Dam. Pranam and his brothers were also allocated homestead plots, plough lands and hill lands. Hence, most plough lands were concentrated in the hands of a few families belonging to Headman’s lineage and kin relations. Together these families owned almost 110 acres of plough lands. Oral history suggests that plough land was valued, as evident in incidents of migration for plough lands. Apart from Headman’s families, two other families had a large amount of registered plough lands. One of these was Shopon Talukdar’s lineage (*Talukdars* were revenue collectors in colonial times). The other was Kalimohon Chakma’s family, who gained land later, during the Pakistan period. Kalimohon is recalled as ‘Kalimohon overseer’ because he worked as an overseer at the District office in the Pakistan period.

Major demographic changes and changes in land distribution occurred when Chakma people, displaced by the Kaptai dam, migrated to Chakmachari in 1958/59; and the number of households rose from 25-30 to 50-60 approximately in the 1970s. The Kaptai Dam-affected population is known as the displaced population (DP) or DP *praja* or *kaptai goda lok* (Kaptai Dam people) in the village. DPs were granted allotments or *bondobosti* of hill lands that were categorised as state owned land or *kebas* lands from the government as compensation. In the 1960s, government policies were designed to encourage market oriented horticulture and forestry to replace *jum* cultivation, primarily targeting displaced population as beneficiaries. Under the project, hill people were given land grants, credit, seeds and technical advice (D.Roy 2002: 70). In Chakmachari, along with DPs who settled in the village, some original inhabitant families also applied and eventually got allotments of hill lands in 1960s as the ‘opportunity opened up’. DPs

⁸⁴ According to Chakma custom a bride usually moves into her husband’s house. In cases where the bridegroom moves into the brides’ household the practice is called *jamai ana*: ‘bringing in the son-in-law/groom’.

⁸⁵ Krishna (aged 85 or above) could not tell the exact amount of land his father – Sugata had owned because the latter had sold most of his share to pay off gambling debts from playing cards.

also bought land from the original inhabitants with the compensation money. With the migration of DPs, competition and conflicts over lands increased (section: 5.7.5). Another major change in the demography which affected landed property relations, land availability and accessibility, occurred in 1981-82, when, under the settlement programme Bengalis were allocated land in Chakmachari (see Chapters 8 and 9).

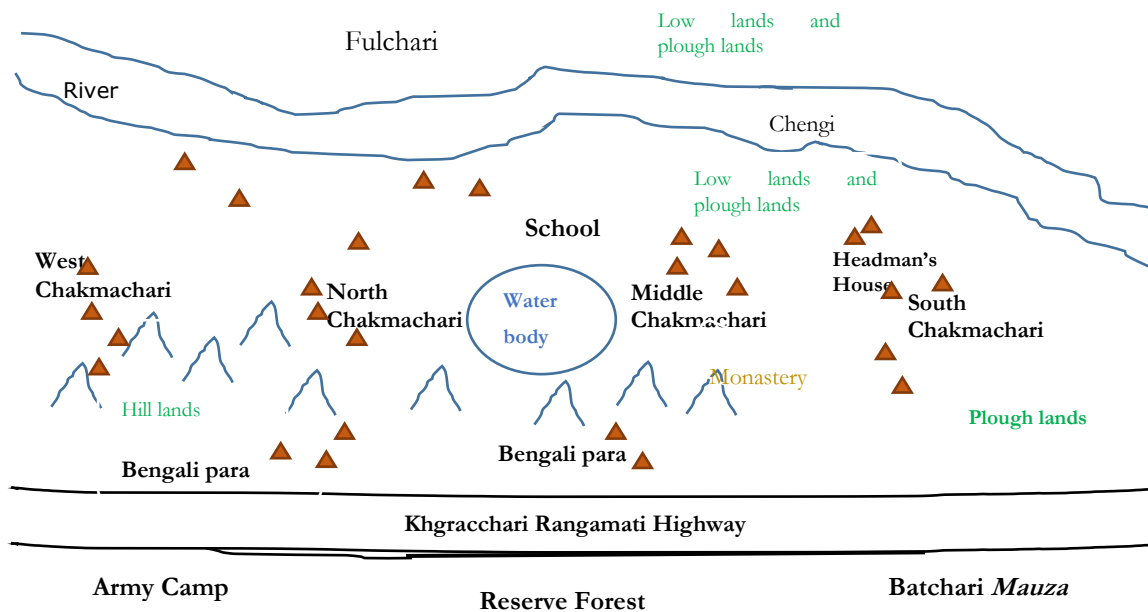


Figure 5.1: Village map of Chakmachari



Photo 5.3: Drawing village map in a tea-stall in Chakmachari

The village can be divided into four neighbourhoods or *paras*: south, middle, north and west. South and middle Chakmachari are mostly inhabited by the original inhabitants. People with titles as Dewans, Talukdars and Kalimohon overseers' families live in south and middle Chakmachari. A few families of *gabor* or labourers working for land-owning households also live in those two neighbourhoods. In the past, only a few families lived on the hillier west side, cultivating *jum* on the hills and the lowland (*lam char*) by the side of the river. As the population increased and land became scarce, some moved to the north and west sides. In the 1980s, Bengalis settled in the west side of the village (close to the road and opposite the army camp) under the settlement programmes. There are approximately 70-80 households in the Bengali para of Chakmachari. Chakma families living in west Chakmachari in some cases share their homestead plots or yard with Bengali settlers (see Chapter 8 and 9). After Bengalis re-settled in the village in 2005 (see Chapter 8) the competition over land increased within the Chakma community.

Rokonuddowla (2007) notes that 50,000 'tribal people' fled to India in 1986. The army also forcibly relocated hill people into cluster villages in Khagrachhari, between 1986-1991, officially for security reasons. After the Accord was signed, a Task Force was created in 1998 to rehabilitate returned refugees from India and also, internally displaced populations in CHT. My host family (Pran Chakma's family) was the only family in Chakmachari that went to India as refugee. In 1986, while they were living in another village in a sub-district called Dighinala, they fled to Tripura when that village came under attack by the Bengalis and the army.

Changes in the village's settlement patterns, land distribution and land relations reflect the influence of state interventions, policies, and people's interaction with the state authority. The settlement history of the village highlights the influence of key events in three different periods: British, Pakistan and Bangladesh periods. When the state established its rule, Chakmachari was linked to the central state in terms of landed property (plough land registration, revenue, taxation) and authority (traditional institution – state bureaucracy).

As narratives of the past often emphasise the abundance of hill lands, dense forest and plentiful harvest from plough and *jum* cultivation, the existence of *gabor* families in the past appeared to be a puzzle, which I tried to solve through analysing oral histories. There was inequality among people in terms of owning land and the existence of social categories (land-owning families and *gabor*) in the past. For instance, while Girimananda *bhante's* father paid tax for his 40 acres of plough land, according to him, *gaburs* were landless because of their inability to pay tax. Landless people are often blamed for their landlessness. The reasons usually given behind landlessness of *gaburs* are being "simple", "unaware", "lazy" or 'not hard working' or 'they did not think about future' or 'foolish'. The landless also often blame their father or grandfather for being 'foolish cowboys', but mention other reasons as well, discussed in the following section.

5.4 Who Owns Land: Inequality in Land Access and Ownership

“In the past, people used to have so much land, they used to ask others to work on their lands. They used to give lands to cultivate and live on [in exchange]. Now a days, people do not want to give even a small piece of land to make a small house [with just one room].”- Shovabashu Chakma (Landless *gabor*, aged 50)

According to Peters (2004:270), ‘processes of exclusion, deepening social divisions and class formation are at play in competition and conflict over land’. My study found that lineage, kin relations and power relations play a crucial role in differentiation of access to land among households. Moreover, inequality in owning land within the village has persisted for generations. In this section, I argue that this inequality reflects the unequal access to institutions (such as the Headman and land registration process) and how differently positioned actors are able/unable to turn land claims into property rights.

D.Roy (2004) notes that the state-initiated expansion of plough cultivation and the introduction of statutory law regarding private property has led to gradual changes in hill people’s communitarian and egalitarian way of life after the colonial period. However, the degree of egalitarianism that existed in the pre-British period among different hill communities is debatable. According to Serajuddin (1984), Chakma society had been hierarchical since pre-colonial times. Unlike many other hill communities, Chakmas had their fixed settlements, which made the collection of a tribute and hierarchical social system possible (1984:93). When lands were allotted by the state under British rule, differentiation in land ownership was noted by the administrators. A letter of correspondence between administrators reveals that vast tracts of plough lands were taken as allotments or as *ijara* by the chiefs and headmen (G.B.Chakma 2003: 276).

In Chakmachari, inequalities in land ownership and access reflect the social and political hierarchy within the community. The families that own most plough lands have titles such as Dewan, Khisha and Talukdar. These titles were given to those who were the Chakma King’s kin and representatives or agents in the villages in pre-colonial and colonial times (see Chapter 4). They had high social status because of their lineage, position of power and administrative role in the pre-British era; and historical accounts from Chakmachari suggest that administrative roles and authority remain with those elites under state rule.

According to the survey data⁸⁶, almost one fifth of the households (33 households among 105 households) in the village were landless. These households without any cultivable plough land,

⁸⁶ Survey was carried out in November 2013.

low land or hill land, are classified as landless or poor households and depend either on paid labour or share cropping on others' land. Except for one household, all these landless families are original inhabitants of Chakmachari. 14 households had a homestead and small amount of hill lands (8 households) or low lands (4 households) or both (2 households). 13 of these households had 0.5-2 acres of hill land without an allotment paper, and only one had an allotment paper for 5 acres of hill land. These households are classified as small land-owning households. 58 households owned plough lands. 51 households owned 1-3 acres of plough lands, classified as medium land-owning households. 7 households owned 5-10 acres of plough lands, classified as big land-owning households. 12 of those medium land-owning households (out of 51) and 4 big land-owning households (out of 7) owned 2-10 acres of hill lands with land title. All small, medium and large owning families owned homestead plots. All these 58 medium and large land-owning families that owned plough land had *khatian* (see section 5.6) issued in the Pakistan period as land documents and these families belong to the 9 land-owning families of the past. This suggests that inequality in owning plough lands has persisted for generations.

Of the 9 large land-owning families in the past (before the DP migrated in to the village), 7 belonged to the Headman's lineage. The power and authority to grant land for possession, cultivation, collecting revenue, settling disputes, enforcing rules and customs remained within the Headman's family and to some extent with these other land-owning families enabling them to own land. The Headman's role had been crucial and was still mentioned as crucial for owning land in the village historically. For instance, Krishna said 'Headman is the owner of all lands (*jomir malik*). One can own land when Headman gives the land to him. If Headman does not want, no one can own a piece of land.' Evidence suggests that the Headman's kin relations owned most of the plough lands within the *mauza*. Kin relations or lineage have played a major role in land allocation and settlement in the village. When Pranam Chakma migrated with his brothers as DP, people remembered that the 'Headman gave lots of lands to his son-in-law and his brothers'. Pranam Chakma's youngest brother was married to the Headman's cousin's [Chandra Dewan's son] daughter, for which he received more land than the other brothers. Pran Chakma said 'The Headman (Daroka) was my mother's uncle. When we migrated in to this village, I remember my mother's uncle was saying "give more land to my son-in-law". We wouldn't have got the amount of land we have got otherwise. We received land because of the kinship tie (*attiyota shutre*).' Moreover, there was inequality in accessing institutions (Headman and bureaucratic institutions) and knowledge about the state rules. Land-owning families were not only of high social ranking; they were also the first to educate their children. For instance, Goirananda *bhante* (85), the son of Daroka Dewan, studied up to class eight in a school in Pahartali of Chittagong. Kalimohon *overseer's* case shows how access to state institutions and the state-introduced education system allowed some to gain land. He was the only person in

Chakmachari to matriculate in the 1950s.⁸⁷ Their class/lineage identity, control/access to institutions and access to formalisation process enabled them to secure ownership.

Landless households placed an emphasis on not having information (*kehobor no pai*), not understanding what land settlement or *bondobosti* meant, not comprehending the importance (*no jane*) of taking a land lease, and not knowing how to carry out the procedures for settlement of land on the part of their ancestors, as reasons for being landless. Some said that their father had *jum* lands near the village, but the Headman did not give them those lands or told them how to apply for allotment. Moreover, a few were dispossessed by the ‘rich and powerful’ who took allotment of the hill lands (since they had access and knowledge regarding state rules and institutions) owned by them (see section 5.7.5). They also said that although there were hills and jungles for anyone to clean up and own, these were sometimes far from the village and the hills close to village were mostly taken up by the ‘rich people’.

The landlessness that people experienced at the time of this research was different from that of the past. The poor also lost access to hill lands for *jumming* because of changes in land use patterns. In the 1980s, some started using hill lands for timber trees and fruit cultivation. The change in hill lands use (from *Jum* to plantation with commercial interest), demographic growth, with increase in land price, resulted in a shift in land ownership patterns: land rights have become increasingly identified with individuals and those who have individual property rights with title have started to exercise different rights associated with property legally. For instance, according to Sen and Shanti, who worked as *gaburs*, they were not allowed to *jum* on the hills where their father used to because the ‘rich’ people claimed to own those hills as they started plantations. In the past, the *gabur* were given land to stay and to cultivate *jum* by land-owning families in exchange for labour. Nowadays, people give their lands on a share cropping basis or employ contract labourers⁸⁸ (mostly Bengalis).

Chakma property norms and practices are male biased and there is gender inequality. Among the 105 households surveyed, no Chakma woman owned land with legal titles such as *Khatian* or *Kabuliyat* (see 5.5.2). Women work at every stage of crop production (on plough lands or hill lands), harvest and sale but are not entitled to own land. When a Chakma woman inherits land from her father or grandfather, her land claim is usually contested by her male family member (see section 5.7.3).

⁸⁷ Kalinomohon was educated in Rangamati with financial support from his brother-in-law. According to Goirananda, Kalinomohon’s in-laws were very educated and his brother in law participated in the *Swadeshi* movement (anti-colonist movement that started after the partition of Bengal in 1905).

⁸⁸ In Chakmachari, Bengalis were not employed as labourers in pre-Accord period. However, Bengalis had been employed as labourers in CHT in the early 19th Century and Hunter noted that plain land cultivators were imported by Raja Dharm Baksh Khan (1860:81). Bengali cultivators were employed by Chakma elites even before the plough cultivation movement was initiated by colonial government (S.K. Chakma, 2012: 32).

This section has shown that land access has been determined by lineage identity, having control over institutions and access to institutions in Chakmachari. The formalisation of land titles has hardened and widened inequality of access (see section 5.7.5). The differences in owning land have deepened as competition over land has increased at different times. The poor in the village lost access to the hills when people with title started to use them for commercial purposes.

5.5 Different Norms of Claiming Land in Chakmachari

The traditional rights or customary law regarding land among hill people is defined by C.K.Roy (2000:132) as:

“The traditional understanding of land rights among the *Jummas* involves both individual and collective ownership. The members have individual rights to parcels of *jum* land and homesteads, and collective rights of grazing cattle, hunting, fishing, and gathering over common land. Common lands are jointly used, managed and controlled by the community and each family extracts only what is necessary. The use and extraction rights over common land are based on oral traditions as opposed to written laws.”

There are no common lands in Chakmachari village to graze animals, collect wood or bamboos at the time of this research. One water body is open for community access i.e. everyone could fish from and draw water for irrigation.

The following sections discuss the two systems of owning land in the village, social norms based on possession known as customary rule of land ownership, and legal norms of owning land based on statutory law.

5.5.1. Owning Land based on Social Norms: Having possession or *Dakhal*

Chakmas claim land as property by saying they ‘broke’ (*bhanggi*) the land or made the land cultivatable and have possession or *dakhal* over the land. Land claims are based on being the first person to clear or cultivate land, cultivating land for a long time, having trees planted on it, acquiring ownership from someone who cultivated/owned the land previously, or through inheritance. However, such land claims are valid when people utilize that land plot. If land remains fallow and abandoned for more than three years, anyone can own the land with permission from the Headman and the original owner. The original owner cannot claim back the land after giving up his claim i.e. giving the right to someone else to possess/utilize it. Survey data reveals that people make land claims based on social norms by inheriting it from their ancestors who first possessed the land (cultivated that land or cleared the forest), by bringing land under possession/*dakhal* by themselves, by having ownership rights given by the original owner (verbally or written) and by buying up land from the original owner who owned the land based on social norms.

The Chakma customary rule of owning land emphasises access; that is, utilising land and putting labour on it which then confers possession and ownership recognised by the society. The term *dakhal*, or having possession over a piece of land, is used to explain and to define customary or traditional land rights. Having *dakhal* equates to owning land, according to customary rule. However, I found that using the term *dakhal* to indicate the state of having ownership based on social norms shows the influence of statutory rules and institutions. While describing customary property rights, the term *dakhal* was used by the Headman, by educated Chakmas and those with experience of going to institutions and applying for land allotment⁸⁹. They used the term *dakhal shotto*, meaning rights or *shotto*, which derives from having *dakhal*/possession. The term *Dakhal shotto* is used at bureaucratic and judicial institutions. The Headman's recommendation for land allotment application requires his declaration that the applicant has *dakhal* over a specific parcel of land. Some claimed *dakhal shotto* is recognised as property claim under the CHT 1900 Act with respect to homestead plots (see section 5.6), thus, legitimising it with reference to the law. In the Chakma community, *dakhal* is used as a noun to explain a state or ownership of land based on customary rule. It is not used as a verb or as an action. On the other hand, in land conflicts with Bengalis, Chakmas use the term *dakhal* to refer to actions or strategies to maintain control over land (see Chapter 8).

Land inheritance is patrilineal among the Chakmas. According to the social norm of inheritance, if a father wants, he can give part of his land to his daughters. If a person does not have a son, then his lands are owned by his brothers, nephews or daughter/s. Widows are not entitled to own their husband's land, but take care of these lands until their children become adults.

5.5.2. Owning Land based on Legal norms or Titles

Land documents/titles used to make claims over lands are *Khatians*⁹⁰, *kabuliyat*⁹¹ and field maps (*math khashra*).⁹² These documents are regarded as strong land documents by villagers whereas in

⁸⁹ On the other hand, those who have limited or no knowledge about the allotment process or legal rules, made land claims by saying 'the land/hill belong to us', as 'it is/has been my/our land' (Chapter 3) and they stated the social norm through which they gained the land, but did not state that they owned the land by *dakhal*.

⁹⁰ '*Khatian* is the individual land record certificate, indicating genuine title over the land. The term "*Khatian*" is commonly used to mean "record-of-rights" (see Chapter 4)

⁹¹ An engagement or agreement in writing. The counterpart of a revenue lease; a written agreement signifying assent, the document in which the payer of revenue, whether to the government, the *zamindar* (landlord) or the farmer expresses his consent to pay the amount assessed upon his land. (<http://www.clcbd.org/glossary/248.html>, accessed: October 2014).

⁹² It was not possible to see land documents that people claimed they owned, as people were hesitant or avoided showing their papers. I have seen one *Khatian*, one *kabuliyat*, one field-map (*math khashra*), two Headman's recommendation papers and two 'local deeds'. So, the data and analysis are based on the responses, not on by seeing the papers.

legal terms, formal land titles granted by the state only give occupancy or tenancy rights in CHT (Chapter 4).⁹³

5.5.2.1 *Khatian* and *Kabuliyat*

Khatian is a record of rights. *Kabuliyat* is a lease deed under which the title holder obtains tenancy rights based on certain conditions. In CHT, *Khatians* are only given for A Category land/first-class land i.e. land suitable for plough cultivation. Hill lands have been granted by issuing allotment papers or *Kabuliyat* (locally called as *bondobosti kagoj*) since the 1960s. *Khatian* is the strongest document and secured title according to the villagers. *Khatian* is defined as:

“*Khatian* shows the volume of the land. It indicates the *dag* [plot location] number. For issuing *khatian*, field map [*math khashbra*] are prepared. In the field map, it is possible to find out the exact location of land with that *dag* number.” (Headman)

“When *amin* and *qanungo* comes and measures land, then the land-related problems are solved. *Khatian* is issued after *amin* and *qanungo* measure the land. *Khatian* indicates the actual plot size and volume. Boundaries between plots are demarcated clearly in *Khatian*”. (Bishsho Dewan)

A collective memory exists about land surveys (Chapter 3 & 4). According to the Old Headman, a survey or *jarip* was carried out in 1954, when only the plough lands were measured. *Jarip* or Surveys were described as a set of procedures that fix the ownership of land, and determine the partition between lands and secure property in land. Based on villagers’ accounts, *amin* or surveyor came to the village when land was acquired for building Kaptai dam in 1954/55. People whose lands were acquired by the government received compensation. *Amin* or surveyors also came to the village and measured plots, when the DP were allotted hill lands in 1964/65. Hence, the processes of land acquisition and rehabilitation of displaced population for building of Kaptai dam were referred as *jarip* by the headmen and villagers. According to the old Headman, after *jarip* was carried out, *Khatian* and *math khashbra* were issued and Headmen were given copies of those by the government.

As mentioned in Chapter 4, *Khatians* issued in Khagrachhari were not given, based on a full Cadastral survey and a Revision Survey (RS). The status of *Khatians* owned by people in CHT is

⁹³The rule 50 of CHT Regulation 1900 stipulates that all lands are regarded as state owned, only *tenancy* right as opposed to full *ownership* is given and there is *no* chance for obtaining full ownership where land is being enjoyed *only* with the consent of the headmen (Chowdhury 2012 26).

contentious (Chapter 4). The rights it delivers are perceived as weak by the state bureaucratic and judicial authorities.

5.5.2.2 The Process of Obtaining Land Allotment

The process of obtaining allotment of land in CHT is lengthy and complex. According to the CHT Manual 1900, one has to apply to the Deputy Commissioner (DC) for taking a lease on land. The application is forwarded by the Headman with his recommendation, along with a report stating the type of land (category) and boundary schedule (description of the borders of the plot). The report also declares that the land is not owned or claimed by anyone else, and that the applicant has access and possession over it. In the post-Accord period, the process of obtaining land allotment involves several steps and many institutions (please see Annex: 5.1).

Survey data reveals that in 57 per cent of cases people did not have allotment paper or *kabuliyat* for their hill lands. Most said that they did not get an allotment paper for the land they owned because of their inability either to meet the costs or to find someone who could set up the 'line' for completing the process. The costs include transport costs, having food on the way and in town, not working in the field by taking a day off, money to be paid to the petition writer, official fees and 'extra money' or bribes to the officers. The person who sets up the 'line' or knows "officiary" work also needs to be paid. Besides, it was stated that having a land allotment document was not perceived as necessary in the past, because everyone knew who owned what land within the community.

Khagrachhari was made a district in 1983. In the past, the Land Office was in the Ramgarh district, two days walk from Chakmachari. During the armed conflict era (1976-1997), restrictions on movement made accessing institutions difficult. Some said their allotment applications were destroyed when fire broke out in the district office of Ramgarh, which occurred right after the Bengalis first settled in Chakmachari in 1981/82. Some said that the Deputy Commissioner's office at Khagrachhari was damaged by fire in the 1990s. Those whose application was damaged by the fire, did not start the allotment process again. They expressed the opinion that the fire was a 'government's strategy/ploy' to burn the land documents of hill people, so that they would not be able to make claims to lands taken by settler-Bengalis. However, the Headman of the Batchari *mauza* said that the fire did not damage the record section of the DC office.

The process of granting land allotment closed in 1989. Baviskar (1994) found that the *adivasis* in Madhya Pradesh of India were eager to acquire land right certificates from *tehsildar* because they craved the legitimacy accorded by the government, which according to Baviskar reflects the pervasiveness of the feeling of subjugation. In Chakmachari, people's suspicion about the fire accident and the state's intention behind it are indicative of the little trust that people have in the state, in terms of recognising the hill people's land claims. Despite that (or as a result), in the

post-Accord period, since the Bengalis started to settle lands within the village, there has been an awareness and eagerness to gain a formalised land allotment (Chapter 9). Most people have taken Headman's report for allotment application for their hill lands, which is the first step for allotment application (see section 5.5.3) but since the allotment process is now closed, it is only possible for a hill person to have *kabuliyat*, *Khatians* or titles through purchase or inheritance. In such cases, people can do land mutations and obtain the titles in their names. The land mutation or transfer process involves similar stages of taking allotment (see Annex 5.1). Only two persons (brothers) had transferred their fathers' land record to their own names by obtaining a *warison* certificate and mutation. Most people who own lands with a title own lands as 'joint property' or *ezmali sbompotti*.⁹⁴

5.5.3. Different types of Titles: Between Formal and Informal

There are various kinds of land documents produced and used for securing property rights. These are the Headman's report/recommendation for allotment application and local land deeds. These practices reveal the process of informal formalisation of landed property. Regarded as valid documents by many Chakmas, I suggest, these titles fall between formal and informal category of land documents.

5.5.3.1 Headman's Recommendation

Taking the Headman's recommendations as land documents is the first step in an allotment application. Since the 1990s, 23 households had taken the Headman's recommendation paper (12 households on their homestead plots and 11 households on their hill land) which they had owned for a long time based on social norms. This was taken as measure to consolidate their land claims facing conflicts over them with Bengalis (Chapter 9). Most of them perceived and claimed it as a formal title. However, a few stated that the Headman's recommendation for allotment application was not the allotment paper, however, it provided evidence of 'having possession' or ownership by *dakhal*, and showed their attempt to legitimise their ownership by legal rules.

⁹⁴ The mutation process (through inheritance or transaction) requires approval from three different institutions – Headman, bureaucratic (Deputy Commissioner Office and sub-district Land Office) and Hill District Council (Regional government institution). While explaining the process, the one who completed mutation process of inherited land mentioned –“Zila Parishad' (HDC) has turned into a 'Jala Parishad'” (*Jala* meaning troublesome) because it makes the process lengthier. See Annex: 5.1(Chain of procedures involving various institutions of granting land allotment in CHT).

5.5.3.2 *Dakhila* /Tax receipt

As per the CHT 1900 Act, the *jumia* tax is paid to the Headman, who allocates hill land for *jum* based on customary rule. These *Jum*/hill lands are categorised as state forest. *Jum* tax is not land tax (Chapter 4) and does not give any claim over a given plot.

Jum tax was formalised by the British government and the system was installed for a transitional period (according to the colonial administrators' report) until hill people gave up *jum* for plough cultivation or other livelihoods (Chapter 4). However, the transitional period continues with contradictions at state policy level involving taking *jum* tax without recognising rights to access *jum* lands. In Chakmachari, this has resulted in a practice of using statutory law of paying tax to make property claims over land categorised as state land. A tax receipt or *dakhila* is a formal paper, but does not entail formal ownership of any particular hill land. However, in many instances, people mentioned paying *jum* tax to the Headman to strengthen their land claims in cases of dispute with a Chakma or Bengali, and keeping the receipt as evidence to make property claims.

5.5.3.3 Informal Titles: 'local deeds'

In Chakmachari, land transactions are mostly done by 'local deed' that entail a process of informal formalisation. The local deed is signed by both parties (buyer and seller), by the Headman who authorises it, and by a few others as witnesses. To make it more official, it is written on a stamped pad. In some cases people go to 'petition writers'⁹⁵, who write petitions for money outside of courts in the town. A local land deed or *anchalik dalil* written by a 'petition writer' is regarded as more 'solid'.

Local deeds authorised by the Headman and other 'respected people' (*gonno manno lok*) in the village are regarded as valid land ownership documents. 'Respected people' include -Headman, the karbari, the elderly and educated people in the village, kin members of the disputants/parties involved, the member of Union Council (local government). Hence, the group of 'respected people' consists of people who are relatively older or senior men, belong to rich land owning households, educated, have connections to state institutions or hill political institutions.

The Headman takes charge (in recent times for every transaction the Headman has received five per cent of the negotiated land price) for legitimising both the transaction and the local deed. The Headman keeps a copy of such documents as records. Local deeds are also made to record inheritance or division of properties among inheritors.

⁹⁵ Petition writers can be found in the town near the DC office area. They are paid to write applications/ petitions for getting land allotment, land mutation, and for issuing copies of different land documents.

The procedure of giving daughters land involves a 'local deed' known as '*dan-kabala*' or 'deed of gift'. However, this practice of informal formalisation does not entail secure property rights in all cases and property claims based on local deed can remain open to contestation, making their status ambiguous. For instance, Hashi Chakma received land from her father before he died through a local deed. She took care of her parents and organised their father's funeral, which strengthened her property claim based on social norms. While I was in the village, her brothers made calls to a few people trying to sell their father's lands to others without telling her. Meanwhile, three years after their father's death, Hashi was still collecting signatures of important people on the 'deed' to strengthen her claim. Pran Chakma (the head of my host family) said that the brothers were the legal owners so they could sell. He was interested in buying it from them, but he also said Hashi's claim was valid based on social norms, and if Hashi organised a *bichar* meeting by calling 'respected people' to resolve the conflict, he would give his verdict in her favour (see section 5.8). This case reveals that not only documents or local deeds but the social norm of inheritance is also challenged.

While doing the survey, it was revealed that Chakmas do not often differentiate between local deeds and what is considered a formal deed at institutions. For instance, Sen said he owned his land with a land document by which he meant a local deed in which the legal owner of the land declared giving him 30 decimals of land. In legal terms, local deeds are not formal documents; however, the Headman's recommendations and local deeds provide a basis for making legitimacy claims not only in the community, but also as evidence of ownership in court cases (observation based on land litigation case files).

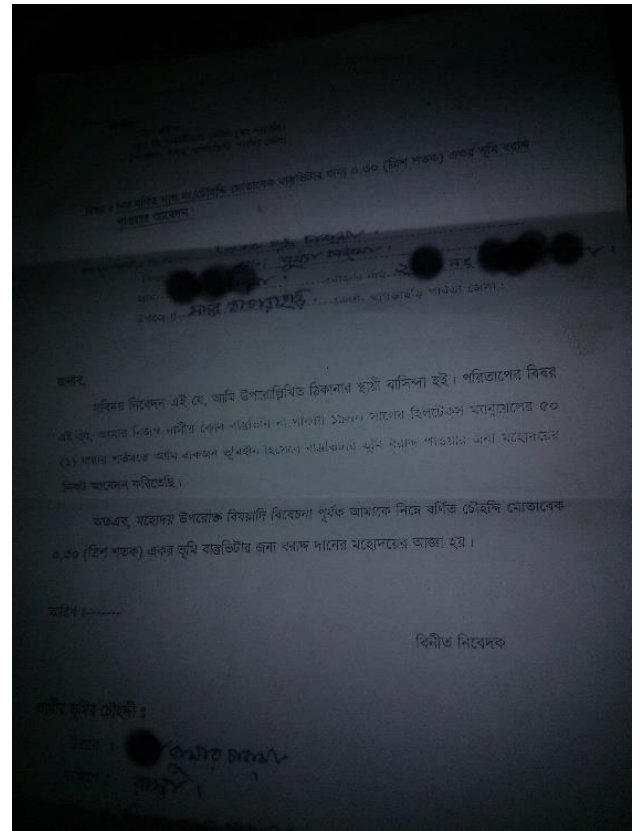
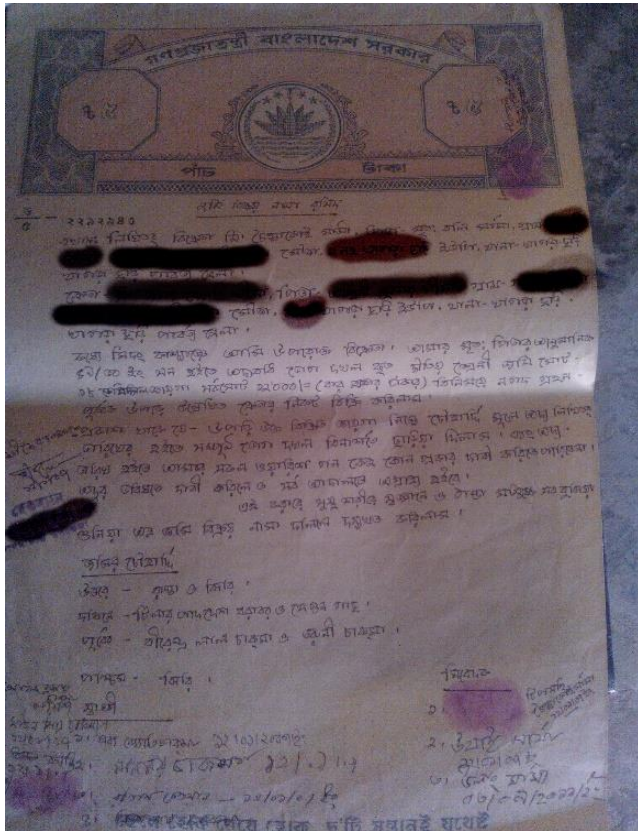


Photo 5.4: A Local Dalil (Left) and Allotment Application with Headman’s Recommendation (Right)

From the institutional actors’ perspective, many disputes occur because of this informal practice of making of local deed and not formalising land transactions (Chapter 6). The Judges at District court and Magistrate court stated that in CHT, the Registration Act 1908, which requires land transaction or transfers to be registered within three months of its occurrence, is not applicable. This they identified as the reason why the practice of making local deed continues.

Mathieu (2001) points out that informal formalisation or informal recording of signed documents to legitimise transactions often develop parallel to the state (cited in Benjaminsen and Lund 2003). Informal practices are produced and invented through local institutional innovation using whatever means are available and dynamically lived in the local society (ibid). My findings suggest practices of creating and owning these documents also result from the ambivalence in legal and administrative arrangements, and the stalemate situation discussed in Chapter 4. Chakmas hold these documents because of the lengthy, complex and costly formalisation process, unfamiliarity with the formal allotment process and because the government has not granted allotments since 1989. Moreover, it highlights the overlapping of two property systems in Chakmachari, where people do not always understand property claims in legal terms based on formal documents.

5.6 Social Norms and Legal Norms: Co-existence and Overlapping

Chakma people's claim-making reveals that in practice, legal and social norms of owning land co-exist and intertwine. This section shows how customary laws and statutory laws get interpreted and re-interpreted and formal/informal dichotomies are often blurred.

5.6.1 Co-existence

In Chakmachari, there are different types of lands (plough lands i.e. *Dhani jomi*, hill lands i.e. *tila* or *mura*, grass/low lands i.e. *lamchar* and homestead plot i.e. *ghar pata*). People's claim-making reveal different systems of ownership and norms co-exist.



Photo 5.5: Low lands (top) and *Jum* fields in hills being prepared before cultivation⁹⁶ (bottom)

⁹⁶ The photo of the *jum* field was taken in a *manza* which is 3 miles away from Chakmachari *manza*. In Chakmachari, entire hills are not prepared for *jum* cultivation usually.



Photo 5.6: Homestead plots (top) and plough Lands (bottom)

Table 5.1 shows the distribution of households based on types of ownership of different kinds of land.

Types of land	Ownership based on Social Norms (number of households)	Ownership based on Legal Norms (number of households)	Total
Homestead plot	69	36	105
Plough land	03	55	58
<i>Lamchar</i> or low land	20	32	52
Hill land	24	18	42

Most original inhabitant families in the village owned their homestead plot (*gbar pata*) based on social norms (69 out of 105 households). 57 per cent (24 out of 42 cases) of people also owned their hill lands based on social norms while 55 out of 58 households that owned plough land, had legal titles. The colonial administration allotted plough lands with titles when they introduced laws and plough cultivation movements in CHT (Chapter 4). Therefore, customary ownership norms prevailed more in relation to hill lands, homestead lands and lowlands in practice, than to plough lands. In Chakmachari, individual entitlements with collective control as well as entitlements based on customary rule are sustained. Not only different systems of property norms co-exist, different ‘estates of administrations’ co-exist (Chapter 2), and hierarchy of estates of administration held by state and by Chief-Headman overlap.

5.6.2 Overlapping and Intermingling Norms

Most people do not own land titles for their homestead plot and when making property claims, legal and social norms get mingled. As per rule, Headman has the authority to allocate homestead plots, if the plot size exceeds 0.30 acres, then the ‘owner’ must obtain allotment from the Deputy Commissioner’s office. Many in the village claimed that, as per CHT Regulation Act 1900, customary ownership of homestead land is recognised and hill people do not require land titles. However, interestingly, this was often claimed by the more informed, with more access to formalisation processes in the village belonging to medium and large land-owning families with

more than 0.30 acres of homestead plot. Social and legal norms of owning land also become mingled in cases where people claim to own lands acquired by the government in the 1950s during the construction of the Kaptai Dam⁹⁷. People claim to own those lands with titles while in legal term they are not the owners. Their property in land is socially recognised.

5.6.3 Circumvention of Social Norms

Chakma's social norms of owning landed property are circumvented in practice in some instances. For example, social norms dictate that 'who inherits what' is decided by the father. According to the *Karbari* of the village, 'The father distributes his lands among his sons in the presence of few others [kin and village seniors]. Among Chakmas, everyone accepts father's decision.' Although social norms dictate that there is no disagreement or '*na-manamani*' over the father's decision, multiple disputes over inheritance arise, showing the gap between rules and practice (see section 5.7.3). For instance, *Karbari*'s aunt was given land by her father i.e. *Karbari*'s grandfather. She lived on that land for years but a few years ago her son wanted to build a brick house on the land. *Karbari* and a few of her male kin (nephews and brothers) raised an objection. They were allowed to stay but not to build a brick i.e. permanent house. After that, *Karbari*'s aunt and sons left the village, and their old house was still standing. This restriction imposed by male kin shows that her entitlement to full ownership through inheritance became conditional and non-permanent. This conceptualisation of ownership of land and practices regarding land relations did not exist in the past. According to the Headman, 'People make deed or written document, and also a 'no objection' paper signed by other *waris*⁹⁸, to give land to their daughter'. This shows statutory rules and administrative processes in land mutation among inheritors influence the process of social norms of inheritance.

The social norm of giving or transferring ownership of land (section 5.4) is also changing. 17 households in the village were staying on others' land. In 14 of these households, the heads claimed ownership of those lands, as the original owners gave them that plot (verbally or orally). This shows that in most cases, the social norms of gaining ownership by gaining access and possession given by original owners still apply. However, in 3 households, the heads were allowed to stay on those plots for their lifetime, in exchange for providing some services to the

⁹⁷ It was estimated that after the construction of the Kaptai Dam the water level in the Chengi River would increase and submerge some tracts of plough land and low lands in the village. The government acquired about one fifth of the total plough land or "A Category Land" in Chakmachari when the Kaptai Dam was built in 1960. The owners received compensation for those lands (250 taka per acre). However, those lands have not submerged. The original owners' families continue to cultivate and to own those lands. They claimed to own those lands by having legal titles or *Khatians*, although their lands have been acquired by the government. These lands are known as '*khatipuroner jomi*' or 'compensated lands'. The government circulated a notification in 1964 that the owners whose lands were not inundated could re-acquire their land (ALRD 2010), but no one in the village had heard about this government notification.

⁹⁸ Inheritors

owners. Possession and utilization of those lands did not give them ownership and their children might not be allowed to stay on those lands, showing differences between social norms (as defined) and actual practices.

People tend to describe tradition as a timeless past – ‘how things have always been done’ (Lund, 2013:15). I found Chakmas often described their social norms of property relation as rules practised since ‘time immemorial’ until the present without any change. For instance, despite the dispute within his own family regarding inheritance, the *karbari* insisted that the social norm of inheritance was abided by everybody in Chakma society. However, as this section shows, social rules are not enduring absolutes (Lund 1998); social norms of property relations have changed and are changing over time. The contestation between the norms and how these two systems of property are challenged are discussed in the following section on land disputes.

5.7 Land Disputes within the Chakma Community

The increase in competition and conflicts over land are explained as the result of an increase in population over time, and the splitting of extended families into nuclear ones. Bengali re-settlement in the village in 2005/6 is mentioned as a reason for the scarcity of land in the village (Chapter 8), leading to a rise in competition and conflict in recent years. Fifteen cases of land disputes within the Chakma community were found. In recent times, a few disputes have involved conflict between the social norms of owning land and having legal titles for land, between one who has possession (but not title) and one who has land title (but not possession). In one dispute, someone having the title claimed the land back after selling it through making a local deed; this is labelled as disputes involving local deeds. Another type of conflict arises between two persons whose legal claims over a piece of land overlap where the disputants have received a settlement for the same land, locally referred to as case of ‘double settlement’. Then there are disputes between family members, kin members or neighbours over the partition of land and between and within families over the inheritance of landed property. In this section, different kinds of disputes and dispute processes are outlined.

5.7.1 Disputes involving Local Deeds

In Chakmachari, in all land transactions conducted through the making of a ‘local deed’, the sellers continue to own the legal title, as the buyers have not completed the land mutation or transferred the land title in their names formally. In one dispute, between a Chakma of Chakmachari and a Marma person from the neighbouring Marma village, Bimol Chakma bought three and a half acres of plough land in 1984 from Kaajo Marma. They made a local deed to document the transaction. The Headman and a few ‘respected people’ signed the local deed as

witnesses. A year after Kaajo Marma's death in 2003, his sons claimed that the land belonged to them. Everybody knew that Bimol had been cultivating that piece of land for 28 years. He went to the Headman, who authorised the local deed, to solve this dispute. The Headman told me- "I told them [sons of Kaajo] that I was there when the land was sold by their father to Bimol. But they [sons] said they never heard of it. Now that their father is dead, they did what they wanted." Kaajo Marma's sons were educated and influential. The eldest son of that family worked for the government (at Ministry). He was well connected with the ruling party i.e. Awami League and also had a certificate of '*muktijoddha*' (freedom fighters of 1971 war). One of his brothers was the *karbari* of their village and the youngest brother was the head of the local high school. They prevented Bimol from cultivating that land, saying they would file a land litigation at Court. Eventually Bimol gave up the land. Bimol, who was also a teacher at the local primary school, said:

"I did not want any trouble with them because this could lead to a conflict between communities. They are Marmas and we are Chakma. In past, there was only one political party [JSS]. Now among the hill people there are 3-4 political parties. Because of this fragmentation, tension between communities has increased. I could have taken this case to any of these political parties [UPDF or JSS]. Since I cultivated the land for so many years and I have document [local deed], they would have granted the land to me through *bichar*. One of the top leaders of JSS was my student [in the local school]. I did not go to him [to settle the dispute] fearing communal conflict [between Chakmas and Marmas] that might occur."

According to Pran Chakma, Bimol would not be given that piece of land if he took the dispute to the JSS party to settle, because one of the sons of Kaajo Marma was an active member of JSS (the one who is the head of the local high school). They could have influenced the JSS leaders'/members' decision in this dispute settlement. In his opinion, although reclaiming land sold by the father was morally wrong, the fact that the sons had legal claim 'could not be denied'.

This case shows that land transaction with a local deed, though socially recognised as a valid document, is being challenged in recent times (section 5.8). The institutions where disputants took/could have taken their claims are the Headman, legal court, JSS and UPDF court. Pran as well as the Headman thought that if the seller's sons went to court, the court would settle the case in their favour since they had the legal title. Kaajo Marma's sons had the capacity to go to court in terms of money, social connections, access to institutional actors and educational background. Their social status, class, administrative and political connections are important in understanding why this dispute ended the way it did. However, it is not only the legal title that enabled them to gain back the land; their political affiliation with JSS reduced Bimol's chances of settling the case in his favour at the JSS court. Bimol stated that he did not take his disputes to political parties, because dispute cases between Chakmas and Marmas could lead to tension and

conflict between communities. Bimol knew that if Kaajo's son went to court they would win, but insisted that the local deed he had proving the transaction, would have been considered legitimate in both JSS and UPDF courts. His argument suggests that at the village level, the court's verdict is perceived as re-negotiable by taking the same dispute to a political institution. The case shows that there are multiple institutions for recognising rights; a legal court is one of these institutions and a court verdict might not be the ultimate solution. Moreover, the case also reveals that the Headman's authority to settle the dispute is not often effective; though he validated Bimol's claim, this did not establish Bimol's claim as a valid one.

5.7.2 Land disputes over 'Double Settlement'

Only one land dispute in Chakmachari was a 'double settlement' case. It occurred in 1963/64 when the DP and some original inhabitants took allotment of hill lands. The dispute was between the Headman's family and Kalimohon, the overseer's family. The disputed land belonged to the first Headman (Daroka) based on the social norm of possession. When the DP migrated into the village, Daroka gave the land to his son-in-law (Pranam) who applied for allotment. The DP were allotted land under a special provision, and a Headman's report was not required. Kalimohon- the overseer applied for allotment of the same land. Consequently, both were allotted the same piece of land by the government. According to the Old Headman, since Kalimohon was an overseer he knew the land allotment procedures and people at the office, so he received the allotment despite he was not a DP.

Kalimohon's family gained a lot of hill lands within Chakmachari because of his position (according to his kin). Kalimohon's son Ranabeer used to do '*officiary*' work for land allotment. He worked as a middleman (the only one found in Chakmachari). During the armed conflict, Ranabeer worked as an agent or spy for the army. Everybody knew Ranabeer was a spy and powerful (everyone feared him); they could do nothing to him, fearing an army raid on the village. However, once Ranabeer went to Rangamati town for work, and was killed, allegedly by Shanti Bahini. Based on Ranabeer's report to the army, the 'Old Headman' was arrested in 1981 by the army as an alleged member of Shanti Bahini, which he was not. Ranabeer gave this 'false report' because he was trialled at *bichar* with allegation for adultery in which old Headman was involved. The old Headman was sentenced to 10 years of imprisonment and was released in 1991. Kalimohon's family took possession of the land after they received the allotment in the Pakistani period. His family later left the village, but one of their kin still lives on that plot and has a plantation. The Headman's family stated that they did not take any measures to establish their claim so far. The Headman and Pranam's family did not want to reveal much details about this conflict.

This dispute shows the role of violence and internal conflict that I discussed in Chapter 3. This is a known case of 'double settlement' that has not been resolved or taken to any authority for resolution. It shows that the emergence and evolution of a land dispute as a process is intricately

linked to the power position of the actors, their connection with state institutions, and that dispute processes are also shaped by the violent political history of the place.

5.7.3 Land Disputes over Inheritance

There were 5 cases of conflicts over inheritance. In all these cases, women's land claims were being contested by male family members. In two of them, the women were widows and in conflict with their brothers-in-law over their husbands' share of landed property. In the three others, the women had received land from their father or grandfather, over which their brothers, nephews or uncles were making claims. In one of these disputes, Sreya Dewan's father tried to register part of his land in Sreya Chakma's name in pre-Accord period. According to her brother Goirananda *Bhante*:

“We are two brothers. My father gave each of us 4 acres of land and told us to give our sister 2 acres. I accepted to his decision. My younger brother [Bir] did not want to obey him. When my father went to the district office [for transferring land to Sreya formally], DC *sabeb* told my father that he needed all of his sons' permission [*bukum*] to give his daughter land. Then my father came back without doing land transfer. He gave two acres of land to our sister by telling his decision to others in the village.”

Bir, the younger brother, had also become a *bhante* and lived in the same monastery. He did not want to talk or give an interview. His son said:

“My Grandfather went to town in secret to register some lands in my aunt's name. Hearing this my father started to sharpen his axe [laugh] and told that he would cut throat of my grandfather. My father had a bad temper. My uncle [Goirananda] signed over my grandfather's will [*dan kabala*], but my father did not. Later, during the Shanti Bahini time, Shanti Bahini members granted the land to my aunt... not Shanti Bahini directly but in their *bichar* [trial meeting involving Headman and others in the village], land was given to my aunt. My father then ran away to my mother's home village [laughed again] for a while when they had this *bichar* meeting.”

According to *Karbari*, the case was brought up again by Bir (Sreya's youngest brother) in the post-Accord period (10/15 years ago). *Karbari* said:

“When this dispute was raised again, I arranged a *bichar*. Me, Headman, few others were present in the meeting. I showed the ‘*dan-kabala*’ made by Sreya's father as an evidence. My grandfather was *karbari* at that time, when the deed was made. The ‘*dan-kabala*’ was made in the presence of the Old Headman and my grandfather [*Karbari*]. I also signed in that deed as a witness.”

When Bir made a claim again, the decision was made to measure the plot and give additional land in that plot to Bir. He eventually got one acre of land and the case was settled.

This dispute process shows how different authorities (DC, village seniors, JSS village committee, Headman-*karbari* court) play a role in recognising land as property. To legalise and secure landed property given to Sreya, her father went to a bureaucratic institution i.e. the District Commissioner's office first. The DC reinforced the male bias of land inheritance that existed in society, by requiring sons' permissions to carry out the land mutation procedure. The Headman affirmed that there is no legal or social rule stating that a Chakma father needs his sons' approval for giving land to his daughters⁹⁹. However, DC did not let Sreya's father register land in his son's name, showing that rules are interpreted and reinterpreted by institutional actors as well, which in turn influences the social norms at village level. He then divided the property according to social norms and practices. However, Sreya's ownership of land was contested at different times. The dispute was once settled during Shanti Bahini's era¹⁰⁰ in the 1980s when the younger brother, Bir, had to accept the decision. Almost 25 years after his father's death, when the authority of Shanti Bahini/JSS was eroded in the post-Accord period (see section 5.8), Bir raised his claim again. This time it was resolved at a traditional Headman-*karbari* court, the state institution with legal authority to settle disputes within a community. It shows that social rules of property are negotiated in traditional courts (in this case, by measuring the land and giving the excess land to Bir from the land plot given to Sreya by her father).

5.7.4 Contested Property Norms: Changing Property Relations

There have been a few disputes in which competing claims are based on two different property norms (four cases were found to have taken place in 2012-2013). I argue that these contestations over land and the way in which the dispute processes have evolved show that the social norms of owning land are being increasingly challenged within the community.

One of these cases, involving Pratik Dewan and Jibon, was coming to an end during my fieldwork. Jibon's father received the allotment of the disputed land in the Pakistani period. However, he never cultivated that land and migrated to another village before the Shanti Bahini era (before 1976/77). The land (lowland) was jungle or forested when Pratik's father took possession of it. Pratik's family cleared the forest, and had owned and cultivated that land for three generations at the time of my research. Recently, Jibon's son had come back to Chakmachari and claimed ownership over the land, based on its legal title. Pratik refused to give

⁹⁹ The CHT 1900 Act mentions that customs of hill communities are to be given priority in family matters and the Chakma norms stipulates that a father can give property to his daughters if he wants.

¹⁰⁰ Shanti Bahini was organized in 1973 as an armed wing of JSS. 'Shanti bahini period or *amol*' is often mentioned by people to refer to the time period when the armed struggle took place i.e. from mid 1970s till 1998.

back the land because his father had worked hard to make the land cultivable. Krishna (85) and his wife Tungolata (who first told me about the dispute case) thought that Pratik's land claim was legitimate. Tungolata (75) said, "If Jibon's father at least cleared the land or cultivated it for once, his grandson could have made a claim now."

According to Pratik, the land was fallow; the Headman allocated the land to his father and told him to obtain a formal allotment for the land. His father went to the Ramgarh Land office twice, but could not complete the allotment process because their papers were damaged by the fire accident. His claim was based on having paid tax (*jum*) and possessed the land for all those years. The Headman endorsed Pratik's claim over the land; however, he told Pratik, "They (Jibon's son) have document for that land. What can you do about it? Give them some money, buy up the land and settle the case.' After a few *bichar* meetings the dispute was settled by negotiating over the amount of money Pratik had to pay to Jibon's son. Pratik bought the land for 70,000 taka, which was one third of its market price. The negotiated price reflects that Pratik's right based on a social norm has been recognised; however, the right of the formal title holder could not be undermined.

In another case, in 2012, Satya Dewan's homestead plot, which had been occupied by his family for 40 years, was claimed by Din Dewan who owned the land with title. Din Dewan said the land was recorded in his father's name, who used to keep cattle on that land. Satya's family started to live on the land with Din's father's consent. Din did not claim back the land or tell Satya to move out, because they both belonged to the same lineage. He asked for money to settle the matter. Satya bought the land from Din paying half the market price and a land mutation process was conducted at the office. In another similar case, the Headman took back the land that his father gave to Krishna's son for building a home. Krishna's son was given the land as landless and he had possessed the land for a long time, but the Headman told Krishna's son to move out. Krishna's son was dispossessed and left the village.

These cases of competing claims based on different norms of ownership are decided through negotiation, illustrating that land ownership and rules (legal and social) are negotiable. The negotiation and dispute process depends on the social relations and economic position of the disputants. As Krishna's son was not a close relative of the Headman and was poor (he did not have the money to buy), he had to give up the land he was given based on social norms. Krishna and his son were also not in a position to influence decision in their favour challenging Headman's claim in *bichar* meeting if they called for any. When making legitimacy claims, rules also become mixed. For instance, Pratik's made a claim over land, formally owned by Jibon, saying they have paid tax and also had a receipt.

In the literature (D.Roy 2004, C.K. Roy 2010, S.K.Chakma 2012), by focusing on the Headman's role of allocating *jum* land based on traditional norms, the Headman is presented as the institution that is upholding the customary law of owning land. However, these cases show as a

formal authority, the Headman lends legitimacy to legal claims when land contestation involves legal versus customary norm-based claims, although at the village level, there was the expectation that he would endorse the social norms of owning land. For instance, Tungalata thought that the Headman should tell Jibon's sons to 'go away' and not to make claim. Instead, the Headman considered Jibon's land claim based on a legal title valid. He also supported Pratik's claim based on social norms and in the end settled the case through negotiation over price. In this case, discrepancy in some villagers' expectations and the headman's decision points to the existence of contradictory property systems -Chakma property norms and formal property norms. The discrepancy arises because, as traditional authority the Headman recognises property relations based on social norms as traditional authority, but he also contradicts and subverts social norms of land ownership when it is challenged by a legal title owner. Since these kinds of dispute are being raised in increasing numbers, the conflicting norms based on two different property systems as well as perceived incongruity in the Headman's role, who is viewed as custodian of traditional norms but who is actually appointed as the state's agent to formalise property rights, are becoming apparent. He, also surpassed customary norms of land ownership by claiming a land plot based on having legal title which was possessed by Krishna's son.

The increase of such disputes suggest that Chakma social norms are being contested within the community, showing that property relations are also gradually changing.

5.7.5 Land Disputes Occurring from Government Allotment of Land to DP

Migration to the village due to the Kaptai Dam was a key moment during which two different property systems (legal and social) clashed or overlapped. As described in Chapter 4, the state categorised most land in the CHT as state-owned land or *kehas* lands. Seeing land as empty land and giving the allotment of that land to DPs was contradictory to how people owned hill land within Chakmachari. The contradiction between the state's perception/categorisation of space and people's lived experience, as well as Chakma property owning system, can still be traced in people's memories. For instance, when DPs were allotted land and 'surveyors' came to the village, an elderly inhabitant said, "There was one *qanungo* who used to label all lands *kehas* land and even when those lands were possessed by some one! People named him '*kehas-moy* because he called all lands as *kehas*!' Through Bengali settlement program this contradiction is continuing in Chakmachari, giving rise to disputes between two communities (See Chapters 8 and 9).

I discuss two disputes that occurred in the village when lands were allocated to DPs as *kehas* lands. These disputes also show the link between land allocation processes, inequality and dispossession. For instance, Sen's grandfather lived on the Headman's land and used to work for the first Headman as *gabor*. Sen's father moved to the hill where Sen was living with his family during the time of fieldwork. Sen's father cleaned up the forest and cultivated it. As evidence of

his father's ownership of that hill, Sen said 'the hill was called cat's hill [*bilai tila*], since people used to call my father cat, jokingly'. However, Sen's father's hill was allotted to Ranga Dewan as a DP in 1960s. Ranga was Pranam's brother i.e. Headman's kin. Sen's father found out a decade later that Ranga acquired formal allotment of their hill land from others in the village. Sen said, "My father went to town to Ranga Dewan to ask him whether he took allotment for our land or not. My father heard the truth from him and he came back. He did not say anything to him. He just listened and remained quiet. That was it." After asking a few times whether his father went to the Headman or anybody to establish their land claim since everybody knew that hill land belonged to them, Sen responded, 'My father did not say anything to Ranga or to Headman. They are *borolok*. People with money can do everything.' By *borolok* he meant people who are rich and powerful, and have high social status. Ranga did not tell them to move out, but gradually, Sen's family's right to utilise the land was curtailed. Sen said that Ranga's men once cut down trees planted by his father on that hill. When his father tried to stop them, he was beaten up. They were only allowed to stay on the land by Ranga's family. In 2010, 0.30 acres of land was given to Sen by Ranga's son by making a local deed when a Bengali settler raised a case against Sen for illegally occupying his land (Chapter 9). In his narration, Sen emphasised two facts for being dispossessed – not having access and the ability to formalise their land claim for being 'ignorant', and secondly, the power relation between the rich (those who control land and institutions) and the poor. Sen mentioned that in the west part of the village the Headman had distributed some hill lands to a few households but he had not been informed. He said that 'although those who have those plots are in conflict with Bengalis, still they have land' while he was still landless. His eldest son stated that 5/6 years ago, the Headman had offered to give him the allotment of a plot in exchange for 500 taka. He could not organise the money and therefore could not gain land allotment. This account illustrates how landless families like Sen's are excluded from the process of formalised land ownership over generations.

Sen's father did not raise a dispute, but in a similar situation, a dispute was raised between Raktim and Pranam Chakma (the Headman's son-in-law who migrated as DP). When Pranam obtained the allotment of Raktim's father's land, Raktim's father raised his land claim to JSS to settle, with the accusation that Pranam secretly 'took allotment of his land'. This case of land dispute was settled by Shantu Larma, the chief of JSS, who endorsed Raktim's land claim (based on social norm). JSS as a political party was inspired by Maoist ideology and Raktim's father being poor (class identity) was the reason for sanctioning the land to him by JSS leader (according to Raktim). Shanti Bahini's authority to give recognition to claims as property rights in land was not challenged during the armed conflict period. In fact, even after the signing of the Accord and the dissolution of Shanti Bahini in 1997, the land was still under the possession of Raktim. During fieldwork, one of the three sons of Pranam, who worked in the TNO office (government sub-district office) instructed the other brothers to raise their claim on that land again. They were planning to talk to the Headman and seniors in the village. Raktim heard about it and said that if they raised the dispute again, he would take the dispute to either JSS or UPDF.

To which party he would go would depend on finding someone who could establish connection to any of the parties -to file his complaint and help him.

To sum up, Raktim's father was also poor, but unlike Sen's father, his family was not in a relationship of patronage with the Headman's family. When an alternative institution like JSS was created, creating an opportunity to gain recognition for his claim, he took his dispute to that court. However, in the post-Accord period, Pranam's sons were considering re-opening contestation by raising the dispute in a social meeting involving the Headman. These dispute cases show how the meaning of *dakhal* (Sen and Raktim's cases) is not fixed. In these disputes the ones with the title gained formal ownership first, and then tried to gain access and *dakhal* of that land by dispossessing others. This is the other way around to how social norms of ownership based on *dakhal* are defined by Chakmas.

The dispute between Kaajo and Bimol shows that the ways in which property in land is held or transacted are changing; local deeds are being challenged and legal norms of ownership are being articulated and established. Social norms of owning land based on utilisation and possession are being challenged by people owning a legal title. There is not just one set of rules and one authority to settle disputes.

5.8 Institutions Involved and Authority Dynamics in Land Dispute Settlements

The institutions that settle disputes in Chakmachari are the Headman court, the 'JSS court' and the 'UPDF court'. Judicial services provided at these courts are termed as '*bichar*'. In addition, dispute resolution meetings or *bichar* are also organised by 'respected people' or seniors in the village to settle land-related disputes between neighbours, kin or within families. For instance, the overlapping claim over land between Satya and Din Dewan was settled in the *bichar* involving 'respected persons'. No dispute case was filed in the legal court, although in some cases, the threat was made (Pratik vs. Jibon). Thus, although everyone in Chakmachari said that they avoid court, the option of filing a suit played a role in a dispute (Kaajo Marma vs. Bimol Chakma).

When there are multiple forums for dispute resolution, actors go 'forum shopping' and forums actively shop for disputes to establish their authority (Von Benda-Beckmann 1981). I argue, by presenting and analysing the dispute processes, that institutions' authority in recognising land claims are not absolute: the legitimacy and authority of institutions have solidified and been eroded at different times. This section maps out the authorities as well as presents the history and dynamics of authority in dispute settlements. The following section sheds light on the history of changing authority relations in land dispute settlements in Chakmachari.

5.8.1 Dynamics of Authority: Erosion and Consolidation of Authority

The 1900 Act gives the *Karbari*-Headman-Chief court the authority to settle family and intra-community disputes. However, the Headman's authority was severely challenged and undermined during the period of armed conflict. JSS had two main divisions – the armed forces (Shanti Bahini) and an administrative/judiciary unit. The administrative/judiciary unit had three levels: village level, regional level and central level. At the village level there were *panchayat* and *jubo* or youth committees, mainly responsible for maintaining social order/control and the settlement of disputes or conflicts. The *panchayat* committee consisted of 12-15 democratically elected members from the village. JSS constructed *panchayat* to dismantle the authority of traditional institutions (*karbari*-Headman-circle chief), which they perceived as undemocratic, feudal and serving the interests of the rich. On top of the *panchayat* committee was a regional committee, headed by the regional director, and the highest body was the central committee headed by the central committee director. To settle any kind of dispute, one could appeal within 15 days to a higher body, if not satisfied with the decision at the local level (*panchayat*). If no appeal was made, the verdict made by *panchayat* was signed by the director of the central committee. There was a 'gana line' or 'mass line' (literal translation) which was like a chain of people responsible for passing information, orders, petitions and verdicts. In some instances, Shanti Bahini settled land disputes. Those who were at the rank of lieutenant or second lieutenant had authority to settle disputes. Their verdict also needed to be signed or authorised by the director of the central committee. Moni Chakma (Ex-Commander of Shanti Bahini) explained, "People used to obey Shanti Bahini's verdict, since they had power. In those days, whatever they used to order was carried out". The Shanti Bahini took away the land record book or *jama-bandi* from Headman, because- 'at that time, they used to do everything, they were settling disputes over land' (according to Headman). The present Headman has been making entries in a new record book since the mid-1990s.¹⁰¹

The village-level committees, along with Shanti Bahini, were dissolved after the Accord was signed in 1997. In the post-Accord period, Chakmachari village was 'in control' of UPDF. UPDF took up most of the roles that JSS performed during the armed conflict period, for instance resolving disputes and maintaining social order and control. After the signing of the 'No harm treaty' between UPDF and JSS in 2010 (Chapter 3), there was an 'understanding' and both

¹⁰¹ The villagers repeatedly said, 'Headman has *jama bandi* book, in which everything is recorded' and 'He knows everything about land in the village, because he has all the papers.' After hearing it many times, I was surprised when I learnt, Headman does not have land record book. He keeps or updates records on his own in an informal way. The government office has not provided him with a new land record book and he did not apply for it.

parties (UPDF and JSS) were politically active. Both exercised authority to maintain social control and order. People could go to either UPDF or JSS to settle disputes depending on which one was easier to access for them (Raktim's case). The 'court fee' was 20 taka for both parties. Recently, *Karbari's* brother's wife had gone to JSS party to make a claim over her deceased husband's father's land. She could not find any UPDF member who could support her to raise the complaint. Therefore, she went to JSS to settle the case and it was settled in her favour. In both institutions, to raise a dispute, one needs to file a case by submitting an application depicting the dispute case and providing evidence for the claim to the local party office. The institutional actors scrutinize the papers and evidence, call both parties for a hearing with their witnesses. After the hearing/s take place, they give their verdicts. People talked about the procedures followed, and 'juridical function' or 'service' (in people's terminology) provided by these political parties in different matters, such as family disputes cases, adultery, domestic violence, 'delinquency' (such as drug addiction) or criminal cases (one murder case was described).

The production and reproduction of authority depend 'on the politico-legal institution's ability 'to operate vis-a-vis its clientele as well as other politico-legal institutions' (Lund 2002:22). The authority of JSS to settle land disputes was eroded in the post-Accord period, and some disputes settled by JSS have reappeared (Bir Vs Sreya and Raktim Vs Pranam's sons) or are taken to other authorities to settle. Whether and how various institutions compete over authority or seek disputes to consolidate their authority could not be explored as these cases were difficult to know as an outsider (Chapter 3). The top leaders avoided admitting any such intervention; at the local level, villagers did not name the persons involved. Villagers remained careful about disclosing information about political parties.

Regarding their control in Chakmachari, one in the village commented "our situation is like Cashmere, both parties claim authority over our village, we fall within both parties' "administrative" area". Although, the political parties compete for juridical function and territorial control, they also negotiate over boundaries of jurisdiction by creating some sort of alliance, in this case by having an 'understanding' or signing treaties. Competition among the parties is more visibly played out in organising movements/protests and in nominating two separate candidates to compete in the national election from these two parties (Chapter 3). Both parties collect donations (which villagers refer as 'subscription') from the village¹⁰². Studies have found different forms of taxation and order-making in conflict zones (Hoffmann et al. 2016), and taxation as central 'in armed groups' production of public authority and citizenship' (ibid.

¹⁰² For each crop season they set a uniform rate for the villages which they collect through their designated cadres known as 'collectors' or 'officers'. However, individuals and community as a whole can negotiate to reduce this rate.

1435). Lund notes a reciprocity between taxation and service provision in the case of institutions which are not government but still exercise authority (2006:696). In Chakmachari, settlement of disputes (as well as other activities of social control) by these political parties are recognised as service. Some villagers said that it was good for them to get judicial service provided by JSS and UPDF, as most hill people could not access formal courts. I found that taxation and recognition of property rights by the political institutions were constitutive of recognition and legitimacy of their authority.

The oral historical accounts suggest that Headman's authority was regarded as absolute to gain land formally or based on customary norms since start of British rule until the Shanti Bahini era. His legitimacy derives from formal laws (1900 Act) and certain practices in legitimising land claims (keeping *jama-bandi* i.e land records, giving land allocation for *jum*, recommendation for allotment, collecting tax) which go back to colonial times (Chapter 4). The Headman's role is emphasised by also referring to tradition and history. The Headman's role is considered essential in authorising deeds or transactions by signing and sealing them with a stamp. However, there were also complaints about him selling his signature and stamp for authorising land claims in exchange for money.

Negotiations over competing claims and how disputes were being settled at the time of fieldwork show that the Headman's presence being consistently mentioned. In the dispute settlement process, the Headman supports one claim over another, and negotiates the settlement but his decision does not necessarily shape the outcome (Kaaajo Marma vs. Bimol Chakma). In settling disputes, authority is maintained if it can establish itself to be a decisive institution (Lund 2002). Both parties' (JSS and UPDF) judgements were stated as having equal effectiveness and value in dispute settlements, while the Headman's verdict was less effective or powerful. Verdicts given by UPDF and JSS were stated as more effective because they had 'power' (political power, guns and squads). On the other hand, despite the Headman's authority being contested and dispute processes showing erosion of his authority in certain periods, he is considered as Chief's representative, state's agent and termed as 'government' or *sarkar*. Several Chakma respondents preferred not to disclose about the functioning of JSS and UPDF courts at the time of my fieldwork, hence, their narration of dispute processes over-emphasised the Headman's role and traditional authority. For instance, the *karbari* mentioned traditional authority or the Headman's court as the only institution that functioned in collaboration with 'respected people' to settle disputes, while his own dispute with the widow of his brother was settled at JSS court.

Religion is central to the organisation of social life in Chakmachari, but religious institutions or actors do not influence the processes of land distribution, inheritance or disputes. Nobody spoke about religious rules and authorities in shaping property relation or dispute processes.¹⁰³ The *bara*

¹⁰³ According to the Deputy Attorney General of Supreme Court, based on a case filed and settled in High Court in Kolkata in 1930 it was declared that the inheritance among Buddhist would be decided at court based on Hindu *dai-bhaga* law. However, in High Court in 2007 a dispute case related to inheritance within a Marma family was filed. In

bhante of the monastery never solved any kinds of disputes within/between families and communities. Chakmas perceive that it is not right to bring disputes to monastery where monks stay to meditate in peace. I asked *bara bhante* about Buddhist property rules and inheritance rules, he stated that in Buddhism there are no such rules specifying property and inheritance rights and that Chakmas follow their own property norms. The oral accounts of dispute processes suggest that monks have religious authority but they have never contested for political authority.

5.9 Conclusion

This chapter has illustrated the complex landscape of claim-making in Chakmachari. It provides an account for changing land relations historically by analysing dispute processes. In Chakma village, land is owned through a) social norms which recognise ownership by having possession or *dakhal*; b) legal norms or titles such as- *Khatian* and *Kabuliyat* and by obtaining formal land allotment. Different types of titles range from formal and informal norms such as the Headman's recommendation, *dakhila* /tax receipts and informal titles in the form of local deeds are collected by people to make land claims. Rules both formal and social are not fixed or timeless but constantly interpreted and circumvented through claim-making and practices. A particular tension exists around having legal title versus having *dakhal* or a socially recognised form of owning land. Both norms regarding property relations are contested, negotiated and renegotiated. I have shown the social norms of owning land as increasingly challenged and gradually weakening within the community.

Contestation over property in land has various outcomes, as land ownership is embedded in social relations. There is inequality in owning land and dispute processes suggest that a person's property claims over land and their ability to assert their claim is related to his or her kin's identity, gender identity, class identity, educational attainment, and institutional and political connections. The formalisation of land claims has hardened and widened inequalities in both ownership and access. Inequalities in owning land deepened when competition over land increased at different times.

Changing authority relations are shown by analysing dispute settlement processes. In Chakma village, the authorities typically involved in dispute settlements are- Headman-*karbari*, village seniors and respected people, and political parties (i.e. JSS or UPDF). The authority of various institutions in legitimising property has waxed and waned throughout different time periods. The multiplicity of institutions (formal and informal) provides people with alternative avenues for raising disputes. Various institutions are shown as being involved in property governance other than the state institutions. Chapter 4 showed the Headman as an authority contesting state bureaucratic authority. The Headman's capacity to define permanent residency in CHT and its

that case, the court declared customary laws would prevail and sent for the judgment or decision of Headman and Circle Chief (Traditional institutional authority).

ensuing rights has strengthened his power in land control in the post-Accord period. Paradoxically, in legitimising land claims in disputes within the Chakma community, his authority is being contested and circumvented. In literature on land rights and authority structure of CHT, the authors mainly focus on traditional authorities (D.Roy 2004, C.K. Roy 2010, S.K.Chakma 2012, B.Chakma 2010), while the authority exercised by non-state actors or political parties are not discussed. My study makes a contribution by showing the role of other institutional actors.

The empirical processes of property constitutions show the actual property practices, rules and ruptures. Within ambiguity and uncertainty regarding statutory laws and institutional arrangement (Chapter 4), in Chakmachari, property is governed to a large extent by institutions and norms that do not often fall into the domain of formal laws and institutions. However, this does not make the discussion about the state institutions, institutional arrangements and contestation redundant; on the contrary, it highlights how disputes, dispute processes and outcomes emerge at particular junctures and under certain conditions that evolve within political contestations at multiple sites. It can be argued that the settlement of land disputes within the Chakma community seem to lie outside or 'beyond the reach of the state' as Herbst (2000) suggested about land conflicts in rural Africa. On the other hand, the history of the state's involvement and policies in ordering and re-ordering of property relations within Chakma community is also apparent. Close analysis shows institutions and laws have significantly structured patterns of conflict and social relations of property within the community, shedding light on the state formation process in the region.

Chapter 6: Land Disputes in the Bengali Settlement village: Competition for Land and Authority

“We are farmers, we only knew rice cultivation. We looked at the hills and we thought- ‘how could someone grow rice on the hills?’ Our grandfather or great grandfather had not seen any hills in their lives!”- Alek (70)

6.1 Introduction

This chapter focuses on the Bengali settlement village i.e. Banglachari. In official documents the Bengali settlement program is referred to as a ‘rehabilitation program’ of landless ‘non-tribals’ i.e. Bengalis in CHT, and the Bengalis who came to CHT under the settlement program are referred to as ‘rehabilitated population’ or ‘settler Bengalis’. Bengalis referred to themselves as ‘settlers’, ‘people with card’, ‘people coming through Haji Camp’ and ‘rehabilitated *praja*’.¹⁰⁴ In this study, Bengali Settlers are defined as Bengalis who (or whose fathers) came under the ‘Settlement of Landless Non-Tribal Families in CHT’ program undertaken by the government between 1979-83. I refer to them as Bengali settlers or settlers to categorise them differently from other Bengalis¹⁰⁵ living in CHT but who did not migrate under the above mentioned program.

There is not much literature that shed lights on Bengali settlers’ accounts of their experience and perception of CHT, land allotment, land possession/dispossession, political conflict, their journey and experience of settlement in CHT. Here I present historical accounts of settlers and the settlement program. Two characteristics of the settlement area and settlers’ experiences are violence and the presence of a militarised state. My study also finds economic categories have developed in the settlement village and patterns of land use, land access and possession are changing, with increasing inequality in land ownership. The process is driven by increased demand for hill lands, increase in value of land and competition over hill lands. The sections from 6.6 focus on disputes within the Bengali community and settlement of disputes. Different kinds of disputes and authorities are mapped out and processes are analysed to understand the property constitutions and dynamics within the settler community.

The rules or laws as articulated by the settlers and authorities regarding land access and property claims are specific to the settlement area, which have evolved due to the context in which settlers

¹⁰⁴ *Praja* means subjects. The institutional actors use the term ‘rehabilitated *praja*’ which could be why Bengali people identify themselves as such.

¹⁰⁵ There are Bengalis whose families have been living in CHT for generations. There are also those there for work reasons.

were granted land. There was no apparent competition for authority among the institutions (the army, leaders and formal court) that settle land disputes in Banglachari, although there was rising competition among local leaders for authority and access to land. Settlers perceived individual property rights over land based on state law as valid and legal titles as valued. However, the property rules within the settler community appeared to be ‘fluid and object of negotiation’ (Comaroff 1981:14). The authority dynamics regarding constitution of property in land of settlers have changed with changes in the political situation and institutional arrangements in the post-Accord period. I argue that legitimacy of certain land claims, rules and practices in legitimising claims have changed in the post-Accord and post-emergency period. Land disputes are mostly taken to the camp or village level *bichar* by leaders, who can be categorised as having informal authority. The analysis of different land dispute settlement processes suggests that the authorities that settle disputes within the Bengali community have a social relation of negotiation. There is both alliance and factions among Bengali village leaders. The economic categories and actors’ position in local power structures are important in shaping land disputes. The disputants’ network with state actors, political actors and his/her position in the local power structure determine the ability to influence outcomes of dispute processes.

6.2 Who are The Bengali Settlers?

Bengalis who came under the settlement program heard about flat/plain land being available in CHT for distribution to the landless. Landless and farmers in their ‘home village’, their decision to migrate to CHT was solely to own plough land. Two respondents said ‘We did not even have land to urinate on, all the land we had were taken/eroded by the river, if we weren’t extremely poor, who would have come here?’

However, settlers did not get plough land from the government. At the Haji camp¹⁰⁶, they were told that they would receive two acres of plough land and were perplexed when they arrived in CHT and saw densely forested hill lands. They knew nothing about the hill people, conflict, Shanti Bahini and war in CHT. Atia (55) said:

‘We never saw hills before! If we knew what sort of lands we would get and the situation [war] here... if we knew that there was a group called Shanti Bahini in CHT; I don’t think anybody, not even an insect would have come here.’

The hill land they received was different from the land of their imagination of land. Some respondents said, ‘We received hills, not land’. When they did not get the paddy land promised in

¹⁰⁶Haji Camp of Chittagong is a site where in the past pilgrims to Mecca used to stay. Settlers from different districts were first gathered there.

a government circular¹⁰⁷, they had no place to take their claims. According to Munshi (75), ‘We did not think asking for plough lands to anybody at that time, we were just thinking how we could leave this place alive. We did not know which way to go to reach the roads to leave!’

The distress of being in an unfamiliar environment having left their families, faced with the gap between the state’s promise and reality, the sense of helplessness and ‘inhuman’ conditions in which they lived (Chapter 7), the experience of being ‘imprisoned’, the fear and stress of taking part in the war and ethnic conflict are all important factors (discussed in the next section) which influenced the way they still relate/belong to the settlement village, their identity construction and their claim-making over the land (Chapter 7).

6.3 Bengali Settlement Village: Introducing Banglachari

‘We did not know where we were when we were left in jungle to settle in[by the military], we did not know how to get out of the forest which was all around us. We all wanted to leave when we first came, but there was no road to leave!’ -Atia

Since Bengalis were settled in Banglachari in 1982, village history can be divided into the pre and post-Accord periods. The pre-Accord period can be divided into the pre- cluster village era (1981-86) and the cluster village era (1986-98). The Post-Accord period can be divided into three: before emergency rule¹⁰⁸ (1997-2006), during emergency rule (2006-2007) and post-emergency rule (2008 –until now). The settlers dubbed the emergency rule period as the time ‘when the military was in power’ or the ‘time when there was no government’. For settlers, having access and possession over land, different livelihoods, food availability, mobility, and collective representation varied in these different time periods. This section briefly describes the major aspects that came up from settlers’ accounts to lay the context.

To settle Bengalis, several rehabilitation zones were created in Khagrachhari. The Bengali settlers stayed in Haji camp for two/three weeks in Chittagong, before being dispersed to rehabilitation zones. In the Haji camp, all families were registered and each family was issued with a ration card. In those few days at Haji camp many marriages took place. Parents married off their children (two female respondents said they were 12/13 years old at the time of their weddings), to be registered as a separate family. This occurred during the second military regime i.e. during General Ershad’s rule in 1982. Security forces or the military were involved and was the ‘main or

¹⁰⁷ In the secret memorandum (Memo No. 665-C) it was stated that the settlers would be granted 2.5 acres of plain land.

¹⁰⁸ From 2006 to 2007, the country was under a quasi-military rule of a “Caretaker Government”, which declared a “state of emergency”.

only authority' in implementing the settlement programme.¹⁰⁹ Settlers received the land titles 5-6 months after they settled in the settlement area (Chapter 8). The land document they received is *kabuliyat* or lease document which indicates a holding number. Like ration cards, land titles were given only to men. At the camp all settlers were Bengalis and Muslims. According to the original leaders who were interviewed, there were no Hindus among the Bengali settlers. Based on the oral accounts there was not any settler belonging to any other religious or ethnic groups at the Haji camp. According to FGD data, there are no settler families in Banglachari belonging to other religious or ethnic minority groups.



Photo 6.1: Banglachari village (a neighbourhood on top of a hill or *tila*)

There are seven neighbourhoods known as *tila* (hill). Each *tila* is named after the district the inhabitants came from, such as Rajshahi *tila* and Barishal *tila* etc. At Haji camp, the families were

¹⁰⁹ The minutes of a meeting of 'Co-ordination committee on Settlement of Landless Bengalees' (held At Rangamati Circuit House on 13 May 1982) (Please see Annex 6.2) shows the nature of involvement of the security force in the settlement program. The minutes were of a co-ordination meeting between the military and the bureaucracy/administration in CHT regarding the process of implementation of the settlement program. It appears that after 'selecting', 'collecting', sending landless families into Chittagong and enlisting them at Haji camp (receiving centre); the next stage of the settlement program i.e. settling them down and giving them land was managed to a large extent by the military authority. (See Annex 4.1)

divided into groups based on region. For each group (25-50 families) one or two leaders were selected by the authorities (bureaucratic and army). There are 2/3 leaders for each *tila*. Most interviews for my study were conducted with people living in Rajshahi *tila*, who came from the north of Bangladesh, from the districts of Rajshahi, Rangpur, Chapainababganj and Gaibandha. *Tilas* are also referred to as *samaj* (see section 6.7.2). The leaders' responsibility was 'to control' i.e. to communicate the authority's orders (armies or bureaucratic authority) to the group, to monitor their group members' activities, to settle conflicts and 'report to authority' whenever they were called upon. Thus, an institutional arrangement was established and leaders as informal authorities were selected by the state authorities. In the first few years after arrival, Shanti Bahini (the JSS armed force) did not attack settlers and their villages¹¹⁰. According to Alek, 'If Shanti Bahini wanted to kill us, even one woman from Shanti Bahini could kill all of us [smile]. When we first arrived, there was nobody to protect us!' Few years after the settlement, the war between the Bangladesh Army and Shanti Bahini intensified, and 'camp' (armies) ordered people from other settlement areas to move to villages that were termed -cluster villages¹¹¹. Banglachari was turned into a cluster village where Bengali settlers from Dhanchari were moved to in 1985/86. This was often described by the Bengali settlers as 'getting us closed in one place to provide security'. Banglachari became densely populated as a result, with 4/5 families living in one homestead plot. The army camp had been (and still was during fieldwork) at the centre of the village and there had also been a police camp which was removed after the CHT Accord was signed.

The cluster village era was characterized as an experience of being imprisoned and taking part in the war against Shanti Bahini. Settlers said, 'nobody could stay out of Banglachari after 3 in the afternoon, not even the militaries'. Almost half the original settler families escaped before or during the cluster village era, and identified as absentees or *palatak*. Those who stayed were families that sold out or did not have a homestead plot in their home village. Anis (45) said:

'Those who had even a small hope to find a work or had little bit land to maintain themselves in their original village went back. Those who were the poorest of poor, like me, stayed back. I had nothing in my village, otherwise, who would have stayed back? Who doesn't fear death?'

Each family was given 30 kilograms of wheat every month in the first two years after they were settled in CHT in 1982/83. In 1986, after settlers were moved into the cluster village, they started receiving 85 kilograms of rice. The settlers still receive ration of 85 kg (rice and wheat in varying quantities at different times).

¹¹⁰ According to JSS leaders interviewed, JSS's policy was to not attack settlers who were landless poor and therefore not 'class enemy'. Their movement was against the state's policy that oppressed minorities and the poor.

¹¹¹ Almost 100 scattered villages of hill people were also moved into cluster villages to maintain surveillance (CHT Commission Report 1991:44)

Settlers were trained and organized by the army to take part in the conflict. In the cluster village era, a Village Defence Party (VDP) was created by the army. Only 33 people were officially employed as VDP and received a salary. However, every adult male of the village worked with the VDP without getting paid. Three VDP sentry posts within their village were guarded by VDPs 24 hours a day. Another unit for defence was created in CHT, known as 'Hill Ansars'. Along with the Bangladesh army, police and BDR (Bangladesh Rifles),¹¹² Hill Ansar and VDP members participated directly in the armed conflict. In the post-Accord period, there are more than 5 VDP platoons (150 trained members) in the village and they recruit women as well. During emergency rule in 2006, settlers from Dhanchari, were ordered by the army to return to Dhanchari (Chapter 8). Many settlers of Dhanchari left Banglanchari post-emergency rule.

The new leaders that have emerged in the post-Accord period have assumed the same role as the old leaders. They need approval from the local camp as authority and in some cases are also in the paramilitary. According to Migdal (1988:29) the amount of social control that an organization can exercise is determined by the number of people that follow its rules. This is a matter of degree - an organization can exercise greater power when people do not simply follow the rules (compliance), but believe them to be right and good (legitimation). In case of leaders, the authority they exercise and people's compliance derive from the state institution's (army's) authority, legitimacy as well as capacity exercise violence to control. According to Wolf (1956 in Jahangir 1979: 241), brokers mediate relations between the local community and the nation state. The Bengali settler leaders are also brokers and they fit into this definition because they were primarily selected by the state as a medium to communicate and control the Bengali settler population.

In Rajshahi *tila* there were three leaders in the beginning. At the time of my fieldwork, there were 6 people who were referred to as leaders. The leaders (old and new) in Banglanchari can be defined as political middlemen as they mediate between the community, local political groups and the 'administration' for any administrative or political events. Leaders (particularly the new ones) are aligned with political parties – AL, BNP or JI. Though divided into different mainstream political parties, they unite to organize political events such as rallies or press conferences to demand action and justice for attacks on Bengalis during the ethnic clashes that took place during my fieldwork. They act as representatives for the Bengali community politically in movements/events and in communication with the institutional actors to negotiate or bargain. In Banglanchari, some leaders are also land brokers, known locally as *dalals*. Their capacity as land brokers and leaders are interlinked. The new leaders are in most cases *dalal*-leaders. Their role of political middleman i.e. leader facilitates their access to institutions and their work as land

¹¹² Now renamed Border Guard Bangladesh.

brokers, while their role of land broker also consolidates their position as middleman and leader within the community.

Settlers share the collective memory of sufferings as their settlement experience. Those who came later or 'people without card' or 'late comers', also had experience of settling in a conflict area and of 'war'. The Bengalis in the settlement village thus can be defined as a "community" based on their memory and experience of living in the settlement village. The following section discusses the categorisation of people within the village.

6.4. Categorisation of People in Banglachari

In Banglachari, Bengalis can be categorised as original settlers, latecomers and newcomers. People are categorised as settlers/ Haji camp's people/'people having a ration card' or 'non Haji camp's people'/'people without cards'. So there are clear criteria for being identified as a settler or not. Latecomers are those who came in the pre-Accord period, but not under the settlement program, and therefore, did not receive land title or a ration card from the government. However, the respondents who belong to this category claimed to be old inhabitants of Banglachari in relation to the newcomers, who migrated into Banglachari in the post-Accord period, mostly through the kin network and marriage. Another category of people are officially and locally called absentees (Annex 6.2), settlers who left Banglachari in pre-Accord period. Their lands are known as '*palatak's* site' which I would refer to as absentee settler's land or absentee's land. When settlers escaped or left CHT, their ration cards were allocated to another settler or latecomer family. Their lands have been allocated to others as well, though not officially. The army was the authority to settle latecomers or original settlers from other areas on the absentees' land in Banglachari. The leaders managed reallocation of land at their *tila* level and kept the army informed. In Rajshahi *tila*, 42 families were originally settled, of which 8 families have escaped. During my fieldwork there were 95 families of which 10-15 were categorised as latecomers and newcomers.

There are divisions between latecomers and original settlers on the one hand and the rich newcomers and the outsiders (living in Khagrachhari town, Chittagong or Dhaka city but have bought land in Banglachari). The latter are labelled by the original settlers as opportunists who have benefitted from the original settler's struggle. However, many newcomers are very poor and landless and live by daily labour.

6.4.1 Economic Categorisation

Some information such as in-migration of newcomers in the settlement village or the economic well-being of the original settlers turned out to be too sensitive to discuss. One of the leaders of Rajshahi *tila* who agreed to help me with the survey, then changed his mind, stating:

“Everyone is not in the same position [economically] in this village. When we came here we all were poor, but Allah makes some people big [rich], some people small [poor]. There are people who are quite well off, they do not require food ration from the government. If you do the survey and it is revealed that who are wealthy, what if their ration cards are taken back? Then I will become the ‘target’”.

However, social differentiation in Banglachari was apparent. Some economically well-off settlers had bought land in their native village that they left as landless. Some settler families were still landless after all the struggles they had gone through for land and had never managed to return to their native village because of lack of money. In group discussions, participants from Rajshahi *tila* came up with the following economic categories into which households can be divided: ‘having the ability to live and eat well’; ‘having ability to live and eat moderately well’; and ‘extremely poor’. Of 95 households in Rajshahi *tila*, 3 fall into the category of having the ‘ability to live decently and eat well’, 5 households fell into the second category and the rest fell into the category of poor (Group Discussion data).

In the beginning when settlers arrived, the only work available was to sell firewood in the local bazaar. Later they were employed in government development projects, constructing roads and buildings as daily wage labour. The economic categories started to develop based on income through different jobs and businesses starting from a few years before the Accord was signed. For instance, Jahan said he started to make a good income by supplying bamboos for making houses, for which he only needed to pay a few people to cut bamboos from the forest. Eventually, he started to trade rice and spices.

Over the years, market-based employment and business opportunities have increased. In the post-Accord period, livelihoods available to settlers include selling firewood, wage work (construction, stone crushing, digging soil etc.), agricultural wage labour, pulling rickshaws, and driving auto-rickshaws/*tuktuks*. Some are employed in trades - setting up shops in the village, informal micro-credit business, trading rice, fruits, vegetables or spices. Many settlers’ households also derive income from working in the paramilitary (discussed in previous section) and the police force. Employment opportunities in VDP and other paramilitary forces indicate that security is still viewed as a priority by the government. The children of settler families have been able to access education since 1992/93; some also work in government offices mostly doing clerical jobs, or as fieldworkers in health/population related projects. 10-12 people in Banglachari work as land brokers or middlemen, earning money from land transfers between buyers and sellers.

6.5 Land Allotment, Access and *Dakhal*

'The entire Bangladesh can be given verbally (mukhe to pura Bangladesh i dilam); in paper government gave us land. We just got paper not land.' - Hasina

The Bengali settlers received two kinds of land under the settlement program, homestead lands (25 decimals) and '*abadi tila*' or 'cultivable hill lands' (3 acres and 75 decimals). In most cases, these 3 acres and 75 decimals of cultivable hill lands that the government granted are not within the same plot, but divided into two or three different plots. From the beginning of settlement, having *dakhal* i.e. having possession (being able to physically occupy and control others' access to the land) has been crucial for settlers (Chapters 8 and 9). They were given lands by the government with ownership rights, but possession or control over those lands needed to be acquired. The other terms used to mean having *dakhal* are to be able 'to go to the land' (*jomi te jete pari/ pari na*) and 'sitting' on the land.

Most settlers only have possession over their homestead land, not the hill lands. In the group discussion it was stated that only about 10-15 per cent of families in Banglachari had possession over one or two of their hill plots. Among the 17 original settlers interviewed, only six of Rajshahi *tila* had *dakhal* over at least one of the plots of the hill lands they were allocated by the government, because their plots were close or inside Banglachari and near to the army camp. However, during the cluster village era, they could not access those lands due to mobility being restricted. The settlers of Dhanchari (6 respondents) never gained *dakhal* over 3 acres 75 decimals of cultivable hill lands because those lands were far from the settlement area and camp. They said that they got 'only a paper (allotment document), not land from the government'. Some people were allotted land that they have never seen. Anis's family got land in Neelpahar, one of the main camps of Shanti Bahini. It takes a day to walk there from Banglachari, and is not possible to have *dakhal* or access to that land even in the post-Accord period. To explain why the government granted them land that is not physically accessible to them, Anis (45) said, 'Government gave (grant) us lands which were not under *dakhal* of government. Government gave us those land to bring those land under [state] control.'



Photo 6.2: A neighbourhood in a Bengali settlement village

Administrative documents and actors' narratives reveal two main discourses legitimising the Bengali Settlement Program (1979-1983): a development discourse and a nationalist discourse (Chapter 4). In the settlers' perception, the government brought them to CHT, to give them land to grow food as there were plenty of empty hill lands available, and to develop the region. They also emphasized that government intended to gain control over land, territory and hill people (as mentioned by Anis in the comment above) by bringing them here. Jorina said, 'Government had its own interest to bring us here, otherwise, why would government feed us with rationed food for all these years? Government would not feed us free rice, if we are not serving its interest!' In Bengalis' perception, CHT is a frontier with empty land, a frontier of development and control, the reasons why they were brought into CHT to settle.

6.6 Who owns land?: Social Differentiation and Increase in Competition over land

This section sheds light on the stratified landscape in Banglachari. In the post Accord period, major changes have been changing patterns of land use, increase in land price and increase in competition over land allocated to settlers among Bengalis. Moreover, the economic categories discussed in section 6.4 have emerged and consolidated. In this section, major changes that have contributed to processes of differentiation, inequality, land loss or accumulation are described briefly.

Economic differences did not develop based on land ownership or accessibility to hill lands by the settlers. Class analysis based on land ownership is not useful in Banglachari.¹¹³ In post Accord period, hill lands have become valuable for income generation through plantation of fruit and timber, which is profitable. In Rajshahi *tila* among the original settler families, three out of six had started to carry out plantation with limited investment or inputs. These families had yet to gain material benefits. Plantation on hill lands is profitable when carried out more intensively and requires investment for buying good saplings, water, and an adequate amount of pesticides, labour, managing transportation and connection to market. A few ‘newcomer’ and ‘outsider’ Bengalis have had the capacity to invest in intensive plantation, and had earned a profit. There were settler families who had cleared their lands for plantation but had not started because of lack of money. They had *dakhal* but could not access the land, in the sense that they did not have the ability to derive benefit from those lands. Hill lands are ultimately valuable to settlers but for the majority, the value is not being achieved or achievable. For instance, according to Jorina, after years of struggle, finally hill lands were producing ‘gold’ and had become as valuable as ‘gold’. She said they would not sell them although her family being poor was not able to utilize the land or grow anything.

According to Cousins et al (2007), ‘access to resources are skewed by political capture at the local level and this contributes to social differentiation’. In Banglachari, access to land and other resources are captured by locally powerful actors. There is inequality and politics surrounding access to re-distribution of ration cards at the village level. For example, the leader, who was apprehensive about me carrying out the survey, owned three ration cards within his family. Mohsin (2003) found that local leaders have connections with the ruling political parties and ration cards are often distributed or re-distributed to their own people or party followers.¹¹⁴ Ration cards are bought, sold or mortgaged and used to access credit for other trades like selling timber or having plantation, as a bribe for getting a job at government offices, to pay fees, on a dowry or wedding, for health treatment etc. At present, the price of one ration card is 50 thousand taka. If someone can buy 2/3 ration cards or take a mortgage of ration cards, according to the Hafiz (VDP commander), they can become rich by selling 85 kilograms of rationed rice for each card. According to some belonging to poor families in the village, ration

¹¹³ Van Schendel points out that there is a tendency in most students of rural Bangladesh to divide peasantry into cut and dried class schemes based on peasants’ relation to the means of production or land. According to him, peasants in rural Bangladesh in many cases enter into varying relations with the means of production (1981: 37). In his study in a village of Bangladesh, he found a simple economic categorisation of households was more illuminating than a complicated and disputable class analysis (1981: 37).

¹¹⁴ According to Mohsin (2003), distribution of ration cards and continuation of giving food rations are a part of national and local level power politics of the ruling political parties and also those of the leaders.

cards are allocated to those who pay bribes. Salma said that since they were too poor to ask for bribe, they were never allocated a ration card by the leaders.

A study in Cameroon found access to bureaucracy to be a source of differentiation (Goheen in Rao. 2002: 104). For Bengali leaders, access to bureaucracy, security force and mainstream political parties enhance their authority, access to land and trade. Lund (1999) found that to be sure a court or administrative decision was favourable to one's interest very few people would contact the offices directly, but would contact brokers. In Banglachari, people contact leaders who are brokers for court or administrative works. One of the first land brokers in Banglachari was an old leader (selected at Haji camp) known as Mannan who owned plenty of land by working as a broker in handling land disputes in court. In the beginning he worked for hill people. As he took land as fee, he owned a lot of plough land with titles that belonged to hill people.

There are new *dalal* leaders in the settlement village. 6 new *dalal*-leaders in the village were mentioned in most land dispute cases. Momen's career as a broker started in 2005/6 when land buying and selling started. In Barisal *tila*, of the original 32 settler households only 8 remained, the others escaped during the cluster village era. Momen bought up 5 or 6 absentees' plots since 2006. In some cases he went to the current addresses of the absentees and paid them (a small fraction of the actual market price) to get their documents. In other cases, he allegedly forged land documents or made-up someone as the owner to carry out mutation at the Land Office. This was possible because of his network with the Land Office people. He was a leader in Banglachari and a leader of AL. Jahan leader's (my gatekeeper) career as a broker was compounded by his position in the local government (member of Union Council). Due to his political influence, authority within the community, his efficiency with land related work as a broker, his connection with the bureaucratic authority and his association with the army, Jahan stood out as one of the most powerful leaders and *dalal* who was consulted in land disputes within the community (at informal village court), between the communities (for negotiation at different level), at the army camp when disputes were taken there and in the district court (he was also called upon by DC and Judges for consultation). The original leaders often own more land than most others (in Rajshahi *tila*). However, the *dalal*-leaders are the most land rich people in Banglachari.

There was a recent trend of outsiders and the local rich buying up hill lands from settlers, -the reason given for the increase in land price, dispossession and land disputes. Land price of hill land had increased almost ten times since the pre-emergency rule period (2006-2007). There were five plantations of outsiders within and near Banglachari on land bought from Bengali settlers. One was owned by a judge who worked in the court in Khagrachhari town. He had a fruit plantation of over 20 acres. Another big plantation was on 50 acres of land owned by another judge living in Dhaka. The other plantation owners were businessmen from Chittagong town

having 5-10 acres of hill lands. Kadbanu and her sister (original settlers) sold the land their father received as a settler and they worked in the plantation of the new owner on their land. Because land price has increased, the poor cannot afford to buy back land once sold. Settlers are sometimes also forced to sell the land to brokers who then sell it on to outsiders (section 6.7). *Dalals* employ different strategies to make land into disputed land in order to grab it.

There is growing inequality in ownership of land among the settlers in Banglachari village, according to respondents. Changes such as expansion of the land market, increase in the demand and price of land, outsiders' interest in buying up hills with a profit-making motive are recent, following the end of armed conflict and resulting political changes. Disputes within Banglachari were unfolding within that context.

6.7 Land Disputes within Bengali Settlement Village

Section 6.7.1, outlines the problems identified by the settlers in their titles as well as the allotment process, which were mentioned as reasons behind many land disputes. The following section (6.7.2) analyses land conflict cases 'to map out what conflicts are typically about, who is typically involved, what authorities are typically engaged, how claims are typically argued, and how conflicts typically unfold' (Lund 2014b).

6.7.1 Land Titles and Land Disputes

Although Bengalis claim their documents are legitimised according to laws and procedures and their titles are valid (Chapter 8), they see the process as incomplete, conducted hastily with some irregularities ('without a survey being carried out'). According to them, many land disputes within the Bengali community arise because of 'flaws and gaps' in the allotment process and title. These are also sources of insecurity with their property in land (Chapter 7).

The *amins* did not measure Bengalis' plots accurately when applications were submitted. Without measuring the amount/volume of land and demarcating boundaries between plots, *amins* put tree branches or bamboos on the ground to mark boundaries hurriedly. Moreover, since the plots were not measured and there was often no clear boundaries, Bengalis often occupied more land than specified in their documents. Most original settlers of Banglachari occupied more than the 25 decimals of land formally allocated to them in the allotment document as their homestead. In the *Kabuliyats* or allotment document given to Bengali settlers, the *chouboddis*¹¹⁵ are marked as having boundaries with neighbouring Bengali allotment holders, slopes, hills, roads, creeks or paddy lands. Alek explained that- 'the *amin* wrote 'slope' or *kiching* in one side of the plot, but

¹¹⁵ Specification of boundary schedules

then they did not mark where in that slope did my plot end!' The discrepancy between the amount indicated in the title and the actual amount of land in the plot also creates conflicts when these plots are divided and when people sell or inherit these plots. Changes in boundary descriptions over time also makes it difficult to prove one's ownership of a plot, giving scope for disputes.

Moreover, no plot number or '*dag number*' is mentioned on their land titles. Bengali plots are not marked on any survey map, since no survey has been conducted. In the absence of a '*dag number*' their plots can be identified only by the *chouhoddhi* or boundary schedules and a holding number (which they define as the serial numbers for their plots). Since their plots are not identified with a '*dag*' (Chapter 4) number indicating a specific location, within a specific *manza*, it is possible for somebody to claim a plot of land with a land allotment document which matches the *chouhoddhi* demarcated in the document. For instance, Bengalis whose plot boundaries are marked as 'north-hill, south-slopes, east-road, west-creek' or 'hills on two sides and paddy fields on the other two sides' in their land documents can claim land plots within the same *manza* that fit this description. According to villagers, this kind of conflict is mainly created by *dalals*, who manipulate or make false land documents. Not having *dag* numbers and field maps for their plots make their title insecure. Besides, there were competing claims over land between people who had received an allotment for the same land, referred to as a 'double settlement'.

6.7.2 Land Disputes: Types and Patterns

In Banglachari many disputes arise, relating to the allotment process -from discrepancies in the amount of land allotted on paper and the actual amount of occupied land, change in boundary descriptions over time and 'double settlements'. Disputes also arise over the land of absentees, between people occupying these lands and those who have bought the land from the absentee. In recent years, many disputes have been created by brokers to create a '*vejal*' (Chapter 3) or to get owners into trouble in order to grab their land. Many conflicts emerge due to the practice of making a 'local deed' and not formalising the transaction or transfer later. Disputes between family members or neighbours arise over the partition of land and between/within families over inheritance of landed property. These different types of land disputes are discussed below.

There are also land disputes that do not involve legal claims or titles. For instance, 52 families in Kajalchari zone never received a land document. They were allotted land, but later, their allotment documents were cancelled. They occupied land and made their ownership claim without land title. They were in dispute with hill people because they were trying to gain or maintain *dakhal* over land for which they were not given any title. As such, this kind of dispute process entirely revolves around having or maintaining *dakhal* without involving land claims based on any sort of law or institution. They legitimised their land claim stating that 'government brought us in CHT'. Many of these families also had disputes with the Bengali settlers in

Banglachari over land they used as homestead plots i.e. by have *dakhal*. Atia, who belongs to one of those families, said ‘We did not even get the paper from government. We came as landless, we are still landless’.

6.7.2.1 Land Disputes and the Allotment Process: Double Settlement

Irregularities in the allotment process sometimes result in overlapping ownership claims. For instance, a hill plot allotted to Basir’s brother was densely forested. The *amin* did not measure the volume of land on that hill and allotted it to two settlers, assuming that it was more than 8 acres. One Bengali settler was allotted 4 acres - from the west side to the east side of the hill plot (*poshim theke pub dike*) and Basir’s brother got 4 acres from the east side of that hill plot to the west. However, Basir’s brother and the other allotment holder found that there was not enough land on the hill to divide into 4 acres. Both plots also had similar boundary schedules.¹¹⁶ Since Basir’s brother left Banglachari, Basir owned the plot by ‘local deed’.

Basir and the other settlers were having overlapping claims but none of them took any action to establish their exclusive claim. According to Basir, the reason to ‘leave the land like that’, was because they both did not have money to invest in utilizing that plot. Besides, he did not have money to influence or mobilise networks of leaders inside and outside the village for settling ownership in his favour. By agreement, Basir and the other settler both utilized a part of that hill land. Basir had a small fruit plantation on that plot, not for profit but primarily to maintain his *dakhal* or retain his claim. This case illustrates how competing claims over land by Bengali settlers are also negotiated and how Bengalis’ property is constituted through negotiation.

6.7.2.2 Land Disputes Created by *Dalals*

One of the ways the *dalals* create *vejal* or a dispute is by making a hill person owner of a hill plot which belongs to a Bengali settler. The hill person makes a claim as owner by having the Headman’s recommendation for allotting that land to him. The *dalal* either buys up the land from that hill person or as a middleman, sells the land to a third party (usually to an ‘outsider’) at a higher price. In many case, when *vejal* or conflicts are created, the settlers who are ‘weak’, meaning who are unable to contest, are compelled to sell that land to the *dalal* or to another party at a lower price. Thus, the *dalals* create conflict over land and create a situation of multiple ownership claims. Once there is a ‘*vejal*’, the *dalals* eventually manage to grab the land by buying it up. Two dispute cases are described below to show the different ways these disputes develop and are resolved.

¹¹⁶ The boundary schedule mentioned in Basir’s brother’s plot is’ East side-kiching (slope), west side- kiching, North- Mojammel, South- Alauddin’.

In the case of Basir, a Chakma person asked Basir to move out from one of his land plots a few times and also threatened him. Basir went to the local army camp 2 years previously. The camp officer ordered the hill person and Basir to bring their land documents to the camp. The Chakma person brought his land allotment application with the Headman's recommendation and Basir took his allotment document or *kabuliyat*. After examining the documents provided by both parties, the camp officer declared Basir as owner because he had the allotment documents, while the hill person had an allotment application. To avoid further conflict, the camp officer said to measure the volume of land and if there was enough, then the hill person could occupy the amount of land that he was claiming. Although the military authority endorsed Basir's land document as valid, according to Basir, he could not stop the Chakma person from making a claim (*'kintu jaigai giye kulate pari na'*). The land was still under Basir's *dakhal*, but the hill person and his people threatened to evict them and cut down trees from time to time. During the ethnic riots which took place a month before he was interviewed, he could not go to his plot for ten days. He was worried because it was possible for that hill person to cut down all his trees or to build a house on that plot during that time, to take *dakhal*. He stated that once a house was built on a piece of land, it was not possible to pull it down¹¹⁷. Although the conflict was apparently with the hill person, the dispute was planned and fabricated by one *dalal*, a settler living in Basir's *tila* or *samaj*. According to Basir, necessary support and advice to apply different strategies to raise this dispute were given to the hill person by that *dalal*. The hill person was motivated by the promise of land or money. They 'targeted' or chose his plot since he was 'weak' in terms of having power, money and access to institution.

In another case, Anis (45) an original settler, gave part of his land to another Bengali (latecomer) to stay temporarily. However, after a few years of living on his plot, the other Bengali later claimed that he bought that piece of land from a hill person. He then lodged a lawsuit against Anis at the Joint District Judge court accusing him of illegally occupying his land. As evidence of having bought the land from the hill person he produced the informal or local deed of land transaction. After the initial hearing, the court sent the police to investigate. When the police came to the plot they found out that Anis's family were original settlers living on that land since the beginning of settlement. Anis also produced the land allotment document they received from the government in 1982/83 for the police and the court. In the end, the court verdict went in favour of Anis and he was declared the owner of that land. According to Anis, for that Bengali, belonging to latecomer category, it would not be possible to organize the plot and to implement all strategies without having support from a *dalal*. Anis knew who that *dalal* was. Like Basir, Anis

¹¹⁷ There are legal barriers in dispossessing someone from homestead plot. Under Rule 50 of CHT 1900 Act a hill person has rights to occupy 0.30 acres of homestead land. Besides, 1984 Land Reforms Ordinance prohibits dispossession or eviction of a person from homestead plot which contains less than one *bigha* of land. Although this law is not applicable in CHT, settlers coming from low land districts are aware of such provision as evident from their narratives. Besides, such an attempt would require mobilizing support from state administration and 'the camp' (*prashashon*) if it leads to violent conflict. There is a higher risk of a communal conflict to occur due to such incidence and therefore it is ordered not to pull down houses.

also knew the *dalal* who was behind creating this *vejal* because the names of these *dalals* and their activities were not secret in the settlement village. One settler identified the *dalals* and the ‘outsiders’ as ‘land grabbers’ or ‘land robbers’ (*bhumi dashshu*) stating that ‘If they eye on your land, they grab it’.

It is shown that there are differences in how the disputes get settled and by which authority. Basir took his dispute to the army at the local camp, which endorsed the allotment granted by the government and thus legitimised the property of the settlers. However, the dispute remained unresolved. Anis’s case was taken to court where it was settled. Although Basir maintained *dakhal* over that land, his *dakhal* was continuously contested.

6.7.2.3 Land Disputes over the Land of Absentees

At different times (pre and post- Accord), latecomers and many original settlers have taken *dakhal* of the land of ‘absentees’. They make claim over those lands by having *dakhal* for a long time and mentioning that the army ordered them to settle on those lands. Their property in land is constituted by the army’s sanction, through negotiation with the leader, and social interaction or negotiation between neighbours.

In the previous 10-15 years, many ‘absentees’ had either come back to sell their land or the *dalal*-leaders had bought the land from them by contacting them. In most cases, absentees or their sons do not return to claim possession, because absentees fear getting beaten up by the army for escaping. Absentees ‘re-surface’ to sell their lands. In most cases, the ‘absentees’ or their sons had sold their land to a third party i.e. not to the family who had possession over that land. There were numerous conflicts between those who had bought the land title from the absentees and those who had possession over those lands.

A leader of Rajshahi *tila* said, in all dispute cases over the absentees’ lands in his *tila*, the title holder gained exclusive ownership rights by getting *dakhal* over the land. In most cases, buyers of absentees’ lands are able to establish ownership; however, there are cases in which the one in possession continues to contest. The outcomes of these conflicts between those who have possession and the buyer of absentees’ land vary. Two cases are described below to illustrate how land disputes related to absentees are solved or not solved.

Atia and her family lived on absentee land since they moved to Banglachari from Dhanchari in 1986. Recently the absentee sold it to another settler within Banglachari. Atia was in conflict with the ‘new owner’ of the plot who told them to vacate the land. Since her family did not own any land, she was worried when I met her. Atia had been elected member in the local Union Council for two terms. When I met her, she was a member of the Bengali Leader Association (local/settlers’ organized party) and BNP. She knew many influential political leaders very well and introduced me to the leader of the Bengali Leader Association. She was in the women’s

battalion of VDP Ansar and was a member of the Peace Committee established by the army to settle land disputes between settlers and hill people when the settlers were resettled in Dhanchari in 2005/6 (Chapter 9). She said it would not be possible to evict her family from the land by force and other villagers would not support it. By staying on the land and by saying that the owner could not evict, she was contesting the title holder's claim. However, she also said that they would have to move out at some point, probably in 10 or 15 years, since he (the new owner) owned the land with title.

Atia's neighbour was having a similar conflict with the same owner. As a leader, for her neighbour, Atia went to the owner and told him that he could do nothing if her neighbour did not move out voluntarily. While Atia was trying to maintain *dakhal* by using her social connections, utilizing her authority and experience of settling land disputes as a leader, her neighbour was trying to negotiate with the new owner to be able to stay on that land by proposing to work as a caretaker in their future plantation.

There are also cases in which people had to vacate lands they were occupying when the absentees sold the plot to somebody else. For instance, Salma, had to vacate land which originally belonged to an absentee. Salma's family came a few years after the settlement program. They are 'people without cards' (ration card) but 'old inhabitants'. They said that they went through struggles and sufferings like settlers, however, their situation was worse without rationed food and land. They lived on '*palatak* site' for 25 years. In 2010, five persons from Rajshahi *tila* bought that plot from the absentee's son. Salma's family found out about the transaction four years later. She said 'those who have money, those who are powerful and those who knows 'office/court' they buy these lands of absentees'. Salma and her family couldn't buy because they were poor and 'normal public'.¹¹⁸ In the beginning, one of those buyers told them to move out and started 'torturing' them i.e.- uprooting their trees, not letting them raise chickens, not letting them keep cows, making a toilet just beside their house, urinating in their house and calling them names. Without any idea why they were behaving so badly, Salma's family sought justice from the village court or '*samaj*' (see section 6.7.2) to organize a *bichar* meeting. In the *bichar*, the buyers disclosed that they had bought the land. The members of the '*samaj*' told Salma that-'since they have bought the land, there is nothing to do, you vacate the land'. Salma said the leaders were not just and -'people of all ethnicity (*jati*) are sold to money'.

Since the army gave Salma's family that land to 'sit' i.e. to occupy, when they were told to vacate, Salma went to the army for justice. She had never been to the camp before, but she went twice to Major Sahib with the claim that 'we have lived on that land for so long, at least give us 6

¹¹⁸ In both Banglachari village and the Chakma village it was found that people who are poor and do not belong to the political or elite group of people refer to themselves as 'public'.

decimals of land so that we can build just two rooms to live'. However, the army told her to settle the matter in their *samaj* (see section 6.7.2). Major *sahab* told her 'Go to member [Jahan leader] to solve the matter'. When she went to the Jahan Member he told to settle the dispute through *bichar* within their *samaj or tila*. Their '*samaj*' leaders again told them to vacate the land. Salma and Hasan (Salma's husband) concluded that they could not pay the leaders any money and so they were told to move out. Her husband said that even if Major *sahab* 'gave the land to them' it would not settle the dispute permanently. Since army officers stay in their camp for three years, disputes sometimes resurface after the army Major who solved the dispute leaves.

Outcomes of disputes related to absentees' land vary. In pre-Accord period, absentees were afraid to return, and if they did, they had to negotiate with those living on their plots for gaining some part of their land back. In such negotiation meetings, i.e. *bichar*, the one who faced all the trouble and kept the land under *dakhal* was considered to have valid and stronger claim. In the post-Accord period, Salma's land claim would not be endorsed as valid in a formal court, where land documents matter and the history of Salma's fight and suffering do not count. The court endorses the absentee settlers' property rights and his right to sell his land. Legitimacy of Salma's land claim was linked to the authority of the authorising institution i.e. the army. As the army's involvement in sanctioning of property in land has been reduced, the legitimacy of certain claims is eroding. Salma was sent to the leaders by the army. Leaders, in such cases, usually, for their own interest of gaining land, mobilise formal rules and state discourses of property rights based on title. The validity of certain land claims has changed with changes in political scenario, patterns of conflict, institutional arrangements, authority dynamics and the state's role (represented by the army in the village). Property relationships in Banglachari are being defined referring to legal title and titleholder like any other district in Bangladesh and, *de facto* land rights are being replaced by *de jure* rights. This also shows that legitimacy is not a fixed and finite substance (Moore 1988) but varies over time. The legitimacy of a land claim is linked not only to the authority of the legitimising institutions but change in the conflict situation.

The army is considered as having enduring legitimacy in Banglachari. However, a dispute settled by the army is not permanently settled and a dispute settled at the *bichar* can be taken again to the camp. Disputes can be settled multiple times by multiple institutions. In cases of dispute within Banglachari, the ability to compete for land, to occupy or to *dakhal* depend largely on the ability to mobilise support of the leaders, having the position in the local power structure and having social connections. Although Atia, like Salma, could not pay money, she could still maintain *dakhal* over her homestead land.

6.7.2.4 Land Disputes and Local Deeds

The practice of informal formalisation also prevails among Bengali settlers. Between Bengalis, land transactions are conducted through making a local deed, signed by both parties (buyer and

seller), by leaders and by witnesses. The local deed contains information like the names and father's names of buyers and sellers, the amount of land being transacted and the amount of money paid at the time of transaction and the amount to be paid later. In most cases people go to 'petition writers' who sit outside the district judge court area to write local deeds on stamped paper. The local deed is produced as land document in cases of disputes. Bengalis, in most cases, do not complete the formal process of land mutation. There are several reasons why many land transactions are not followed up with titling and inscription in the property registry. One explanation is that the process of inscribing land is too expensive and cumbersome for many people.

The most typical lawsuits filed in the District court are land disputes in which the buyer produces the local deed in the court as a deed of ownership in cases where the sellers deny it. In one of these cases¹¹⁹, the transaction of the land took place more than twenty years ago, but the buyer did not transfer the land allotment document in his name. When the case was filed, both buyer and seller of the land had passed away. The seller's sons inherited the land and completed the land mutation in their names. They filed a case against the buyer's son for illegally occupying their land, demanding a declaration of title and eviction of the illegal occupiers. In this case, the buyer's son only had the local deed as evidence of buying the land and of their ownership. This document was not regarded as a formal and legal document, since it was not registered at the Land Office. The court ruled in favour of the sons of the seller. According to the judge, the buyer passed away in 1997, after which his sons should have tried to register the land in their names; instead, they did nothing to secure their property.

Although the judge said that local deeds are not recognised by the legal system, in another similar lawsuit he recognised the local deed not as a land document but as a document of evidence of land transfer. In that case, the buyer occupied the land after paying for it; however, the seller sued him for illegally occupying the land. The Judge stated that it was clear that the seller sold the land. Based on witness statements, he condemned the seller as a fraud. When the seller denied this, he wanted to send the local deed to a handwriting expert to compare the seller's signatures on that deed with the one he produced. Since the Court also has the authority to examine and compare signatures, the judge was able to ascertain that the seller did sell the land and dismissed the seller's petition.

6.7.2.5 Land Disputes over Partition

Numerous land disputes over partition between settler lands arise due to lack of clearly drawn boundaries marked by the *amins* or surveyors and boundary schedules. For instance, in the case of two plots next to each other both having a slope on one side, it is not demarcated where on that slope the plots divide.

¹¹⁹ I describe the case as it was explained to me by the Judge.

However, some disputes are caused by one party pushing the boundaries to grab more land. For instance, Kadbanu and her sister had a conflict over their homestead plot. The road on the east side of their plot was marked as a boundary in the *chouboddi* of their plot. However, a settler whose plot was on the other side of the road, occupied the road and some part of their land. This is an example of forceful occupation, where *dakhal* is played out as a strategy to gain land. Kadbanu and her sister were frustrated that this dispute couldn't be solved at the *samaj* level through *bichar*. Kadbanu and her sister went to the leaders of the mainstream political parties (AL and BNP) and to the settler leaders within Banglachari. Some of the party leaders came to the plot and told the person to move out of Kadbanu's land. In the *bichar*, when told he was illegally occupying Kadbanu's land, he attacked the leaders saying that they were all corrupt and grabbing others' lands. According to Kadbanu -'Why the leaders would take these insults for us? They said few times, but he did not listen to them. Then the leaders advised us to file a lawsuit.' Kadbanu also mentioned lack of money as the reason for not being able to influence the leaders. In the *samaj* and at formal institutions like the court, the people with money can get their claims established, because 'Even a wooden doll would dance, if you give her money'. She then filed a case in the district court but it was difficult for an uneducated poor woman to file a case, because 'even every brick of the court-building asks for money'.

Kadbanu mentioned a few times that the dispute emerged because they were women and in her family, there was no male member, therefore, they were weak. It was difficult for them to go to people for help and access institutions. Kadbanu was married at Haji camp at the age of 12/13. Her husband received land titles and ration card. He left during the cluster village era, giving the land and ration card to his family and leaving her nothing. She was then remarried to another settler, who was already married and did not take any responsibility for feeding or supporting her. The only reason she was married off by her parents was to have the identity or status of a married woman, because being a single woman meant trouble in the settlement village.

Kadbanu's narrative highlights that access to land is also gendered and government policy in giving land to males deprives women of land. Like her, three of the women respondents (original and first generation settlers) were married twice for the same reason when they were abandoned by their first husbands. None of them got any share of their first husband's or second husbands' land or ration card. This arrangement i.e. the women's second marriage, seems to be a way to cope with the different social circumstances in a settlement village. Women being abandoned and remarried is quite normalized in Banglachari, as men are able to leave or move in/out, while women have less mobility. Besides, there are more insecurities for a woman to live 'alone' (single) in a settlement village without the kin/social network that people usually have in their native or permanent villages. Kadbanu's narrative reveals that, apart from being poor, gender identity matters in land contestations.

6.7.2.6 Land Disputes over Inheritance

In the settlement village, usually land owned by the father is divided equally among the sons and daughters, who, having all gone through hardship after coming to CHT, are given an equal share. This is said to be a government ruling (*shorkar niyom baniyeche*) but nobody could tell when and how they came to know this government rule. I found that settlers received and owned the land within a specific context, and that the rules to divide land were contextual with no influence from social and religious rules practiced in other parts of Bangladesh. Women in Banglachari inherit their fathers' land, or own land if their husbands buy land in their name¹²⁰. As settlers received land as landless, there are restrictions in selling land and when buying land; therefore, men often get land records in their family members' such as wife's name instead of their own. In such cases, women are the titleholder but the men have control over those lands.

Nobody mentioned having disputes over inheritance; however, in Jorina's case, she attempted to secure her share of her father's landed property. Her siblings agreed to divide the property equally among them but her father's homestead plot turned out to be larger than stated in the allotment paper. She took this additional land without informing her siblings 'by taking Headman's report'. The Headman's report stated that the part of the land on which she was living was *kebas* or government owned and her allotment application was recommended by the Headman¹²¹. This shows the range of strategies people employ for claiming property in land. Moreover, Bengalis also go to the Headman for securing property.

In legal anthropology, there are debates and analysis of how property and access are guided by a multiplicity of rights and regimes which do not fall into strict formal-informal categories. Suykens (2015) studied a continuous process of guaranteeing land tenure and land dispute settlement through negotiations with a small group of well-connected individuals in the slums by the slum landlords or *jomidars* in Bangladesh. With or without titles, slum *jomidars* or landlords, secure ownership by building and using their own and others' patronage network. Suykens showed- 'rather than legal and illegal or formal and informal, their property is constituted in terms of relationships and negotiation, both with other *jomidar* and state actors' (2015:488). Bengalis claim to own property with legal title granted by the state; however, findings suggest that their property in land is also constituted in terms of relationships of competition and

¹²⁰ In District judge court I observed that a suit was dismissed because in the petition it was stated that a woman received the disputed land as a settler. Since among the settlers land was only granted to men, the claim was deemed invalid and the case was dismissed.

¹²¹ The Bengalis in Banglachari village, particularly the *dalal*-leaders, went to the Headman often to take report in order to carry out land transfer, to get non-tribal permanent resident certificates and to apply for jobs. They stated that the headman often made them suffer by making delays, but eventually he had to give them those documents. Although the leaders and headmen have contentious relations, they also have to maintain working relationships with certain degree of cooperation.

negotiation between people and authorities. Examining the dispute processes suggests that contestation and outcomes of disputes are related to the structure of social relations. Those who have positions in the local power structure have more access to the institutions. Both these abilities enable them to own more land.

6.8 Authorities Involved in Land Dispute Settlement

The above discussion on different kinds of land disputes and processes of settlement, suggest that the authorities that settle land disputes within the Bengali community are- the army camp, *samaj* (leaders) and Court. This section discusses the role of these different authorities.

6.8.1 The Role of the “Army Camp”

Settlers refer to the army camp, zone or commander of the army as the ‘administration’ for solving disputes and problems¹²². The army camp held a list of all absentees and latecomers. According to Jahan Ali, if the army did not exercise this authority, there would be no order in the settlement village. The army was still exercising authority in settling land disputes during the time of my fieldwork (in the cases of Salma and Kadbanu). However, a major change in property dynamics in the post-emergency period (since 2008) has been the army’s apparently reduced involvement in sanctioning land claims, allocating land and settling disputes. Disputes settled by the army sometimes re-emerge when an army officer who settled the dispute gets posted to another area and his verdict is challenged.

6.8.2 The Role of *Samaj* and Leaders

Samaj is an informal institution found in rural areas in Bangladesh based around village elders (Lewis 2011:22), headed by elite leaders and village elders known as *matbars* (*ibid*). *Samaj* is also constituted from families belonging to the same lineage. The lineage elders or leaders manage disputes over resources and other disputes through the traditional dispute-resolution system of the informal *salish* i.e. village tribunal (*ibid*). In rural Bangladesh, the patron-client relationship depends to a great extent on access to land and land relations (Jansen 1987).

The leaders in Banglachari are not elite leaders, lineage elders or big land owners but they take up a role similar to traditional *samaj* leaders in rural Bangladesh. Like *samaj* in many other villages,

¹²² Bengali settlers have resentments against the army and there are many stories of feeling oppressed by the army, but there is also loyalty to this institution. First of all, the army is the institution providing security. Secondly, complaining against armies is unsafe, particularly to an outsider. Sometimes the respondents in Banglachari complained about the army and then would cover it up immediately by praising them. They perceived without the army, Bengalis could not have lived in CHT and still- if the militaries left, Bengalis would have to leave CHT.

samaj in Banglachari have a moral order and members are obliged to maintain certain rules. A *bichar* takes place when a member violates the rules. The leaders have the authority to manage or settle disputes among members within their *tilas* and between members of different *tilas* through a *salish-bichar* or *bichar* (both of these terms were used by the respondents but most people used the term *bichar*).

In all land disputes between Bengalis in Banglachari, people go to the leaders for *bichar* or advice as their first attempt to settle a dispute. To take their dispute to an army camp, people need to go through a leader. In the army camp or at a village *bichar*, one's ability to contest land to a large extent depends on the ability to mobilise the support of the leaders. However, the leaders' authority to settle disputes is also contested. For example, in the case of the boundary dispute over Kadbanu's father's homestead plot, Kadbanu was told to go to court to settle the dispute.

The leaders have liaisons with the court as well. When the leaders cannot settle one dispute, they send the disputants to the court. In some cases, they also tell people to take back their lawsuit from the court and bring the dispute to the *samaj* to settle. In one such case, Jahan Ali asked the judge at the sub-district Judge Court, to dismiss the case so that it could get settled at village level at a *bichar*. The army or government administration depend on leaders for 'controlling the settlers', according to the leaders. Therefore, the army dominates them, while at the same time negotiates with them, since the leaders have authority within the community.

There are both alliances and factions among the leaders within the village. For instance, the old police camp site within Banglachari was bought by seven leaders from other settlers in a collective effort to gain that land. A hill person filed a case against all of them accusing that they were illegally occupying that land. I interviewed three of those leaders. They were running the case at the formal court against that hill person. At the same time, they were also having *bichar* meetings to negotiate and to buy the land title from him.

Interestingly, these leaders also competed among themselves for authority, control and for gaining land. For instance, while I was interviewing Jahan leader, a man named Shamsu came to raise a complaint against Momen leader who sold him a land as a *dalal*. After Shamsu bought it, the land was being claimed by a hill person. He came seeking justice from Jahan leader as Momen leader had tricked him, saying that Momen was a fraud who 'sells the same land to three different parties'. However, that piece of land was bought by Jahan leader from the hill person who was claiming to be the owner. Although Shamsu came to Jahan for justice, they both had competing claims over that land and the conflict was actually between them. This shows how the *dalal*-leaders compete for gaining land by manoeuvring disputes or by taking advantage in a dispute situation. In this dispute process, eventually the *dalal*-leaders (Momen and Jahan) were gaining money or land, while both Shamsu and the hill person were losing out. Competition among Bengali leaders is further discussed in Chapter 9. The Bengali Leader's Association is another arena in which leaders compete for control in Banglachari. The Head of that Association

was banned from entering the village by other leaders because of internal conflict. When I met him, he was living in Khagrachhari town and was not able to visit Banglachari.

6.8.3 Legal Contestation

There are two courts in which land dispute cases are lodged. One is the administrative court, called the ADM (Additional District Magistrate) court, presided over by the Additional District Magistrate. Land related cases are logged to ask for a relief under section 145¹²³ (under the Code of Criminal Procedure 1898). At this court people file for the declaration of their possession of land and to get an order of restriction on the other party to access their land. In cases logged under this procedure, the petitioner claims having *dakhal* or possession over land declaring a risk of breach of the peace as the defendant is illegally trying to occupy his land. They plead for court intervention to maintain peace by declaring his *dakhal*. Under this procedure, based on the petitions, arguments, police investigation and listening to witnesses, the court verifies who has possession and declares their possession of that land. Hence, in suits filed under this procedure, both parties try to prove their *dakhal* over the land. The concern of the magistrate or judge is not to declare who the legal owner is, but to maintain peace by granting possession to the party that is already in possession of the land.

The bench clerk stated that more than eighty per cent of the cases brought to the court everyday were land dispute cases between Bengalis. In one week (18th -22nd May 2014), 18-23 cases were heard every day at the ADM court among which 1-3 cases were fought between Bengali and hill person; in 0-2 suits both parties belonged to hill communities; the rest of the suits were between Bengalis (18-22).

The judiciary court is presided over by the Joint District Judge. Land dispute cases at this court fall into any one of these categories: i) declaration of title, ii) permanent injunction, iii) recovery of government land, iv) specific performance of contract, v) partition. According to the judge and bench clerk, most land dispute cases brought to the District court are between Bengali settlers. Not only the leaders and *dalals*, but most Bengali respondents also went to court with a petition or as a defendant. Apart from land litigations, other litigations commonly dealt with are robbery and theft. For instance, Anis and Kadbanu were charged with robbery by the people with whom they had land disputes.

¹²³ Procedure where disputes concerning land or water is likely to cause a breach of the peace.

6.9 Conclusion

False recording and registration of land, confrontation over boundaries and inheritance are the most common types of disputes found in rural Bangladesh (Jansen 1987). While among the Chakmas there were no disputes arising from false recording and registration of land, these were the major types of disputes in Banglachari. The other kinds of disputes in rural Bangladesh are over Hindu property left by emigrants and new char lands (ibid) which are not found in any of the villages because of differences in law, history of migration and geography in CHT compared to the rest of Bangladesh or rural Bangladesh.

This chapter has presented the history and contemporary social political landscape of Banglachari. It shows that inequality in accessing institutions entails a process of resource capture (such as land, ration cards, different trades) at the local level and this contributes to economic differences. In recent years, having hill lands has meant having the possibility to derive material benefit from it depending on the families' capacity to invest. Land price has increased and there are increasing numbers of 'outsider' Bengalis who are buying up land in the settlement village. As a combined effect of all these processes, many Bengali settlers are gradually becoming landless or dispossessed.

The dispute processes reveal how property in land is constituted and governed within the Bengali settler community, suggesting that Bengalis' property is largely constituted through interactions and negotiations among disputants and authorities, rather than determined by any sets of specific rules or legal titles granted by the state which is commonly emphasized by the settlers, leaders and institutional actors. Statutory laws of property and government granted title are being prioritized, but the rules and ownership based on title are challenged as well. The rules, dispute type and dispute processes are very specific to the history of the settlement process, conflict and settlers' experience. The actual property practices among Bengalis show that settlers also make land claims based on having *dakhal* in disputes within community. However, this practice does not stem from tradition, but from the context in which they have lived and received land. For people living on absentees' land, their claims based on *dakhal* are legitimised by narratives of history claiming that -Bengalis who have stayed on the ground in the village fighting adversities have strong claims.

Disputes within the Bengali village are settled by the formal court, state formal institution with informal authority (i.e. the army), and non-state informal authorities (leaders). Bengalis also use the Headman's authority in allocating land as a strategy to secure their property. Various institutions' authority in sanctioning property have varied in different periods of history from the beginning of settlement. In the post-emergency period, changes in the institutional set up, establishment of judicial court and role of the army as authority, are influencing the property and authority dynamics within the Bengali community. Changes in legitimacy claims are linked to a

change in authority dynamics, which is shaped by changing politics in CHT. Bengalis access state judiciary institutions (ADM Court and Judge Court) in larger numbers, compared to Chakmas. People are eager to own state guaranteed landed property by having land titles. In the post-Accord period, mainstream national political parties and having affiliation with political parties' leaders, are gradually becoming more relevant to the local politics, particularly in shaping competition for land and authority.

Dispute processes are often shaped by the disputant's position in the local power structure and his/her ability to mobilise authorities to settle the dispute in his/her favour. Like dispute processes within the Chakma community, in Banglachari, property practices and land disputes among Bengalis show that Bengali settlers' property in land is sanctioned and recognised by institutions without formal authority in most cases.

The actors at village level identified the incomplete process of allotting land, making their property in land insecure, and causing land disputes. However, beyond procedural problems, settlers also pointed out that insecurity in property in land exists as the settlement program was carried out for the state's objective to gain control over the region which is still not achieved fully. They saw allotting land to Bengali settlers as a part of the process of the state's territorialisation in CHT. Chapter 7 sheds light on how Bengali settlers make land claims in relation to the state's political agenda behind granting them land.

Chapter 7: Land Politics and Dynamics of Identity

7.1 Introduction

Land politics in CHT are ethnicized and revolve around politics of identities. There is uncertainty in both Chakma and Bengali communities over whose land claim is regarded as legitimate by the state, whose property in land is secured; and in the long run, whose property claims would be sanctioned as legitimate in cases of land disputes. Within this context, land claims involve contesting as well as claiming certain categorisations. The discussion here attempts to reveal how land claims invoke and influence various notions of identity, as Chakmas and Bengali settlers claim different identities to assert or legitimise their land claims. The chapter presents how struggles over land relate to their claims, mobilization and process of construction of certain identities. I argue that the politics of land influences or shapes the politics of identities and vice versa. I also argue that there is a religious dimension to politics of difference in CHT and ethnicized land politics.

Chakmas in Chakmachari claim multiple identities. They identify themselves primarily as Chakmas, hill people or *Pahari, jumma* and indigenous people in CHT. Another major aspect of their identity is their religion, which is Buddhism. Chakmas challenge and reject state categorisation as Bengali (as a national identity), *upajati* and ethnic minority. Studies conducted on hill people's collective identity construction and articulation suggest that certain identity claims and processes of identity formation are related to the hill people's political and land struggles (Mohsin 2000b, Chowdhury 2008, Van Schendel 1992b). In this chapter, I discuss the literature on identity construction (section 7.2), which is followed by a discussion on self-representation of the Chakma people– the identities they reject and identities they invoke, and how these relate to their struggle to establish their land claims (section 7.3).

In the existing literature, how Bengali settlers' identities are shaped and how they adapt to the politics of identity formation in CHT as a strategy is not discussed. Scholars like Mohsin (2003) perceive the CHT problem as a majority/minority conflict that revolves around the politics of nation and state building and –'[w]herein hegemony and centralisation inherently alienate the minority populations. The minorities themselves inevitably adopt the politics of identity formation as a strategy of counter-hegemony' (p: 16). However, I argue that it is not only the minorities i.e. hill people, but the Bengali settlers, who are also part of this 'majority/minority conflict' in CHT, who adopt the politics of identity. To legitimise their claim over landed property, to claim entitlement of owning land and to reside in CHT, Bengali settlers invoke certain identities and discourses. I argue that they adopt the politics of identity formation as a strategy to consolidate their entitlement to own land, to counter the hill people's struggle over political and land control, and to counter the hill people's aspirations to certain identities such as

“indigenous”. In doing so, they reproduce the state’s discourse reflecting the ‘hegemony of majority’¹²⁴ as described by Mohsin (2003). They reflect the state’s view of Bangladesh as a homogeneous nation-state.¹²⁵ Bengalis also invoke and reproduce state categories such as settlers and landless. For Bengalis, their identity as Muslim is mobilised to establish their presence, social networks and control over land, all crucial for owning land and residing in CHT.

This chapter presents identity discourses and the intersections of multiple identities. Questions such as ‘who belongs?’ or ‘who does not belong?’ are closely related to who is categorised as entitled and not entitled. The ability to decide who is entitled or not lies within the domain of state power. The state categorises people (‘tribal’, Bangladeshi, ‘ethnic minority’, landless etc.) and endorses the land claims of certain people while undermining those of others. While identities can be imposed by authorities, studies show individuals and groups can also produce/reproduce different identities to assert or to legitimise land claims. Moreover, endorsing and denying certain property claims involves political and discursive strategies to influence categorisation and representation operated by actors at various institutions. In Chapter 4, multiple categories at the state level and contestation among institutions in recognising certain identities in relation to land claims was discussed. This chapter presents the state institutional actors’ discourses and discursive strategies employed to strengthen state centric nationalist discourses and to justify the state’s position regarding indigenous issues in the context of land conflict in CHT. The overarching categories that the Bangladeshi state uses in defining CHT matter to both hill people and Bengali settlers. My findings suggest the state’s categories and state’s role are shifting in CHT, which is confusing to people and generates insecurity. By discussing identity claims and construction, it is shown, how Chakmas and Bengalis deal with insecurity and with questions of identity.

In the first section, I discuss the state’s historical categorisation of hill people and identities formed among the Chakmas through the struggle for meaningful recognition. I describe different identities invoked by Chakmas in relation to property claims over land. The following section sheds light on institutional actors’ categorisation of the population in CHT. I demonstrate that there has been a shift in state actors’ positions on defining and categorising Bengalis who came under the settlement programme and Chakmas or hill people. In the last section, the identities invoked by Bengalis in relation to land claims, are discussed.

¹²⁴ Bengalis are still not a majority in CHT, according to statistical reports. Bengalis constituted almost 49 per cent of the population in 1991 and 47 per cent in 2011, based on census reports (BBS 2011).

¹²⁵ The Constitutional recognition of Bengali nationalism makes Bangladesh a homogenous nation-state, which reflects the hegemony of the majority against other ethnic groups in Bangladesh, including hill people (Mohsin 2000:64).

7.2 Identity Politics in CHT: State Categories and Formation of Identities

Nation is imagined and constructed (Anderson 1991). Nationalist discourse is understood as representation of the nation promoted by specific groups and/or individuals attempting to eliminate the ‘fuzziness of communities’ (P.Chatterjee 1993: 227) and to establish a ‘discrete, sharply differentiated, internally homogenous and externally bounded’ (Brubaker 2002: 164) group as- the nation inhabiting in the state. Van Schendel finds two nationalist narratives in Bangladesh: the ‘Struggle for Bengali Nationhood’ and that of the ‘Emancipation of the Muslim’ leaving out population who are neither Bengali nor Muslims (2001: 47). Karim (1998) argues that the Bangladesh state reifies itself as Bengali and Muslim; Adivasi¹²⁶ communities who are not part of the Bengali nationalist imagination (Karim 1998: 301) remain invisible in the history of the nation. Drawing from Foucault’s readings of silence and invisibility as forms of speech and discursive strategies of power, Karim argues that the Bangladeshi state produces ‘the Adivasi as a subject of willed ignorance in the national imagination, and the production of that willed ignorance enables the state to manage and control the Adivasi populations’ (ibid.: 303).

According to N.Uddin (2010:290), the invention of *upajati* by the Bangladeshi state to categorise indigenous people reflects the state’s policy of creating a homogeneous nation-state inhabited by Bengalis. Bengali is categorised as *jati* or the nation, while the hill people are categorised as a sub-nation; i.e. *upajati*, positioning them as inferior or incomplete. He argues that the formation of ethnic categories and the politics of marginalisation are processes influencing each other in Bangladesh.

Most scholarly works on identity construction and the identity claims of hill people in CHT focus on the relational aspect of identity construction, i.e. how the Bengali nationalist imagination and categorisation of the population in Bangladesh state, as well as the state’s political and economic policies marginalising hill people, have shaped the hill people’s struggle over claiming certain identities. Two main collective identities claimed by hill people are the *Jumma* identity and the indigenous identity. The formation of hill people’s collective identities are responses to the politics of representation, politics of citizenship/national identity and state categorisation, which is discussed in the following section.

7.2.1 *Jumma* Identity

Any narrative on the history of a nation always presents an inherent tension-nation is conceived or imagined homogeneously which is utopian, since the real space is constituted by heterogeneous time of governmentality (P.Chatterjee 2006). Drawing on Andersen, P.Chatterjee (2004:17) argues -“[H]omogeneity breaks down on one plane, only to be reasserted on another.

¹²⁶ She identified hill communities as Adivasi Communities (see Chapter 1)

Heterogeneity unstoppable at one point is forcibly suppressed at another.” I find this argument helps to explain the history of nation building in Bangladesh. The construction of a homogeneous nationhood of the Pakistan state based on religion failed, as Bangladesh gained independence from Pakistan; however, in the new Bangladeshi state heterogeneity is repressed and Bangladesh is created as a homogeneous nation-state. Article 1 of the Constitution declares Bangladesh to be a unitary state. The Constitution declares all citizens of Bangladesh as Bengalis. The construction of Bengali nationalism contained the tension between the imagined homogeneous nation-state and heterogeneity of the population. Out of this tension and the imposition of dominants’ ‘imagined’ Bengali nationhood grew the ‘*Jumma*’ nationalism of the hill people. The formation of *Jumma* identity had political implications from the start. Its articulation has been part of the political struggle of PCJSS to have greater political autonomy for hill people in CHT- which they also call the territory of *Jumma*’ or ‘a *Jumma* land’(Chapter 4).

Mohsin (2000b) argues that the processes of constructing homogeneous nation-states out of heterogeneous societies involves hegemony. Proclaiming Bengali nationalism as a state principle and establishing Bangladesh as one nation-state in the Constitution was hegemonic towards the 45 other ethnic groups residing in Bangladesh. Those in power dominated how the nation was imagined. According to Mohsin (2000b), this ethnocentric and hegemonic attitude played a part in the creation of nationhood i.e. *Jumma* among the hill people.

Jumma identity formation is viewed as a part of the ethno-nationalist movement and as “an ethnic innovation, to cope with the political and economic consequences of loss of power, growing expendability to the state, and cultural marginalization” (Van Schendel 1992b: 126). As *Jumma* identity is not based on a single language or culture, but rather, cultural characteristics, inherent aspects that are emphasised by *Jummas* are: cultural separateness from Bengalis; the possession of *Jumma* homeland; and their shared historical experience (ibid.). This resonates with Anderson’s (1991) point that maps or boundaries are forms of control, and that these are also used by leadership to create a bounded category, and an identity of a community in relation to the outside. Van Schendel (1992b) perceives that as a process of nation building, the success of such identity claims depending on the importance that hill people attach to the aspects inherent in its construction.

However, Mohsin (2000a) finds that imagining a homogeneous nation for hill people as ‘*Jumma*’ is problematic and turns out to be hegemonic. *Jumma* is a Chakma word; members of different communities other than Chakma see PCJSS as being dominated by Chakmas. Her paper highlights the internal division among the hill people along ethnic boundaries and the fear among different communities of Chakma political domination. Tripura (2014) notes propagating *Jumma* identity was an attempt to reinvent culturally the *Jumiya* past, by educated urban hill people: the history of *Jum* as a ‘mode of production’ that brought all the hill people together

within a common administrative framework formalised by British rule. In that regard, it can be argued that the category or the term itself is a product of colonial encounter (ibid.).

7.2.2 Identity as Indigenous Population

Xaxa argues that in the Indian context “It is only with the internationalisation of the rights and privileges associated with it that the term indigenous has come to be critically challenged ...” (cited in Rycroft and Dasgupta 2011, p: 16). According to K.Chowdhury (2008:58), the indigenous movement of hill people of CHT began in 1993, which in his view is a civil society movement led by elites collaborating with environmental and human rights NGOs, and dependent on indigenous discourse at the level of global politics. However, PCJSS has also joined the indigenous movement. Chowdhury (2008: 75) argues that *Jumma* identity and indigenous identity claims arise out of the different political and strategic positioning of the various actors involved. According to Chowdhury (2008), indigenous identity formation is a matter of positioning, which has been asserted strategically in order to assert claims over land. As such, multiple representations exist in CHT because of the multiplicity of actors and interests (ibid.).

Thus, the political programmes of the *Jumma* nationalist movement and the indigenous movement are different, but both of these identities have been formed in order to negotiate a relationship with the state and to claim or reclaim rights, mainly in relation to land.

7.3 In Chakmachari: State Categorisation vs. Self-representation

The early literature and documentation on CHT people came from the writings of British colonial administrators who used the category *Jumija* (Hutchinson 1909; Lewin 1870). Hill ethnic groups were categorised by the colonial administrators as ‘hill men’. CHT started to form a separate identity when it was demarcated by the colonial administration in 1860 to administer the region separately (Van Schendel 1990). During the Pakistani period, hill people were categorised as ‘tribal’, as CHT was designated a ‘tribal area’ by amending its previous status of an ‘excluded area’. During the Bangladesh period, the state categorised hill people as ‘*upajati*’ or sub-nation, with similar connotations to tribal. In the CHT Accord in 1997, hill people of CHT were recognised by the state as ‘tribal’ and *upajati*.

After the fifteenth amendment of the Constitution in 2011, hill people are now categorised as ‘ethnic minority groups’, despite the demands made by the hill people, together with other indigenous populations in Bangladesh, to recognise their indigenous identity. In 2011, the Bangladesh state changed its position with respect to the recognition of indigenous people’s

existence in the country. In a session of the United Nations Permanent Forum on Indigenous Issues (UNPFII), in 2011, the existence of any indigenous community in Bangladesh was denied (see section 7.4).

In Article 23A of the Constitution, regarding all groups of people who are not Bengalis in their ethnicities, it is mentioned ‘The State shall take steps to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities.’ Using multiple categories such as minor race, ethnic sects/communities and tribes is meaningful if there are clear definitions for all these categories showing how these categories are different and have different implications in framing the state’s policies. However, in the absence of clear definitions and meanings of each category or label, this section in the Constitution shows the confusing and shifting position of the state regarding ethnic groups that are not Bengali. All people who are not Bengali fall into any or all of these categories as ‘race’, ‘tribes’, ‘communities’ and ‘sects’. As such, there is a lack of clearly defined categories for people who are not Bengalis and they are put in a bag of categories. I find Chakma people defy all these state categories.

In this section, I present mostly the responses of those who were politically informed and can be considered as local and political elites in Chakmachari. They rejected the category ‘Bengali’ as their identity as a nation but accept their nationality as Bangladeshi. They reacted against the state’s category of *upajati*. As the *Karbari* said, ‘Why do Bengalis call us *upajati* (sub-nation)? Why are we called ‘*upa*’ (meaning ‘sub’)¹²⁷? We have a language, culture, religion and land of our own. We are small in numbers, but we are a *jati*, we are not ‘sub’ of any *jati*.’ The *Karbari* also reacted against the state categorising them as an ‘ethnic minority population’, i.e. *kbudro Nri-goshti* in the Bengali language. He said, ‘If we are small ethnic community, Bengalis should be called *bara* (big) ethnic community. Bengalis should not be referred as *jati* [nation] then.’ Members of JSS and a few others in the village also stated that categorising them as a sub-nation and an ethnic minority was derogatory. They stated that these categories show Bengalis being perceived as dominant, powerful and more advanced than hill people. The state categorisations are considered as manifestations of the power of the state and Bengalis, and therefore unacceptable to hill people. Below I discuss the identities claimed by Chakmas in Chakmachari and how these relate to their land claims.

7.3.1 Bangladeshi Citizens

Chakma experience marginalisation by Bengali nationalist discourse and narratives. While I was talking to Pratik Dewan about his work in the *panchayat* committee during the Shanti Bahini era one evening, his son, Manab, came back from work. Manab was not interested in the past and authority dynamics; he talked about the political unrest and insecurity that they were living through in the present. While talking about insecurity, he said-

¹²⁷ For instance, sub-districts in Bengali is called upazila (Zila means districts)

“We are nobody in Bangladesh. Everywhere you go you will hear ‘Bengalis fought liberation war’, ‘millions of Bengalis sacrificed their lives for freedom’. We understand these are true facts ... but why they are endlessly repeating these? What are we then (*amra tahole ki*)? And if we are nobody and it is Bengalis’ country, then why keeping us within Bangladesh?”

Manab’s statement highlights the ‘invisibility’ that results from the politics of denial in defining indigenous and national identity in state policies and discourses in the case of Bangladesh (Geharz 2012). He indicated that in the publicity/repetition of nationalist history and the narrative of independence stressing Bengalis’ contribution, there is a particular intention of the state to establish a nation which is essentially Bengali, which made him feel they (Chakmas) were ‘nobody’ and insecure. His statement also appears to be a reaction to a nationalist bias i.e. an element of ‘scapegoating’, or blaming the hill people for not participating sufficiently to the nationalist struggle for Pakistan and later for liberation of Bangladesh (Van Schendel et.al 2000:298). Manab’s statement stresses the feeling of not belonging and not being recognised as citizens who can stake legitimate claims to rights in the way Bengalis do. In the way the state frames citizens of Bangladesh, hill people are outside of this framing or categorisation and reinforcement of such categorisation through Bengali nationalist discourse generates insecurity.

I found that the demand for recognition as rightful citizens has become stronger in the post-Accord period with changes in the political situation. This was not a concern of his father (Pratik) in the past, but was a major concern in the present. Manab finished his statement by saying hesitatingly (looking away from everybody) – “...then why keeping us within Bangladesh?” He knew this question was solved by signing the Accord¹²⁸, but he implied what many others have stated, that they demanded to be integrated into the broader politics as citizens and did not want to remain invisible.

Marshall (1950: 8) defines citizenship as ‘basic human equality associated with the concept of full membership of a community’. Suggesting that struggles over legislation are struggles over citizenship, Sundar (2011: 419) argues that people’s engagement with the rule of law shows substantive concerns over equality and justice in the existing laws. She argues that the people’s movement in India to frame new laws in establishing rights through legislation and the courts, is a claim for citizenship. She found that people also use procedural arguments in claiming rights as citizens. In Chakmachari, people’s claim to citizenship often emphasised their relationship with the state as structured by the clauses agreed in the CHT Accord. In relation to their land claims, everyone mentioned ‘*chukt*’ i.e. the Accord, and the majority said they were waiting for the Accord to be implemented for the resolution of a dispute (Chapter 9). I found that in claiming the implementation of the Accord to establish the legitimacy of their land claims, hill people

¹²⁸ However, the armed conflict was not a separatist movement (according to the JSS members and their publications).

categorise themselves as citizens who have a signed contract with the state, and emphasise the state's accountability to adhere to the Accord. Their demand for framing laws and proper implementation of those laws, as per agreement made in the Accord, are struggles over citizenship.

7.3.2 *Jumma* and indigenous identity

Similar to some other movements in the sub-continent, as pointed out by Cederlof and Sivaramakrishnan (2006), the claims for sovereignty, self-determination and place-based collective identities are entangled to relationship to nature and nationalist aspiration in CHT. In Chakmachari, many Chakmas referred to themselves as *Jumma*. Those who were politically active, called themselves *Jumma* by invoking the history of armed and political resistance, unity among hill communities and by linking it with the territorial claim of *Jumma* land. On the other hand, the poor often identified them as *Jumma* by referring to their past way of life of cultivating *jum*. Chakmas made claims over their land/hills by mentioning that their practice of *Jum* cultivation shows their tie to the hills and nature. They emphasised this practice as it sustained their life and community, and also as evidence that they and their ancestors had lived and belonged in the hills.

Chakmas also demanded government recognition of their indigenous identity. They made claims of indigeneity by stating they have lived in CHT for generations. The Headman stated that when they were young they only knew very few Bengalis living near the bazars who came for trade in CHT. My gatekeeper, Amol Dewan stated, "If Bengalis were living here before us [hill people], why the British did not find them in CHT? Where were the Bengalis when the British arrived?" They pointed out that British administrative documents and surveys reported hill people as majority inhabitants of CHT. These points were often made, showing that they are central to Chakma arguments. The poor expressed their ties with the village and hill lands, but without using the word indigenous or *Adivasi* or *bhumiputra* (son of the soil), saying they belonged to the place and the place had belonged to them for generations. While describing how a Bengali settler made a claim over his land, Sen said, "I have been living on this land since I was born. My father lived here, my grandfather did. They came all on a sudden and saying that my land belongs to him! How can that be? Where is his home? Their home is far away! They have come from... who knows from where....The land is mine, my home is here!" And then he showed me the disputed land sitting in his yard.

7.3.3 Buddhist identity

Buddhist identity and practices have become prevalent in the social and personal life of Chakmas. Buddhism has become a vehicle for the assertion of Chakma identity, which is distinct from the majority Bengali Muslim population in Bangladesh. The strengthening of Buddhist identity among the Chakmas is connected to the emergence of the *Bana Bhante* (supreme spiritual

leader) and his influence since the mid-1980s. It is also related to the political processes of being marginalised by the state's policy, the growing domination of Islam, the increasing number of Muslims in the region and political conflict in the region, which have all taken place in the last three decades.

Buddhist practices among Chakmas are syncretic, as observed by Buchanan (1798 in Van Schendel eds. 1992a:112), as they perform rituals to pacify *Deo* or *Debtas* (gods of animistic belief). Even after a reformation that took place with the introduction of the Theravada tradition by Queen Kalindi in the 1860s (S.K.Chakma 2012: 55), Hunter noted "they (Chakma) added to their own rites much of Hindu superstition" (1876). According to S.K. Chakma (2012), a plurality of religions still exists among the Chakmas. I found the belief in *Debta* or *Deo* still existed to some extent among the Chakmas, but according to respondents, rituals close to Hindu traditions (such as *Ganga puja* – the worship of Ganga) had lost significance. Changes in religious practices from that of the past and move towards 'pure' Buddhist practices and traditions are credited to *Bana Bhante*. He initiated a revivalism¹²⁹ among the Chakmas re-emphasising 'pure' or 'authentic' Buddhist practices. His mission was supported by the Chakma Royal family, and in 1977 *Bana Bhante*, along with his disciples, moved permanently to Rangamati Raj Bana Vihar (the Royal Monastery).

It is interesting that there is a parallel in the emergence of *Bana Bhante* as a spiritual leader and the armed conflict in CHT. Both organisations (religious and political) grew over the same period of time. Tambiah (1992) shows linkages between Sinhala Buddhism, politics, the dynamics of identity formation and violence in Sri Lanka, as Buddhism was transformed into a 'political Buddhism'. However, Chakma Buddhist clergies were not part of the ethno-nationalist movement or politics¹³⁰. Buddhism, institutionally, has been sponsored by the Royal family and the state. It was important for Chakmas to stress that monasteries and monks are outside of politics. I found Buddhism gave a collective identity that unified or united Chakma society, which was very fragmented politically. Moreover, in a situation of a long-armed conflict against the state, internal political conflicts, and the continual insecurity or marginalisation that people experience, religious beliefs, practices and sites (monasteries) are important, not only for communal solidarity and construction of collective identity, but also for personal peace. The political conflict also pushed some people to take up monkhood. In one case, a young male of Chakmachari had recently become a monk because of his anger or sadness at being arrested as a

¹²⁹ To understand whether the changes that occurred due to *Bana Bhante's* emergence as a spiritual leader and his preaching can be called a Buddhist revivalism requires analysis of the major features of his teachings, but the oral accounts of the Chakmas frame his religious/spiritual contribution as a revivalism of 'pure' Buddhism. Based on all Chakma respondents, *Bana Bhante* brought immense change in society and to the way Buddhism is practised among the Chakmas today.

¹³⁰ Although *Bhantes* in general were not involved with the political party, one case was cited in the publication of PCJSS (Reformist Group) in which one of the *Bhantes* helped PCJSS workers during the political armed conflict (PCJSS publication, 'Prabahan', 2013).

terrorist. He was falsely accused and jailed for two years during a time when he was preparing for admission tests for university.

According to Chakma respondents, there had been a 'purification of Buddhism' since Bana bhante started preaching Buddhist practices and values in 1980s, which involved a process of removal of superstitions and non-Buddhist practices that existed in the past. Among the Chakmas, changes in religious practices and beliefs are eventually leading to changes in cultural practices and rituals. For instance, making and drinking alcohol used to be an integral part of Chakma weddings; however, this practice is slowly declining and perceived as a wrong-doing, as 'religious influence' or '*dbormio provab*' in social life is increasing. I found that rituals and rigour have given new meaning to the religious identity as a group and a space to strengthen that identity. It has enabled the creation of separateness and strengthening of boundaries. The number of monasteries and the meditation centre in the CHT have increased as people have become more religious.

In Chakmachari, the settlement of Bengalis in the village is not only framed in terms of ethnic dominance and land loss, but as dominance of Islam and Muslims. My gatekeeper stated, "We are oppressed by both aggressive Bengali nationalism and extreme religious fundamentalism of the state." Since 2004-2013, eighteen Buddhist temples were burnt (IWGIA 2014). Moreover, prevention of worship, assaults on Buddhist clergies and prohibition of religious activities are other ways in which Buddhists in CHT experience oppression (Chowdhury in Achankeng eds. 2015:335). In the ethnic violence that took place a month before I went to Banglachari, Bengalis were accused of attacking a Buddhist temple, looting money from the charity box and breaking Buddha statues. My gatekeeper in Banglachari, Jahan Ali said Bengalis broke eating plates at the local monastery but did not loot or broke the charity box. This suggests that ethnic violence also takes place in religious sites. There is also a religious dimension to the ethnic conflict, related to contestations over territory and land in CHT.

The growing influence of Buddhism¹³¹ has taken place simultaneously with the growth of Islam in CHT and the Islamisation of politics at national and regional levels. There has been an increase in the number of mosques and *madrasas* in CHT in the last three decades (Mohsin 2003: 64). Islam has gradually become the dominant religion in Khagrachhari district or in the region (see Annex 6.1). State policies have played major role in the spread of Islam in the region (Qanungo 2003). The process of Islamisation of the region is described as the state's attempt to establish its authority and the Islamic identity of the nation (Larma 2003, IWGIA 2012). However, the state centric monolithic perception of nation as Bengali and Muslim is challenged

¹³¹ There are many rituals that are being celebrated which were not practised by the Buddhist community before. While I was doing my fieldwork two big rituals were celebrated for the first time.

by the growing influence of Buddhism in CHT. The growing number of monasteries and meditation centres can be seen as a resistance of the people to the domination of the state religion and expansion of Islam in the region. The hardening of Buddhist identity poses a challenge to the dominant narrative of Bangladeshiness and to the growing Islamisation.

Chakmas claim multiple identities in relation to their land and territorial claims. Barth (1969) argues that ethnic identities are situational, interactional (constructed by an interplay of self-ascription and ascription by other) and fluid. Certain identity claims such as indigenous and Buddhist, show the relational and interactional aspects of identity construction. I found that Chakmas invoked *Jumma* and indigenous identities to make claims over land as property and territory. In the post-Accord period, they have emphasised the state's role in implementing the Accord to guarantee their land rights and sanction land claims. By making demands on the state to implement the Accord in relation to land claims, they stressed their political identity as citizens, which is a shift from the pre-Accord period struggle.

7.4 'The Bengali Settler?': State Categorisation and Shifting Discourses

'Yes, there are Bengalis who came under settlement programme [in CHT], but they are not settlers' -Deputy Secretary, Ministry of Land, Bangladesh.

The paradox in the above statement reveals that the Bengali settler as an identity is politicised. The settlement programme was about bringing a category of people into CHT who were non-tribal, landless and poor, from 'plain districts'. The programme was called rehabilitation programme or the 'Bengali settlement programme' in official documents. The government official letter sent to the Deputy Commissioner of Rajshahi for selecting and sending settler families provides a definition of who were/are 'Bengali settlers' (as the letter describe the criteria for selecting the settlers)¹³². In the land document or *Kabuliyat* granted to Bengalis they were designated as a 'Rehabilitated Population'. In the land allotment application form, settlers applying for allotment had to declare that they would live 'in harmony with the permanent residents as permanent citizens'.¹³³

However, at the time when this research was conducted, the state categorisation of Bengali settlers was becoming diffused/opposed by the Bengali institutional actors¹³⁴. Bengali

¹³² 70-C dated 21/01/83 from the Commissioner, Chittagong Division, Chittagong addressed to the deputy Commissioner, Rajshahi. See Annex 4.1

¹³³ The government categorised Bengalis who came under the settlement program as 'permanent citizens' not 'permanent residents' in the beginning.

¹³⁴ OC of district police, TNO-Thana Executive Officer, sub-registrar of Khagrachhari District Land Office, Deputy Secretary of Bangladesh Land Ministry, Judge of District Court.

institutional actors reacted to my categorisation of Bengalis who came under the settlement programme as ‘Bengali settlers’¹³⁵ in CHT by bringing up two related debates: firstly, ‘Bengalis are not settlers in CHT’; secondly, ‘Hill people are not indigenous people of CHT’. For instance, the Deputy Secretary at the Land Ministry told me:

‘Why are you calling Bengalis settlers? It is wrong. ‘you’¹³⁶ always make such mistakes. ‘We’ -Bengalis are not settlers, ‘they’ (hill people) are settlers. Bengalis were living in CHT before ‘they’ came. ‘They’ migrated to CHT from different countries like Myanmar and Thailand.’

‘Settler’ and ‘indigenous’ were perceived as being opposing categories. In this case, hill people’s self-ascription as indigenous people was influencing the Bengali institutional actors’ categorisation of Bengalis in CHT. This debate brought in by the actors suggests that institutional actors are politically positioned and that they were responding to the politics of indigeneity and nation building. My interactions with institutional actors revealed, firstly, that the term ‘Bengali settler’ is perceived, at the institutional level, as an identity that was politically weakening the rights of Bengali settlers in CHT. Secondly, using the term ‘Bengali settlers’ made me politically sided with ‘them’ or ‘hill people’ in the context of ethnicized land conflict. Thirdly, institutional actors were not distant from discursive and political conflicts regarding identity-based land politics in CHT¹³⁷.

I found institutional actors engaged in dissolving the binary of settler/non-settler to enhance Bengalis’ right to own land in CHT, which they saw as crucial for the state’s control over resources and the hill population in CHT. They perceived hill people’s claim of indigeneness as a strategy to gain their property rights and control over land, which would erode Bengalis’ (settlers and institutional actors) control over land in CHT. The erosion of Bengalis’ land claims/control over resources would weaken the Bangladeshi state’s control over resources and

¹³⁵ They were opposed to the term settler, but they did not come up with any new category to identify Bengalis who came under settlement program. During their conversation with me they also used the term settler, which shows that the rejection of the term is political.

¹³⁶ I did not ask her what she meant by saying –“You” always make this mistake’. She divided people in CHT into two groups, termed as ‘we’ (Bengali) and ‘they’ (hill people), identifying herself with the ‘we-Bengali’ category (and also putting me in a ‘you’ category). I have been categorised in a ‘you’ group by institutional actors before and after. For instance, the DC of Khagrahari, when he heard that I was living with a Chakma family in the town, said with a smile - ‘You all do this... all of you stay with them, only mix with them and you speak in their support. Like Professor Mesbah Kamal [Professor of Department of History, University of Dhaka, the convener of Parliamentary Caucus on Indigenous Rights] or Barrister Sarah Hussain [CHT Commission] ...they see the reality... but when they go back to Dhaka, they don’t tell the truth.’ So, staying in a Chakma household or working with the Dhaka University made me fall into a category of ‘you’ with some unknown researchers and very well-known lawyers, teachers and activists. However, I was also taken into the ‘we-Bengali’ category by some actors.

¹³⁷ I found that institutional actors’ positions in the debate about indigeneity and settler identity are divided based on their own ethnic identity. I found all the Bengali institutional actors supporting Bengali settlers’ claim and the actors who belong to hill communities supporting hill people’s claim of indigeneity and their land claims.

the population in CHT. I was advised by the OC of Police in one of the districts in CHT that when I presented my findings in European universities –‘Don’t say everything that is going on in CHT. Be careful to protect your own interest.’ As I understood it, Bengalis’ common interests in CHT were to enhance Bengalis’ control over CHT, and to consolidate the government, i.e. the Bangladeshi state’s authority and control over CHT as a territory. Thus, Bengali settlers’ interest equates to the Bangladeshi government’s interests. Both equate to Bengali institutional actors’ interest and were expected to be equated with mine¹³⁸ (me being a Bengali). Moreover, apart from their stated nationalistic interest, which equates Bengalis’ control to state’s control, many institutional actors had private interests of owning land in CHT.¹³⁹

Although state actors were trying to diffuse the category of Bengali settlers, I found that settlers emphasised and articulated their settler identity in certain contexts. The following discussion shows the multiple identities invoked and articulated by the Bengali settlers in Banglachari.

7.5 Multiple Forms of Identities among Bengalis

Bengali settlers were granted land by the government, but their property in land is uncertain for many reasons. Certain insecurities with their titles resulted from irregularities/non-completion of land distribution procedures. Some procedural gaps mentioned by the Bengali settlers are discussed in Chapter 6. However, uncertainties also stemmed from the hill people’s accusation of the government surpassing the existing land law or CHT 1900 Act in granting land to Bengali settlers (Chapter 9). Besides, the government’s agreement with certain clauses of the CHT Accord 1997 resulted in feelings of uncertainty among Bengalis. Bengalis stated that hill political parties often claimed that when the CHT Accord would be fully implemented, traditional ownership of the hill people would be recognised and prioritised in dispute resolution at the Land Commission (Chapter 4). Hill people are skeptic about the government’s political will to implement the CHT Accord. To Bengalis, the state’s position is ambiguous or confusing because the government brought them and granted them land in CHT¹⁴⁰, but has not given them secure property rights with secure title and then signed the Accord with PCJSS. Moreover, according to the hill people, political actors, the Head of PCJSS and Chairman of CHTRC – Shantu Larma – there was an unwritten understanding with the government about the withdrawal of the Bengali settlers. This ‘unwritten agreement’ was known and mentioned by both Bengali settlers and Chakma interviewees. This created a feeling of insecurity and uncertainty for Bengali settlers,

¹³⁸For instance, when I asked about how the land management system in CHT is different from other districts, the Additional Secretary of the Ministry of Land said “Land system in CHT is very different. Do you know you and me [both Bengalis] – we cannot buy land in CHT? Just imagine!”

¹³⁹ One high official of Rangmati district administration said “All the officers in bureaucracy and defense who have ever worked in Rangamati in last 20 years bought land there.”

¹⁴⁰ Although most of the time they expressed loyalty to government, in this case they expressed their anger due to government’s double standard and ambiguous position.

showing that higher political discourses and contestation play out in producing an everyday insecurity. Although it is word-of-the mouth, a Bengali young male respondent said,

“There is a little difference between slapping someone and threatening someone to slap. They are not telling us to leave now, but they always say we are going to be expelled from CHT. Since we have arrived, we have been hearing from the hill people that we would not be able to stay long. For that reason we often do not want to invest on land. My father planted teak trees on his land only 6 years ago. We are making a ‘building’ (brick-built house), but we don’t know for how long we can stay here.”

Despite these uncertainties and insecurities, Bengalis were building many brick or *paka* houses in Banglachari which, among other factors, shows them actively establishing their rights.

7.5.1 Bangladeshi citizenship

Bengali settlers claim they have the right to reside and own land in CHT not only as settlers but as Bangladeshi citizens. Their argument draws on the concern over the equality of all citizens. They argue “if a hill person can buy land in Dhaka or in any district of Bangladesh, then as a citizen of Bangladesh why a Bengali would not be eligible to own land in CHT?” They demand equal rights for Bengalis in CHT guaranteed by the state. This argument is made stronger by demanding land laws in CHT should be the same as in all the other districts in Bangladesh and that the CHT 1900 Act should be annulled. They argue there should not be two sets of laws in one state (*ek desh dui niti*). Bengalis counter the hill people’s demand for preserving their distinctiveness through the enactment of the CHT 1900 Act in the original form as well as the enactment of the Hill District Council Act (1998), by calling for universal citizenship based on equal rights. It is not only land, but access to education, government employment, credits and political organisation for which Bengalis demand equal rights and opportunities in CHT, stating that the policy reserving a quota for hill people as ethnic minorities is discriminatory towards Bengalis.

Identity discourses in CHT are informed by on-going political negotiations between the state and political actors of both communities. As hill people increasingly demand Constitutional recognition of their ethnic identity and indigenous identity (particularist rights), Bengalis are increasingly challenging those demands by referring to the Constitution, claiming the equal right of all citizens and demanding a change in legal structure (repealing the CHT 1900 Act).

7.5.2 Bengali Nation-based Territorial and Ancestral claims

Bengalis make claims to land and territory as “Bengali”. Their claim as Bengali has two dimensions. Firstly, this claim is made to oppose the hill people’s claim of being indigenous, and is therefore shaped by the debates about indigeneity. Secondly, they make territorial claims by

establishing that Bangladesh is a land of Bengalis resonating nationalist discourses and by doing so they align themselves with the state's and the Bengali state actors' powerful discourses.

As a response to the ethnic communities' movement to gain rights as indigenous people, the Foreign Minister of Bangladesh stated that the hill people in CHT are 'ethnic minorities' or 'late settlers' and 'tribal population' who migrated as asylum seekers and economic migrants from the 16th to the 19th century (starting from the Mughal period, up to the British Colonial period).¹⁴¹ On the other hand, Bangladesh is the ancestral land of Bengalis and Bengalis are the first nationals. She stated:

'The original inhabitants or first nationals of Bangladesh are the ethnic Bengalees by descent that constitute nearly 99 percent of the country's 150 million people. They have all been original inhabitants of this ancestral land for 4,000 years or more according to archaeological proof found in the 'Wari Bateshwar' excavations. The ethnic Bengalees are not colonial settlers, neither are they foreigners or non-indigenous to their own native land and never will be.'

She also stated,

"The ethnic minorities in the CHT region have been clearly termed as 'Tribal' in the 1997 peace accord, but there are attempts by some vested quarters to establish them as 'indigenous' in some international and UN forums. This is solely aimed at securing a privileged status for an established and legally-accepted entity, at the expense of national identity, image and territorial integrity of Bangladesh."

Citing the census of 2001, she said "Giving a special and elevated identity to enfranchise only 1.2 percent of the total population of 150 million by disintitling the 97.8 percent cannot be in the national interest of Bangladesh." Thus, Bengalis are categorised as 'original inhabitants of this ancestral land' (in CHT as well as it falls within Bangladesh), while the hill people are 'late settlers'. After demarcating Bangladesh as the ancestral land of Bengalis, she also identified herself with the 'majority' and 'original inhabitants', i.e. Bengalis by saying "We have a distinct culture..." which also reflects the hegemonic position of Bengali at the state level.

Thus, the binary categories of we/others, majority/minority, original inhabitant/late setter are created and maintained at the level of the higher state and political actors. In these contrasting

¹⁴¹ Based on a report published in a number of newspapers quoting the statement of the Foreign Minister in 2011 after the 15th Amendment of the Constitution, in which the demand of recognising indigenesness of different ethnic communities in Bangladesh was denied. Sourced - <http://bdnews24.com/bangladesh/2011/07/26/indigenous-people-a-misnomer-moni>; <http://archive.thedailystar.net/newDesign/news-details.php?nid=195963> (last accessed: December 2015)

categories, hill people fall into the ‘minority’ and ‘late settler’ category. Being ‘minority’ is also a factor for which hill people’s (and other ethnic minority groups) claim of indigeneity is undermined, because state’s position in this matter is justified by merging national interest with the majority population’s interest. As such, the statement shows indigeneness is not just a matter that is determined by history but also depend on the percentage of the population claiming this identity.

While these discourses undermine hill people’s identity and land claims, they simultaneously strengthen the Bengali’s right to own land/to control CHT as a territory within Bangladesh. Bengali settlers, particularly leaders, are politically informed and I found they reproduced and made use of these binaries; echoing the discourse of indigeneity of Bengalis in CHT. Jahan Ali said that the Major in the local army camp once played a video which showed that hill people migrated to CHT from Thailand. Settlers claimed that Bengalis were living in CHT before the hill people to make their land claims stronger.

The second dimension in which Bengali settlers make claims over CHT as a territory draws upon nationalist discourse. By doing this, they again align with state actors’ and the state’s discourse of national identity i.e. essentially Bengali and territorial integrity of Bangladesh. A statement made by a second generation settler shows that Bengalis are perceived as true citizens of Bangladesh: “The *upajatis* get facilities from the state and they also have quotas. Being *upajatis* they can get all these facilities, while being Bengali and citizen of the country we are not getting 10 per cent of all facilities they get!” They stated that it was not acceptable that the Bengalis in CHT were being given fewer positions in local government institutions or in government offices. Besides, contesting the hill people’s land claims and staying in CHT facing conflicts, are termed a patriotic mission by some Bengali political leaders.

7.5.3 Being a settler

Bengalis contradict their claim for universal citizenship, by making claim to land as ‘landless subjects’¹⁴² and settlers (individuals who have cards and titles in their names). Settlers emphasised their identity as ‘landless subjects’, implying that they were selected as eligible for receiving land under the state’s programme of distribution of *khas* land and subsequently received land in CHT based on that identity.

The representation and reproduction of settler identity by the Bengalis is largely influenced by politics and vice versa. Firstly, Bengalis invoke their settler identity to make a claim over the lands they were granted as ‘landless’ under the settlement programme. For instance, in a group discussion an elderly man said,

¹⁴² In the settlement village those who came under the settlement programme often referred to them as ‘landless subjects’ of the state.

“We were told that we would receive 5 acres of hill land, 2 acres of paddy land, 2 cows if we had come to CHT ... but his majesty ... the government did not give us – the settlers – any paddy land as promised.”

The identity as settler is a matter of ‘articulated positioning’ (Li 2000), invoked for making collective demands for entitlements as settlers. In the same group discussion, another respondent said, “[T]here were a total of 2272 families rehabilitated in this Kajalchari zone. We are still fighting and organizing movements for those lands given to these 2272 settler families by the government.’ Thus, they strengthen their land claims by invoking their identity as ‘settlers’, putting emphasis on the government’s circulars, promises and government-sanctioned titles. The ration card number and the land document they received are the most important documents for their settler identity. The settlers whose land allotment was cancelled told me that as they possessed the allotment application-case-number and ration card (proof of being original settlers), the government had to allot lands to them in the future. They asserted their belief and demand that since they were brought in by the government and given land titles by the government, the government would hand them the lands that they are entitled to. There was a sense of grievance among the settlers toward the state, as indicated in Chapter 6, which is part of maintaining settler identity.

Moreover, officially, there were no settlements of Bengalis after 1981/82. Therefore, Bengalis who had not come under the settlement programme did not have a strong claim over land like the settlers. Besides, officially, since 1989 the allotment of land has been suspended (officially) for both hill people and Bengali people. As such, being a settler enables them to make a stronger claim over land in CHT than other Bengalis (except for those who resided in CHT before the 1980s), since they were ‘rehabilitated’ by the government and given formal land titles. Moreover, the original settlers and second generation settlers, asserted their attachment to the place and right to reside in CHT by saying ‘We are born here’, ‘our parents are buried here’, and ‘we fought for this land’.

Bengali settlers emphasised their role in the war or conflict between the hill people and the state to strengthen their claims to reside and own land in CHT. In their view, their role was important in the state having control over CHT, and therefore the state should also provide them with more benefits. They perceived that they were brought in as settlers as a part of the state’s project and actively took part in the state’s project of governing CHT. One respondent stated, “. Not only me, everyone says that by bringing us here government has been able to establish [state] law (*amader aim ta dite parlam*). But we [settlers] have not benefitted. But government has benefitted from settling us here.”

Many settlers evoked the history of the longstanding armed conflict that they are still fighting to protect the state’s territory along with the army and to establish state rule. If they did not fight this war, according to Anis (a settler) - “You can be sure that they [the hill people] would become

free/liberated. They would have established their own state or they would join India or Burma”. Bengalis also drew a parallel between the armed conflict against the hill with that of the liberation war of 1971. They said ‘they liberated CHT’, which means that CHT was occupied by ‘others’. Moreover, by ‘liberating’ they made a claim over the territory. Through their statements, they reproduce the frontier discourse of the state actors of protecting the state’s territory and sovereignty (Chapters 4 and 6). As such, the Bengali settlers reproduced nationalist narratives, frontier imageries and territorial discourse. Bengalis use the state actors’ discourse of nationalism and territoriality to claim land as Bengali, but also articulate their settler identity to establish their land claims.

7.5.3.1 Construction of Settler Identity: Suffering and Agency

Certain narratives of suffering are integral parts of the settler identity and their collective memories. The most frequently recalled experiences or memories were of death, disease and living without any access to health service, the fear of being attacked by Shanti Bahini, starvation, sleeping in bunkers/holes for years, participating in the war and the abuse of armies. Jahan Ali narrated that one of his brother died as they could not take him to hospital on time. In the group discussions, the participants said that almost a quarter of the people (original settlers) died of malaria and other diseases. One respondent said “No one knew how we lived and survived here, the stories of our sufferings would not reach beyond this *tila* (pointing to the hill at the edge of the village). There were times when we used to bury the dead bodies covering them with banana leaves.” By this he meant, first, there were so many dead bodies that it was impossible to give them a proper ritualistic religious burial. Furthermore, people did not have the money to buy *kafon* (white piece of cloth to cover dead bodies) and they could not obtain the *kafon* for the burial (the Khagrachhari town bazar was far away and small). By this statement, he also meant that they lived “as sub-humans” (stated by most respondents several times) and dead were buried without rituals. Some original settler families lost 2-3 members. The labour they were forced to provide to maintain army camps, the bad behaviour of the army and their physical abuse ‘to discipline them in order to maintain security’ were mentioned as part of their sufferings.

Apart from the shared past and collective memories, settler identity is mobilised for strengthening certain claims of entitlement. While I was working in Banglachari, the settlers and leaders complained to the administration about irregularities in the supply of rations and corruption related to their distribution. In several cases, settlers collectively organised movements to raise their demands. For instance, as per the agreement of the CHT Accord 1997, when the camp within Banglachari was about to be withdrawn, the people in Banglachari unitedly protested and sent a petition to the DC, the Brigade Commander and the Prime Minister, asking them not to withdraw the local camp. They said “Hill people put this clause in the Accord, because they knew if the military camps are withdrawn from cluster villages, Bengali settlers will leave eventually as we will not be able to survive in CHT without security force”.

Bengali settlers are politically organised through organisations such as the Leader’s Association, the Bengali Student Committee, and *Bengali Oikko Parishad*. They organised protests against the allegations of Bengalis being rapists and killers (Chapter 3). There has been a change in the position of Bengali settlers from not having their say or living ‘under control’ of the state or the army, as described by the elderly settler leaders, to having political organisations to mobilise their demands and negotiate with the government.

Bengali settlers is a distinct category because there is a boundary between ‘Bengali settlers’ and Bengalis who came in CHT without being associated with settlement programme or any settler. The Bengalis who have been in CHT for generations before the 1980s, and those who came later for work or business see themselves as being different from the ‘Bengali settlers’. Socially, settlers are ranked lower than other Bengalis who live in CHT. Despite being sympathetic to Bengali settlers’ land struggle and political struggle, which sometimes are also glorified by saying, ‘Bengalis never back out, we are fighters’, when other Bengalis talk about settlers as a group of people, settlers are often described as ignorant, coming from a very low background and also criminalised. Certain practices were found to solidify or dissolve (7.5.5) boundaries between settler and non-settlers. For instance, Bengalis do not usually consider arranging a marriage with someone belonging to settler families.

7.5.4 Permanent resident

In the CHT Accord, the population in CHT are categorised as ‘tribals’ and ‘non-tribal permanent resident’¹⁴³. ‘Non-tribal permanent resident’ is defined as a person who owns land legally and lives in a permanent address in CHT. This categorisation and associated rights challenge the central state’s authority in sanctioning property in land and Bengali settlers’ property in land. This also shows how different institutions categorise people to endorse the land claims of certain actors and undermine others in CHT.

Identity documents regulate and control individual’s legal rights and access which serve as an instrument of state power with exclusionary effects by comprising a process of classifying population based on membership and belongingness (Chhotray 2017). The documentary practice of identifying ‘tribal’ and ‘Non-tribal permanent resident’ are about determining membership and belongingness in order to provide access and entitlements by the authority i.e. regional government institutions. According to PCJSS’s report, settlers are not permanent residents since they do not own land legally (2013: 18). This documentary practice and definition of ‘Non-tribal permanent resident’ secure rights of ‘tribal’ people, while eroding Bengali settlers’ entitlement to landed property and work. However, the discussion below shows that Bengalis pointed to the

¹⁴³ Clause 3 of Part B provides: “ ‘Non-tribal Permanent Resident’ shall mean a person who is not a tribal and who owns land of lawful entitlement in the hill districts and who generally lives in the hill districts at a specific location” (PCJSS,2013:25).

exclusionary effects of this categorisation which they perceived as weakening their rights as citizens of Bangladesh, but this categorisation did not influence their ability to access land. Based on the definition of the category in the Accord, settlers did not fall into the permanent resident category (PCJSS 2013:18); in practice, they were acquiring the certificate.

In Banglachari, Bengalis challenged this categorisation by questioning the definition. Some Bengali settlers claimed to be permanent residents in CHT. One respondent of a settler family stated “I am a permanent resident because I was born in CHT”, but then he also said “Why am I required to be a permanent resident to reside or to own land in CHT? Why do I need to show a permanent resident certificate to apply for a job in CHT? CHT is within Bangladesh and as Bangladeshi I should be able to reside anywhere.”

Bengalis question this category introduced by the state, while employing strategies to fit in. The certificate is necessary for the settlers to apply for a job, for admission to educational institution and for land transactions. There were many cases of land transaction and mutation in the settlement village; however, no one spoke about the difficulties of obtaining permanent resident certificates required for official works. The Headman of Chakma village stated that he could not refuse to issue permanent resident certificates to settlers who asked for the certificates, since they showed him their national ID cards issued by the government.

7.5.5 Muslim identity

The Muslim identity is very important for the settlers in their self-ascription. We covered only 24 households under the household survey carried out in Banglachari (Chapter 3). Out of these 24 respondents, 22 stated their *'jati'* as 'Muslim' rather than stating 'Bengali'. This is striking, because in Bengali *'jati'* means ethnicity, nationhood or caste; the Bengali word for religion is *dharmā*. The question about religion/*dharmā* of the participants' was the following question. The majority of Bengali participants answered they were Muslim to both questions (even when the order of these questions was interchanged). As discussed in Chapter 4, the parallel in growing militarization and Islamisation in politics of Bangladesh extends to CHT, when the Bengali settlement program was undertaken. Bengali settlers' emphasis on their Muslim identity reflects their alignment with the state's religious identity i.e. Islam.

My study found that Islam as an identity enables the dissolution of the boundary between settlers and non-settler Bengalis (mentioned in the previous section) and also connection with the larger Bengali community and institutional actors. During fieldwork, I came across a number of *waaṅ mehfils* (in which usually one mullah sermons or explains Islamic verses and duties) organised in Khagrachhari town and in Banglachari. Both hill people and Bengalis people stated that the number of *waaṅ mehfils* had increased in recent years. In these events, Bengalis who were not settlers (business owners, latecomers, living in CHT for generations) and also Bengali institutional actors were invited. Thus, religion is important for creating solidarity among

Bengalis based on their Muslim identity, which is internally categorised (settler/non-settler). For settlers, this solidarity/connection was politically useful and also important to increase acceptance, since they were perceived as 'below standard' by other Bengalis.

One of the first collective initiatives that Bengalis took in the settlement village was establishing a *madrassa* or religious training centre for their children, thereby connecting them with the Bengali Muslim institutional actors. For instance, the *madrassa* teacher mentioned that at their invitation, high ranking officers came during Ramadan for the breaking of fast ritual with the trainees. Thus, actors of religious institutions make efforts to create a network with state institutional actors, which helps them to gain other resources such as obtaining land allotment for building mosques and donations for teachers' salary. The Bengali judge, who owned 50 acres of land (Chapter 6), also made regular donations to the *madrassa*. The *madrassa* received funds from a Kuwait-based NGO called the Society for Social Reform, to build one of the buildings. There is political motivation for both settler/non-settler Bengalis and state actors to focus on Muslim identity and to build religious institutions. Moreover, building a mosque or supporting a *madrassa* is a highly credited activity, according to religion, and working together in these kinds of projects gives a sense of brotherhood. For instance, while I was interviewing the Sub-Registrar at the Land Office, a Bengali man came to the office with some work for the Sub-Registrar. He was very proud that he had managed to build a mosque in an area that was far from town and on a hill top. He was narrating how difficult it was to get the recommendation of Headman of that *manza* to apply for land allotment. Once he received the Headman's report, the sanction from TNO and DC was very quickly obtained. After building the mosque, he took TNO (Sub-district Executive Officer/ Head of Land Office) and the Deputy Commissioner for Friday prayer at the mosque which he named after himself –'Sulaiman Mosque'. They were very happy to see the mosque, and hugged him. Hearing the story, the Sub-Registrar expressed his interest in offering his Friday prayer at the Sulaiman Mosque in the coming week and was immediately welcomed.

Bengalis stated that hill people were grabbing their land strategically by building monasteries (Chapter 8); however, Bengalis were also taking land allotments by building mosques. Aside from creating a space for Muslim prayers and gatherings, mosques establish Bengalis' i.e. Muslims' presence and Bangladesh state's presence in CHT. It also becomes a boundary of their land plot in *chouboddi* described in their *kabuliyat* which can then help to establish land claims in cases of disputes (see Amol's case in Chapter 9). The self-ascription of the primary identity of Bengali settlers as Muslim suggests that they see Islam as their major identity, which is a powerful identity because it is aligned with the state and also helps them to create a network with institutional actors.

7.5.6 Tribalist discourse and Bengali Identity Construction

According to Barth (1969), a boundary defines a group. Moreover, in the case of ethnicity, identity construction largely focuses on boundary making, or ethnic categories are negotiated at

the boundaries. A boundary is a metaphor for an imaginary line drawn by people based on their perceived differences with other groups and the continuity of a group depends on maintaining the boundary (Barth 1969 cited in Bal 2007: 7). In CHT, how Bengalis as a category see themselves is constructed to an extent on how they see themselves as being different to hill people, or how they define the boundary with hill people. In the Banglachari village, the Bengalis reproduced 'tribalist discourse' (Bal 2007: 22); as most Bengalis perceive themselves as superior to hill people in culture, religion and civilisation. Tribal as a category, its pejorative image and tribalist discourse are colonial constructions that have persisted remarkably in Bangladesh (Bal 2007: 22). The colonial perceptions of hill people as primitive with the view of civilizing mission have persisted among the post-colonial state administrators and literature (Van Schendel et.al 2000, Bal 2007). My findings suggest imageries of the hill people as 'savage', 'naked', 'uncivilised' and inferior are reproduced by Bengali settlers.

Tribals are perceived as isolated from mainstream Bengali society and imagined as fixed in time (Bal 2007. 11). I found that the administrators described hill people as simple, innocent, dangerous (in some cases) and nomads showing a striking resemblance to the colonial administrators' description (Chapter 4). Bengalis in Banglachari described hill people with similar characteristics in most cases. However, there was a difference between how they defined hill people as a group and what they revealed about hill people from their experience of everyday interactions. While some hill people were characterised as gentle, honest, amicable, and wishing for peace, hill people as a group were defined as aggressive and untrustworthy ('like snakes'). Hill people are considered less civilised or uncivilised because of their dressing pattern, cooking traditions and practices, eating habits, cultivation practices (*Jum*), claiming land without papers (no conception of private property with land document), and in terms of religion, which was described several times as the worshipping of statues or idols (that are nameless to most Bengalis). For instance, Atia said that hill people worship some 'statue' and did not mention Buddha or Buddhism. However, she gave me a list of meditation centres and monasteries which she said were built on Bengalis' land. Besides, she was a member of the Union Council and therefore mixed with hill people in social and political occasions. Thus, it is unlikely that she did not know the name of the religion of the Chakmas and Marmas. As such, there are cases where this incognizance itself represents a superior-ness/superiority and in some cases a deliberate attempt at the non-recognition of hill people's religion.

Moreover, a boundary is perceived in terms of food habits, and with regards to food sharing the boundary is maintained. Hill people were described as uncivilised forest people (*jungli*) because they eat snakes, frogs, and insects. Bengali women stated that they heard about these eating practices, but since they had never been to hill people's houses, they had not seen what they eat. Atia said that as a member of the Union Council she had to keep invitations at hill people's houses for weddings or other occasions, but never ate their food. Hill people who invited her knew about her restrictive practices and therefore would bring biscuits or different snacks for

her from the shops. This food boundary echoes the maintenance of caste boundaries in relation to food sharing, where cooked food is considered contaminated.

However, their superiority as Bengalis was also challenged by their observation that the majority of hill people are educated. Moreover, hill people had many important positions in different offices and were also reported to be politically powerful, with links to media, international organisations and foreign countries. Thus, there is a paradox in categorising hill people as inferior and seeing them as modern, educated and more advanced. Some Bengalis took credit for this 'development' or advancement. For instance, according to Jorina, 'Now they have learnt to consume beef, chicken and eggs from the Bengalis. In past, they used to cut off the head and tail of a snake and grill it as food!' She said: 'before our arrival, they used live almost naked. This was a land of nudes. They learnt to wear clothes from us. Now they have turned into well dressed-up people and we, the Bengalis, live naked.'

7.5.7 'But my home is the lowlands. And always will be'

Finally, the Bengalis see themselves as uprooted from their home or village. Some called themselves '*jajabor*' or gypsies and stated that due to being poor landless they were living on the branches (*dale dale*), having left their roots. Hill lands are not considered a major aspect of their being, rather plough lands and being paddy cultivators are considered a major aspect of their identity. Hill land is perceived by Bengalis as property and commodity.

On the contrary, hill people feel their identity as rooted in the hills. If their land is taken from them, existence is threatened as they lose their *thikana*, an essential part of someone's identity or *parichai*. One of the leaders of indigenous movement explained 'If our land is grabbed and we become uprooted we wouldn't be able to say where our home is anymore. We will lose our *thikana* and our separate identity. Government and Bengalis grab our land to make us lose our identity'. Thus, there is a difference between hill people and Bengalis in the way they relate themselves to land in CHT.

7.6. Conclusion

This chapter provides an overview of the formation and representation of multiple identities among Chakmas and Bengalis. The boundaries between Chakmas and Bengali settlers are drawn based on ethnicity, religion and differences in framing of citizenship and nationhood in Bangladesh. The debate concerning national identity and indigeneity shows the contrasting processes of homogenisation and fragmentation stemming from the state's attempt to establish a Bengali nationhood from disparate ethnic communities in the territory.

The state's position is contradictory as the effective law (CHT 1900 Act) does not acknowledge customary rights of ownership, but the new LC Act directs the settling of land disputes based on 'existing customs and practice'. While these contradictory policies in terms of land rights and identity recognition appear to hill people and Bengalis as the state having two faces, the signing of the CHT Accord has generated insecurity among settlers and then delays in implementation or implementation gaps have generated insecurity among hill people. In response to this, similar to what Chandra (2013) suggested regarding Mundas' response to Indian state, Bengalis also try to fit in both categories as 'Bengalis who are indigenous to everywhere within Bangladesh territory including CHT' and 'Bengalis as settlers'.

The politics of land influence or shape the politics of identities and vice versa. Both Chakmas' and Bengalis' struggle over entitlement are entangled with the struggle over recognition of certain identities. Chakmas see existing state categories for hill people as derogatory, hegemonic and marginalising. I found that people invoked *Jumma* and their indigenous identity to make claims over landed property and territory. I have argued that Chakmas make citizenship claims by demanding the full implementation of the Accords agreed by the government, ensuring legitimacy of their land claims and demand recognition as rightful citizens as they experience marginalization.

Bengali institutional actors take part actively in identity politics. Categorising Bengalis as settlers, according to the Bengali institutional actors' perception, consolidates hill people's claim of being indigenous. Bengali settlers mobilise discourses of Bengali nationalism, national interest and the indigeneity of Bengalis (also in CHT) to legitimise their claim over landed property, simultaneously, emphasising their settler identity in relation to land claims. While state actors' discourse is diffusing the category of settlers in CHT, Bengalis articulate their settler identity by invoking papers and history to make their particular claims over land. They also claim equal rights for Bengalis in CHT as citizens of Bangladesh, which is important in terms of land claims and opportunities to participate in political organisations, local government institutions, offices and educational institutions. I have shown how the tribalist discourse found among Bengalis constructs perception about hill people and how Bengalis see themselves in relation to those perceptions.

My data and analysis also illuminate a religious dimension to the politics of difference in CHT and ethnicised land politics. In a settlement village, Bengalis mobilise their Muslim identity to strengthen Muslim solidarity by building mosques and *madrasas*, to transcend boundaries between settler/non-settler Bengalis and to create a network with Bengali Muslim institutional actors; all of these strategies have consequences for Bengalis and their control over land. For hill people, their identity as Buddhists enables them to enhance solidarity, resist the growing influence of Islamisation, establish their separateness and establish networks with other Buddhist communities within and outside of CHT. The hardening of Buddhist identity and purification of

Buddhism among Chakmas mirrors a hardening of Muslim identity. For both communities, strengthening their religious identities and increasing religiosity play a role in the contestation over land and have implications for the struggle over land at individual and collective level (Chapters 8 and 9). The perceived differences between communities and the polarisation between communities are, paradoxically, being cemented in the post-Accord period. The following two empirical chapters show how identities matter in people's strategies to contest to establish their claims and people's access to various institutions/institutional actors (formal and informal) to settle land disputes.

Chapter 8: Land Contestations between the Bengali Settlers and the Chakmas: Land Claims and *Dakhal*

8.1 Introduction

This chapter describes how the Bengali settlers and the Chakmas made claims over land as property by focusing on the narratives, actions and strategies employed by members of both communities since the beginning of the settlement programme. Chapter 4 and Chapter 7 showed how the negotiations and contestation between government, regional government institutions and hill political parties, centred around certain issues, such as: definition of non-tribal permanent residents and procedure of identifying non-tribal permanent residents in CHT; recognition of hill people's customary rights over land through dispute settlements by the Land Commission, that is, the rules that are applied in Land commission dispute settlements; and the creation of a voter list in organizing CHTRC and HDC elections. Land contestations between hill people and Bengalis is at the core of on-going contentions at political and institutional levels. Chapter 7 showed how the legitimacy of land claims relate to people's claim of certain identities. This chapter shows how competing claims over lands as property are made and established by invoking and underscoring legitimacy to different sets of laws, rules, procedures and institutions. It aims to answer two research sub-questions: how land claims invoke different notions of authority and how land claims influence notions of authority. Based on the findings, I argue that land contestation between the Bengali settlers and hill people at the village level shape institutional competition for authority and territorial control, and contribute to the debate regarding legitimacy of land claims made by the hill people and the Bengali settlers in CHT.

The analysis of land claims, strategies and actions at the village level suggests that contestation over lands involves the legitimisation of claims but is largely played out through contesting the having/taking possession over lands. The struggle to gain or maintain *dakhal*, i.e. possession over land, is crucial in the struggle over land ownership. *Dakhal* or possession, however, does not hinge upon legitimised land claims or claims of owning a valid land document. The word *dakhal* in Bengali means having or gaining control of an object (land, territory, house etc.) by force; therefore, one needs to enforce power or use physical force to have *dakhal* over an object. In CHT, people's narratives reflect power or force i.e. '*gor*' is crucial for *dakhal*. The discussion here highlights the kind of power needed for *dakhal* and the role of violence in land contestation. The meaning and definition of *dakhal* will be discussed further in Chapter 9. The analysis of legitimising narratives and the framing of people's claim on property shows that in disputes, disputants invoke different property norms, laws and authority in legitimising claims (section 8.2). As such, who invokes and revokes what laws is largely determined by the ethnicity of the

disputants. Moreover, who has access to which authority is also largely determined by the disputants' identity. Property claims contested at the level of the High Court and Supreme Court, which is where land politics are played out as well.

The contestation over land in CHT shows the influence of national politics and the role of various regimes in power. When the AL government signed the Accord in 1997 with PCJSS, the opposition parties at national level, i.e BNP and JI, were against the CHT Accord. BNP and its allies constituted the government in the year of 2001, and the implementation of the Accord was delayed (see Chapter 4). The BNP government ruled from 2001-2005. This regime was perceived as having been a 'difficult time' for hill people, as Bengali settlers came back to the village (from the cluster village) and forcefully occupied or took *dakhal* over land within the village. On the other hand, the Bengali settlers stated that it was the only time a Bengali person from Khagrachhari district had been elected M.P. Jorina, a Bengali settler, said it was a time when she felt like they were 'in the mother's womb'. From 2006 to 2007, the country was under the quasi-military rule of a caretaker government, which declared a "state of emergency". Military influence in CHT grew considerably around that time, according to both Chakma and Bengali respondents. During the period of the caretaker government's rule, under the protection of the army, Bengalis were able to move back to their original settlement areas and gain lands, while the hill people lost their lands as they could not resist or protest against the army supporting Bengali occupation of their land. There was strong support among the Bengali settlers for BNP and JI, because they were brought in CHT during the rule of Major Zia who founded BNP. While BNP and JI were perceived as parties that were settler friendly, the position of AL was ambivalent to the Bengali settlers and to the hill people (see Chapter 7). Since the beginning of 2008, AL had assumed power with over two-thirds of a majority in the parliament, but the Constitutional amendments required for full implementation of the CHT Accord had not been carried out yet. In the 2014 election, the majority of the Bengali settlers in Chakmachari did not cast their vote, since BNP and JI boycotted the election. On the other hand, the hill people wanted AL to win, because - 'When AL is in power, if there is a riot, the army or police at least show up to stop people, even though they come after an hour; but if BNP is in power, they do not even show up or they support Bengalis to continue attacks on the hill people' (comment made by few villagers in a tea-stall discussion in Chakmachari). However, in Chakmachari, in the 2014 election almost everyone voted for the hill political parties –JSS or UPDF (based on the count of the local voting centre). Being a member of national political parties is known as doing '*dolio*' among Chakmas, while members of hill political parties see those who do '*dolio*' as being opportunists. In contestation over land, and particularly in contestation over *dakhal*, by both hill people and Bengalis, the ruling period of different regimes or political parties was mentioned as a crucial factor in shaping the process of contestation.

The following sections focus on how contestation over land between communities has evolved and is still evolving. It discusses the land conflicts between Chakma and the Bengalis since the

beginning, to historically analyse how dispute processes have evolved. The processes of contestation over land at the individual and collective level are found to be different in the two periods (pre-Accord and post-Accord). The next section (8.2) presents Bengali settlers' and Chakma villagers' accounts of the settlement process. There are contrasting narratives regarding the legitimacy of the procedure (in giving allotment of land and land titles to Bengali settlers) among Bengalis and Chakmas. Both the legitimacy of land claims and the struggle over *dakhal* at the local level are discussed in sections 8.3 and 8.4 by presenting the collective strategies and narratives employed by the Bengalis and Chakmas. Contestation at the village level shows how land conflicts between communities (Chakmas and Bengalis) are part of a larger political contestation involving state institutions, regional government institutions, national political parties, hill/Bengali local political parties and civil society organizations.¹⁴⁴ The discussion about their collective strategies, which helps to set the political context within which individual land conflicts are taking place, is addressed in Chapter 9.

8.2. Land Conflict and the Bengali Settlement Programme: Contrasting Narratives of Legitimacy of Land Allotment Processes

In claiming the legitimacy of the allotment process and their property in land, Bengali respondents pointed out that they were granted *khas* or government owned land. They claimed to have gained the allotment of land with the consent of or recommendation from the respective Headman of the *manza*. They claimed their lands were *khas* lands by pointing out that when they came, those lands were covered in forest, which they then cleared and that no hill people were occupying those lands nor was there any cultivation on those lands. They also argued that the 'Government would not settle someone on the land owned by someone else. Government cannot do that. If any hill person had claim over any piece of land, Bengalis were not allowed to occupy those lands' (Hafiz, Commander of VDP). They emphasised the fact that the government brought them to CHT as settlers and granted them land allotment. Since the Bangladeshi government owns most of the land in CHT and the government is the sole authority that can grant land, Bengalis claimed the allotment of land to settlers as inherently legitimate.

¹⁴⁴I interviewed the members of regional government institutions (CHTRC and HDC); actors at state institutions such as – Land Ministry, CHT Ministry, Members of Parliament who are in the Parliamentary caucus for indigenous people, members of Bangladesh Adibashi Forum- an organization of indigenous communities in Bangladesh; however, in this study, I do not present data or analysis of the political negotiation and contestation at the national level. I only present here village level data analysis that show how the larger political contestation is reflected and shaped contestation at village level as well.

Moreover, the Bengalis attempted to establish their land claim by questioning the justification of continuance of enactment of CHT 1900 Act. Different laws in CHT to the rest of Bangladesh make CHT distinct as a region and this enhances hill people's ability to have stronger claims over land and territory, hence the Bengalis demands for the elimination of distinctiveness in laws and institutional arrangements in CHT. The leader of the Bengali Leader's Association stated that the continuance of a 'British Period law' showed that CHT was *poradbin* or unliberated, and that Bangladesh government rule had yet to be established in CHT. They viewed the functioning of a separate law (CHT 1900 ACT) in CHT as an inconsistency or anomaly which should be corrected by the government to control hill people and their demands. Besides, hill people's claim on lands based on custom or social norms, as opposed to government granted allotment titles given to Bengalis, was considered unjustified and invalid. Bengali respondents found it not only 'unlawful' but also 'strange' that the hill people made land claims by stating that 'their father or ancestors had *jum* cultivations or *jum* houses [temporary farm house] on those lands'. They saw hill people's customary land claims or property norms as 'lawlessness'; as one of the Bengali settler leaders said, 'the ways in which they make land ownership claims it appears as if it (CHT) is a "*Magher mulluk*" (literal meaning is -"a territory under Magh's rule"¹⁴⁵). This Bengali idiom is used here to mean 'a territory with no rules or with absurd rules'. Bengalis stated, "They [hill people] do not require any papers, they just say it with their mouth [claim land as property] and they claim that is enough'.

Despite calling the CHT 1900 Act archaic ('a rule from British period') and customary law ownership 'absurd', Bengalis stated that the process of allotting land to them did not defy existing customs or the CHT 1900 Act. According to the settlers, before allotting lands to Bengali settlers, the Headmen of respective *mauzas* were called by the army officers to the camps to identify lands which were *khas* or empty. They then received the Headman's recommendation papers for granting land allotment to settlers, which were still stored at the sub-district Land office.¹⁴⁶ Bengalis claimed to own lands which were not owned by hill people and they received land titles following the 'law of CHT' i.e. CHT Manual 1900. After Bengalis were brought into the settlement areas they were ordered to clear up the forest by the army. A team consisting of an *-amin*, a *qanungo* and a magistrate came to measure their plots 2/3 months later¹⁴⁷ to carry out

¹⁴⁵Using this phrase in the context of CHT, to express that someone's claim is nonsense, is ironic. Because CHT is indeed a territory of 'Maghs' to some extent. According to Van Schendel (1992:100), Magh is a blanket term used by the Bengalis to refer to hill people for a long time. In the court documents, in the petition and in the verdict, I found, in many instances, Marma men and women are referred as Magh and Maghini respectively.

¹⁴⁶An exception to this usual narrative was presented by Munshi (aged 75), who stated -'When we were given land allotment document or '*kabuliyat*', Headman's reports were not needed. At that time headmen had no hand in the matter of giving us titles. We were given titles by the government. It's now that we need Headman's report, if we want to buy or sell land.'

¹⁴⁷ While the Bengalis claimed stronger legitimacy for their allotment and title, they also perceived their land allotment and title as insecure. Many stated -"The *amin* just told us- 'this is yours and this is his.'" - This was mentioned by almost all the original settlers to emphasise that the process (in terms of measuring volume, division of land, demarcating boundaries, putting a '*dag*' number) was not carried out accordingly (see Chapter 7).

the process of allotting land to settlers (see Chapter 6). Then the land allotment documents i.e. *Kabuliyats*, were distributed to them from the army camp in the rehabilitation zone. Their *Kabuliyats* were signed by the magistrate as well as the DC. After receiving their *Kabuliyats* they started to pay land tax by filling out a form called ‘*chalan* form’ through Sonali Bank (a public sector bank) to the Additional Land Commissioner (AC Land) of the sub-district Land Office. They did not return their land tax to the Headman as per the CHT 1900 Act because most Headmen refused to collect revenues from settlers and Headmen referred to their land titles as ‘*kalapata*’ or banana leaves, which was a source of insecurity for the settlers regarding their property in land.

In contradiction to Bengali settlers’ account of allotment procedures, Chakmas stated that the lands which Bengali settlers had occupied in Chakmachari were not empty. Those lands were either owned by individuals (based on customary or legal norms) or were used as common land by the villagers in Chakmachari. For Chakmas, it was a shock to see the Bengali settlers coming into their village and building houses on lands owned by them one day, all of a sudden. Kanika Chakma (50) remembered running away from their *jum* hill lands (now entirely occupied by Bengali settlers) when one morning while collecting firewood from their hill, she saw 3/ 4 Bengali men standing in front of her. The Chakma villagers had never seen those Bengali settlers before. The fact that people were coming from far away districts and claiming their lands was strange and absurd to Chakmas. To de-legitimise Bengali property claims over land, the Headmen stated that the allotment process was not carried out as per the CHT Act 1900. The Headmen stated that the Bengalis started to occupy lands with a ‘paper in their hand’, those lands that they had never seen before.¹⁴⁸ The Headman did not give any formal recommendation or verbal consent regarding the allotment of lands to Bengali settlers. According to the Headman, there was a special team (which included an *amin*, a *qanungo* and a magistrate), that came from the Land office along with the settlers in Chakmachari. They spent a few days in the local army camp. They had seals/official stamps, papers and ‘everything with them’ to hand out land documents to Bengalis. The Old Headman stated -

“In the Bengali settlers’ allotment document, they (the special team) just wrote the names of settlers, put a holding number i.e. a serial number and writing a ‘made-up’ *chouboddi*. Their *chouboddi* is often stated as “hills on three sides and paddy land on one side” or ‘own land’ [*nij jom*] on all four sides. How can somebody ‘own land’ on all sides

¹⁴⁸The process of giving land titles to Bengali settlers was described in the same way by Chakma respondents also at the institutional level. One of the Chakma advocates who practiced in Khagrachhari courts stated –“The magistrate gave them titles sitting in the class rooms of schools (referring to make shift office of that special team)”, allotment of land to Bengali settlers was done in an unofficial/irregular way and covertly.

of a plot? The settlers ‘sat on’ [occupied] any land they could, with that paper in their hands.’

According to the Chakmas, the legal and valid procedures for carrying out land allotment was not followed in the case of granting land allotment to Bengalis. The Chakma villagers countered the legitimacy of the allotment procedure by stating that Bengalis occupied land with a land allotment document that they received ‘over-night’ [*rata-rati*] i.e. within a very short time, by overriding the rules stipulated in the CHT 1900 Act. The army surrounded the areas where the Bengalis established their settlements. The Chakma villagers were not allowed to even get close to the spot and therefore could not make their claims or resist in any way. As such, they stated that Bengali settlers had gained land by force and the ‘unlawful’ process of allotting land to settlers resulted in the forceful dispossession of their lands. According to the Headman, *Karbari* and many other Chakma villagers, the state has the capacity to carry out the forceful dispossession of Chakmas from their own land because – ‘*jor jar mulluk tar*’ which means – ‘the one who has power to use force owns the territory’.

To sum up, major contrasts found between the narratives of the Bengalis and the Chakmas regarding the allotment process centre on two issues, which are, whether Bengali settlers were settled on *kehas* land/empty lands and whether the Headman’s recommendation or consent was taken while allotting land to the settlers. Bengali’s challenge the legitimacy of enactment of the CHT Act 1900 in CHT is contested. On the other hand, there is a similarity in the narratives regarding the significant role of the army in settling Bengali settlers in CHT under the settlement programme. The narratives also show that for both communities, the Headman’s authority to authorise land grants is viewed as crucial. The contrasts between accounts reveal that people employ narratives to cast their property claims as legitimate rights.

Moreover, the contrasts in the narratives highlight how property relations are perceived and determined differently in two different property systems. The difference between the Bengalis and Chakmas in perceiving property relation shapes their arguments, claim-making and delegitimizing of others’ land claims. These statements illuminate how land claims as legitimate property are linked to the politics over contested territory or *mulluk* and with the authority that governs the territory. Moreover, the state’s enforcement of statutory laws of ownership in CHT in granting land to Bengali settlers while dispossessing the Chakmas is linked to the state’s employment of force i.e. *jor*, that enables the subjugation of others (hill people) and the control of territory. These contested narratives shed light on the ethnic dimension of land conflicts.

With regard to the Bengali settlement programme, three sets of narratives can be found at the bureaucratic institutional level. One set of narratives, provided by high officials at the Land Office and D.C office, emphasise that the settlement program was carried out under a ‘special act’ and therefore the Headman’s recommendation was not required to allocate land to settlers. Besides, land record books and maps demarcating all the *kehas* lands in CHT were used to locate

kbhas lands, which were then allotted to Bengali settlers. According to another set of narratives, there is no *kbhas khatian* volume or book and detailed survey map containing information about the location of *kbhas* lands in CHT; therefore, when Bengalis were allocated land, the Headmen of the settlement area were called upon to be consulted and to identify unoccupied land within his *manza*. It was also stated that survey maps were not required to identify *kbhas* lands, since most lands were empty in CHT, which one could assume just by looking at those hill lands, and that Bengalis were settled on those empty lands which were not owned by hill people. The third set of narratives highlights the settlement program as having been carried out as a political project to control hill people's armed movement, therefore, government's priority was to settle in Bengalis wherever and whichever way it was possible rather than following a certain process. Given the situation during that time and underlying reason for carrying out the programme, it was largely carried out by the army who had limited knowledge regarding the land management system. Few actors in the bureaucratic institutions identified this as the cause behind the emergence of multiple cases of overlapping claims over land between hill people and Bengalis. These narratives place different emphases on various aspects: the implementation of a 'special act' for settlement; the vast amount of empty lands being available for allotment; the granting of lands which had been identified as *kbhas*; Headmen's involvement and persistent lack of adequate information about location and availability of *kbhas* land; and the settlement programme as a political project of the government which was implemented largely by the army. Hence, there are contradictions and variations in the narratives presented by actors at the state bureaucratic and judiciary institutions. Some actors' narratives present the technical matters in land settlement. They focus on the procedures implying bureaucratic proceduralism as 'apolitical' (Weber 1968 in Sharma and Gupta 2006:11). On the other hand, some present a narrative that directly implies that the Bengali settlement programme was a political task and not a development initiative, as it was carried out in a particular political situation and juncture; procedures and legality were not priorities for the administrators at that time. Government actors' narratives represent the state's interest and position rather than highlighting hill people's point of views, voices and their interests in the matter. These narratives provide justification for the settlement program by emphasising the empty land or the necessity to establish the state's control over people and space, reflecting the making of CHT as a frontier at the state level as discussed in Chapter 4.

8.3. Contestation over Land: Pre-Accord and Post-Accord periods

The history of Bengali settlement in Chakmachari is divided into two different periods. Bengalis were first settled in Chakmachari in 1982/83. This period is referred to as 'the Bengali settlement for the first time'. In 1986/7, Bengalis moved out from Chakmachari village to live in the cluster village in the neighbouring Batchari *manza*. After the signing of the CHT Accord in 1997, the Bengali settlers started to re-settle in Chakmachari from 2003/2004 onwards. In 2006, towards

the end of the BNP regime, there was an influx of Bengalis in Chakmachari and surrounding villages, which resulted in an increase in disputes over land between Bengalis and Chakmas. The re-settlement of Bengalis in Chakmachari is dubbed as –‘the second time when Bengalis came in’.

The processes of contestation over lands at the collective level are found to be different in these two periods (pre-Accord and post-Accord). The following sections discuss how the disputes emerged and the contestation evolved between settlers and Chakmas in these two periods.

8.3.1 The Pre-Accord Period: The Beginning of Land Conflicts

During the first Bengali settlement period, the Bengalis settled on land plots along the main road (the highway connecting Khgrachari and Rangamati districts) and next to the army camp in Chakmachari. The majority of land dispute cases or ‘*vejal*’ are found on the west side or ‘in the outskirts’ of Chakmachari and lands at the entrance of the village (close to the monastery) (see Map: 5.1 in Chapter 5). On the other hand, the lands which were ‘on the inner side’ of the village – homestead plots, plough lands and the low lands by the side of the river, had not been occupied by Bengalis at the time of this research.

When Bengalis first settled in Chakmachari, having legal claims did not help the Chakmas to maintain possession or *dakhal* over lands which were being occupied by Bengali settlers. In cases of competing claims over land between Bengali settlers’ and hill people, the term *dakhal* is often used, mostly to mean forceful occupation. Only one person in Chakmachari went to the army camp to make his claim over lands occupied by Bengalis. Shufol’s (65) family owned the land with a land allotment title issued in 1964 in their father’s name. His land had a plantation of teak trees, so it was not empty or uncultivated when the Bengalis occupied it. He said, “In the camp the army people told us that our papers [*kabuliyat*] -have lost ‘temper’ and have become invalid.” The Magistrate said their land title was ‘old’ or ‘obsolete’. Shufol Dewan stated –“I listened silently when they said that the allotment document for my land “got fused”. If I protested, they could hang me upside down and torture. Is it possible for paper [land document] to lose temper?’ It was impossible to say anything or take any action, since the army could name anyone as a terrorist (Shanti Bahini) and put them into jail. Besides, no one tried to get back possession by using force or by threatening Bengalis, because of the fear of an army raid and torture. In Chakma village, people often stated-‘At that time, there was martial law’ to explain why they had not resisted being evicted from their land. The army’s power and authority to settle Bengalis and legitimise settlers’ property claims were enforceable due to their presence and to having the authority of using violence to ensure compliance. There was no institution that would take up the Chakmas’ land claims¹⁴⁹. According to Chakmas, their resistance toward the state’s taking

¹⁴⁹When Bengalis were first settled in, there was no separate judge court in Khagrachhari or in other hill districts. According to CHT Manual 1900 the Deputy Commissioner was responsible to adjudicate civil cases. Therefore, if a hill person wanted to contest the legitimacy of land title given to a Bengali settler on his land, he had to file a land litigation to Deputy Commissioner’s office. Since the land allotment to Bengali Settlers were authorised by Deputy

dakhal of their land by giving them to Bengalis, was through armed-struggle or *shostrosbongram*. Due to the intensity of the armed-conflict, the Bengali settlers were moved out of Chakmachari and taken to a cluster village or *guchchogram* in the neighbouring *mauza* in 1986/87.

Bengali settlers' landed property depended on having *dakhal*, which in turn, depended on the proximity of the army camps and the settlers' ability to occupy land or stay put. The Bengali settlers stated that they could gain *dakhal* over the land near the camp and the main road as they needed army protection, but they did not get *dakhal* over lands which were in 'bahire' (outside) or 'fak-e' (which means 'in between').

8.3.2 Post-Accord Period: Contestation over Land between Communities

Both Chakmas and Bengalis had some collective strategies in gaining *dakhal* and in making legitimised property claims in the post-Accord period. These collective strategies over time show a change in the political context within which land conflicts are evolving following the end of armed conflict between the state and the hill political parties. The shift in people's strategies in this post-conflict period (officially) suggest that contestation over land involves both-contestation over *dakhal* and contestation over legitimising land claims at various institutions and that in the overall contestation over land, these two levels of contestation overlap and are inextricably linked.

8.3.2.1 Collective Resistance and Strategies for *Dakhal*: Chakmachari

In Chakmachari village, the Chakmas had two strategies in terms of resisting being dispossessed of their land. The first strategy was collective organized resistance through maintaining the plantation on hill lands by creating *samity* or an association. In 1991, eight families on the west side of Chakmachari organized a *samity* i.e. association for fruit plantation. All these families got the Headman's recommendation for an allotment of 1-2 acres of land for plantation. Organizing this *samity* or association was an attempt to retain *dakhal* of their hill lands- by taking the Headman's recommendation for land allotment application, working the plantation and building houses on their plots.

In 2006, when Bengalis started to re-settle in Chakmachari village¹⁵⁰, the Chakma villagers attempted to resist the settlement process by protesting and by blocking the road. The blockade

Commissioner, there was no point of filing suits in his court, as perceived by Chakmas. Hill people could have taken their disputes to the Commissioner at the Chittagong Division or High Court in Dhaka. These legal institutions were inaccessible for the Chakma villagers.

¹⁵⁰ It occurred towards the end of BNP regime and during care-taker government regime (2007).

was organized by both the youth and the *murubbi* i.e. ‘elderly important people’¹⁵¹. Their attempt at resistance was supported by the hill political parties and civil society members (Khagrachhari Citizen Committee). Civil society organizations such as the CHT Citizen Committees emerged in 2010. Based on interviews with members of Khagrachhari Citizen Committee, their objectives are to strengthen the movement for the recognition of indigenous identity of the ethnic hill population and to support the implementation of the CHT Accord. Moreover, they work as an advocacy organization to build a sense of ‘ownership’ among hill people for the CHT Accord. The Citizen committees protested against the order/notice sent by the ex-chairman of the Land Commission to the ministries of Land and CHT Affairs to carry out a land survey in July 2010 without consulting with other members, i.e. the Circle Chiefs and Chairperson of CHTRC.

Despite these organized protests, Bengalis continued to settle in the village. According to Chakmas, as they continued with their protest and blockade of the main road without fear of the army and the police, the army captured some of the prominent people who had organized the protest in order to stop the resistance movement. Three men from Chakmachari were arrested for handling firearms and for terrorist activities. The incident unfolded one evening when Komol, the secretary of the *samity*, was called to the army camp for a meeting. Komol’s cousin brother said that a non-commissioned army officer had also come to his house to call on him to attend the meeting but he had not been home. Later, on his way to join the meeting, upon approaching the camp, he heard Komol screaming loudly in pain. He understood that Komol was being tortured. He came running back and that same night, left the village. The next day, Komol and two others from the village were taken to the police station in the Khagrachhari district town from the camp charged with possessing illegal firearms. Villagers knew that they were being taken from the local army camp to the district police station, but could not take any action or measure to save them. After these incidents of arrest and torture, collective resistance to Bengali re-settlement ended. Komol and two others remained in jail for two years. Komol had to sell one acre of land to cover the expenses of the law suit, which made him poorer.

The collective resistance of the Chakma villagers reflects a shift in politics in the post-Accord period. The villagers attempted to resist the settlement of Bengalis by getting organized with the support of political parties and civil society organizations. This suggests that at village level, contestation and resistance are connected to the political and civil society movements for shaping policy at the national level. The torture, imprisonment and court cases experienced by Komol and two others, which brought the collective struggle to an end, demonstrate the role of violence and militarization in *dakhal* over land in CHT. The state’s authority to grant land to Bengalis and Bengali’s property in land was established through violence on the ground, faced with resistance from the Chakmas in Chakmachari in 2006.

¹⁵¹Chairman and members of local Union Council, Headman, Karbari, school teachers, leaders and members of political parties i.e. JSS and UPDF.

8.3.2.2 Collective Bengali Strategies and Resistance

The collective strategy adopted by the Bengali settlers was mostly organized by local Bengali political organizations, namely, the Hill Bengali Leader Association (*Parbotto Bangali Dolopoti Parishad*) and Bengali Equal Rights Movement organization. While Chakma's collective strategy involved contestation with the state institutions for protecting their land rights, Bengalis collective strategy consisted of accessing state institutions to establish their land claims.

The Bengali Hill Leader Association was successful in resisting the state's allocation of land to hill people as displaced population in post-Accord period by claiming those lands as Bengali settlers' lands. The leader of the Hill Bengali Leader Association (*Parbotto Bangali Dolopoti Parishad*), Aminul, stated that the government initiated several plantations/rehabilitation programmes to rehabilitate refugees i.e., the hill people who returned from India after the Accord was signed in 1997. According to Aminul, under these plantation/rehabilitation programmes, hill people were given allotments of land belonging to the Bengali settlers. In 2013, to resist the process of on-going settlement of hill people on Bengali land, at the High Court Division (Writ Petition no. 4095) a case was filed against the government by listing high officials of several ministries and government institutions as defendants¹⁵². After they filed the suit in the High Court, the Court ordered that 'Pending hearing of the Ruling, the respondents were directed not to grant any settlement of government land to any person and thereby maintain status quo in respect of all government lands as aforesaid in the three Hill Districts, regarding settlement of land for a period of 03 (three) months from date (Annex: 8.1). The Bengali leaders' association was not the petitioner in the suit filed at the court. However, according to the leader, they were involved at every stage of the process. A lawyer of the High Court helped them with framing the petition and running the case, because -'He is patriotic. There are some people in this country who are still patriotic' (Aminul). As such, he referred to a moral ground in helping Bengali settlers in CHT which is serving one's nation, in this case, paradoxically by filing a law suit against Bangladesh government. The military officials perceived the Bengali Settlement Programme as a 'patriotic and futuristic' mission (Chapter 4), the statements of Bengali leaders resonate to a similar notion of Bengali settlement and its relevance to patriotism was persistent. Interestingly, through this law suit, the Bangladesh government's authority and legitimacy of its claim over land as *kebas* in CHT and allocate those lands under settlement programmes had finally been challenged (for the first time) legally. Although this complaint had continued to be raised by the hill people since Bengalis were settled under the settlement programme as settlers, finally, the state's authority was restricted by judiciary, however, ironically, through complaint registered by the Bengali settlers.

¹⁵²Secretary of CHT Ministry and Land Ministry; administrative officials (D.C, A.D.C Revenue); Chairman of regional government institutions (CHTRC, HDC of all three districts).

The leaders of the 'Bengali Hill Leader Association' had also taken their land claims to the DC and sub-district office, to recover 'hundreds of acres of Bengalis' land' which had been occupied through establishing *Bhabna Kendro* or meditation centres by *Bouddho Bhikku Shangha* (Buddhist Monks' Association). A number of Bengali leaders, including Aminul, identified *bhikkus* or monks as the 'main terrorists' in terms of grabbing lands belonging to the Bengali settlers in the post-Accord period. In fact, the establishment of meditation centres or monasteries was mentioned as a strategy hill people adopt in order to grab Bengalis' land, since it is not possible to recover land which is being utilized for religious establishments. The Bengali Leader Association submitted a petition to the DC of Khagrachhari District in 2013 requesting the restitution of Bengali settlers' land which had been occupied by monasteries. In that petition it was noted that in Chakmachari, 24.5 acre of land belonging to 14 Bengali settler families had been occupied by the village monastery or *Bihar*. In response to their petition, the Additional District Commissioner (Revenue) of Khagrachhari District sent a letter¹⁵³, in June 2013, to the sub-district Land Office to investigate the case. The Additional Commissioner of the Land Office reported that in Chakmachari, Bengalis lands were being forcefully occupied by the hill people. However, according to Aminul - 'Since they [hill people] have the law in their favour as per the Accord, it has not been possible to evict the monasteries'. Furthermore, the government was unable to evict monasteries because of 'international pressure' - fearing the negative reaction from international organizations, foreign governments and the media. The Bengali settlers stated even if they raised a hand to slap a hill person, 'people from Dhaka and foreign countries' come to monitor hill people's human rights in CHT.

Most of the settlers went to institutions such as the army, police and DC to gain or maintain possession over land. For instance, in 2007, Basir and a few others went to the camp to gain *dakhal* over their lands. The army officer told them to take pictures of signboards with their names and holding numbers on their lands. They carried out the orders and also got a report published in the local newspaper with that photo. After that, they went to the police station to recover their possession. The Officer in Charge (OC) asked if the police had recovered those lands from Chakma possession by evicting Chakmas, and if they (Basir and other settlers) would be able to maintain their *dakhal* in the long run. Since those lands were far from their village, Basir said it would not be possible to retain their *dakhal* over those lands. As it happens, Basir was not able to gain *dakhal* over his land but his case shows that Bengalis can access the police or army in order to gain *dakhal* but the location of the land is crucial to maintaining their *dakhal*.

8.4 Violence and Contestation over Land

Ethnic clashes and riots influence the process of contestation over land and individual's *dakhal* over their land, illustrating the role of violence in landed property. During the ethnic conflict that

¹⁵³Number- 05.42.4600.014.04.027.13 -1747

started with the rape and killing of a Chakma woman (discussed in Chapter 3), Basir and a few Bengali respondents stated that they could not go to their lands for two weeks (see Chapter 6). Bengalis said that these ethnic conflicts were often created by the hill people in order to create a tense situation in which Bengali lands that were a bit far from the settlement villages could be occupied.

Chakmas also said they lived in constant fear of rumours spreading, because rumours and the violence that often followed were planned incidences carried out by Bengalis with the objective of displacing the hill people and seizing possession of the land. A single incident, a fight between a Bengali and a Chakma claimant in the case of a land dispute, could lead to an ethnic clash or riot, which both parties wanted to avoid (according to their statements). However, no incidences of violence or physical fights had occurred between Chakmas and Bengalis living in Chakmachari, although threats were often made.

8.5 Conclusion

The central state's ownership of land in CHT and the state's authority to grant land to the Bengali have been challenged and contested in CHT since the start by hill people. By resisting Bengalis' occupation of land, hill people challenged the state's authority to grant hill lands to Bengalis. In this particular context, *dakhal* i.e. physical occupation gained through various strategies including force, becomes central. In Chapter 4, the Bengali settlement programme was argued to be the state's territorial strategy to establish its control and domination. The processes of land conflicts between communities challenging the village level demonstrate the overlapping processes of contestation over land control and territorial control. This chapter has shown that land politics involve both the politics of *dakhal* and the politics of legitimising land claims as property. The process of *dakhal* involves violence. The role of the army in the settlement programme and in settling the Bengalis shows the authority of the state is established not only by claiming ownership of most lands in CHT and in granting or legitimizing property in land, but also employing force to give control/possession i.e. *dakhal* over lands to Bengali settlers.

There is contestation among institutional actors in endorsing the validity of land documents and property. While the Headman called settlers' land documents –'as useless as "banana leaves"', facing dispossession when land claims of Chakma people were taken to the military authorities, the army declared their land allotment document as 'having lost "temper"'. Headmen contested the legitimacy of the settlement of the Bengalis in CHT from the start by refusing to collect tax from the settlers. Meanwhile, communities had differential access to state institutions. The Chakma's resistance strategy and outcomes show they had less access to institutions such as the army, court, police station or DC office compared to the Bengalis. While hill people resisted collectively through protests, Bengalis' activism involved accessing judicial institutions and legal measures. In the post-Accord period, a major shift in land politics has been that Bengali settlers

have been organized politically by their political organizations, which has enabled them to take action against the government.

The frontier dynamics in CHT can be traced in the claim-making and de-legitimising others' claims that is done through people's narratives. Bengalis perceived hill people's land claims based on having *jum* or *jum* house on lands that are owned by the state, as invalid and evidence of lawlessness in the region. On the other hand, the hill people emphasised that the Bengalis were settled by the army under martial law, by which they mean a period during which laws had been suspended, giving the hill people limited scope to resist the forceful occupation of their lands.

While gaining *dakhal* or possession or control over land is central in how land contestation is primarily taking place, making claims over land as valid and legitimised also matters. Contestations are taken and played out at multiple level. To conclude, the analysis shows the repertoire of claims are diverse in terms of laws, institutions and the kind of authority people invoke. People also engaged in a wide range of processes, from everyday strategies of occupying land to political, legal and violent conflict. The collective strategies, violence in conflict over property rights and land contestations through *dakhal*, reveal the highly politicized nature of land conflicts between communities in CHT. The local processes of land competition and disputes are shaped by state institutions, structure and territorial attempts. At the same time, village level conflict processes also shape the state's legal and administrative authority with regards to land control, territorial control and regional-national politics.

Chapter: 9 Land Conflicts between Bengali Settlers and Chakma: Land Claims and Dynamics of Authority

9.1 Introduction

This chapter offers an account of land dispute processes by mapping out disputes between the Chakmas and Bengali settlers in Chakmachari and neighbouring *manza*, i.e. Batchari. Different strategies (sets of thoughts and actions that seek to achieve a possible set of outcomes) are employed by the Chakmas and Bengali settlers in contestations over land.

The discussion in Chapter 4 showed that the formal rules pertaining to property and authority relations in land control are in the process of being formalised. While existing laws and rules are in some cases contradictory, multiple institutions compete for authority over land. This suggests that there are considerable spaces for contesting the legitimacy of certain claims and interpretation of rules (Von Benda-Beckmann 1995, Berry 1993) at institutional level and on the ground among disputants in their claim-making and practices. Through mapping conflicts and analysing various kinds of dispute processes, this chapter sheds light on the rules, titles and institutions invoked by the disputants in cases of disputes between Bengali and Chakma communities.

Burnord et al. (2013) notes that in Madagascar, land access is based on a combination of state laws and local practices, and is controlled by various state and non-state institutions. Local practices in gaining land access involve negotiations between both state and non-state actors and ‘competition to assert legitimacy of their control over land and capacity to define the rules of the game’ (2013:358). Drawing on Ribot and Peluso (2003), they emphasise the need to study not only the ‘bundle of rights’ over land but also correlated ‘bundle of powers’, i.e. the formal and informal powers exercised by different actors involved in land management (Burnord et al. 2013: 358). The notion of property as bundles of power is useful, because power shapes (and is shaped by) the constitution of property. The analysis of dispute processes between the Bengali settlers and Chakmas reveals that both formal and informal power are exercised by different actors in authorising property in land and in dispute settlements. Although the authority to recognise property shapes and is shaped through law, Meek (1946:1) stresses the need to look beyond law for an understanding of property (cited in Ribot 1998:310). Based on the findings, I argue that there is a need to look beyond law, legal documents and formal authority to understand the constitution of authority and property relations in CHT. Contestations over land between the Chakmas and Bengali settlers do not only involve state rules, laws and institutions, legitimacy or legitimisation of claims of property and authority; as shown in previous chapters, contestations over land also involve processes of contestation over *dakhal* i.e. possession and having the ability to control other’s access.

In CHT, my study finds that *dakhal* is constituted by different sets of processes, such as having the ability to physically occupy a piece of land, claim justification for having *dakhal* and support of the local actors with formal and informal authority to maintain *dakhal*. In cases where Chakmas had disputes with Bengalis over lands they owned based on *dakhal* they emphasised on their traditional norms of land ownership in claim-making. Although *dakhal* is often defined by Bengali settlers as the process of gaining physical occupation of land that they own legitimately, I found that *dakhal* also entailed the process of gaining land as property which one did not own legitimately in the first place. *Dakhal* becomes a strategy to turn *de facto* possession into *de jure* rights over land, as the cases of contestation over plough lands demonstrate.

In the Chittagong city slums where Suykens conducted his study, the notion of *dakhal*, was used with the connotation of - ‘occupation by grabbing or forceful possession’, constituted through web of relations encompassing different sources of power and authority involving large land owners, local strongmen, elected officials national politicians and ‘violence professionals’ or mastaans who played a crucial role in enforcing land deals or transaction of lands owned under *dakhal* in absence of formal organization(ibid.). In case of competing claims over land in CHT between hill people and Bengali settlers the army plays the most important role in Bengali’s ability to gain *dakhal*. However, the process of gaining and maintaining *dakhal* involves several strategies taken by the disputants involving power and authority of different state and non-state actors.

By mapping out dispute processes, I present the authorities involved in the dispute settlements and authority relations in property constitution. In the context of ambiguity in land settlement and management system (see Chapter 4), the analysis of dispute processes suggests that the majority of land contestations involve local actors (leaders, Headman) and an institution with informal authority (the army) in land control to recognise land claims. In the case of taking their disputes to be settled by the authorities, the disputant’s ethnic identity matters.

It is evident that property relations regarding land is a process that is negotiable and the legitimacy of all kinds of land documents, including land titles or registration documents is not fixed or concrete. Class position, gender identity, educational attainment, political and institutional affiliation of people involved in land disputes are important when contestation occurs among hill people (Chakma Vs Chakma or Chakma Vs Marma¹⁵⁴) or within the Bengali community. However, these identities do not add much dimension when the land conflicts occur between communities, in which ethnic identity matters most in how the disputants negotiate and contest at the village and institutional level. The disputants’ ethnic identity also matters in how a dispute case is settled not only in the village court, military *bichar* but also in the judicial courts. Ethnic solidarity among Bengalis not only exists in discourse that link the state’s, Bengali state officials’ and Bengali settlers’ interest as mutual in contestation over land and territory in CHT

¹⁵⁴ However, land disputes between Chakma and Marma can also lead to tension between communities. Please see chapter 5 (5.7.1).

(Chapter 7); the discussion in this chapter shows that ethnic solidarity also shapes practices and outcomes at formal institutions (bureaucracy, military, police and courts).

In the following section, I present cases of land contestations between Chakmas of Chakmachari village and Bengali settlers. After mapping out different kinds of land conflicts in Chakmachari, I present land dispute settlement processes (9.3). In the following section (9.4), the disputes are analysed to map out institutions and actors people take their claims to be authorised and why. The account of involvement of state and non-state authorities in recognising property in land and dispute settlements processes in this section shows that a combination of authorities (Shanti committee, army, Headman, leader) and strategies are employed to possess and to endorse land rights in cases of land disputes in CHT. The last section, before the conclusion, highlights how land dispute processes are being shaped and property is being authorised by institutions and local actors that people take their claims to. The findings suggest that most land disputes are not getting settled, and that people are gaining or maintaining ownership of land through contestation and negotiation among disputants and authorities.

9.2 Conflict mapping

In Chakmachari, 14 Bengali families were settled officially. Each of these families was granted 5 acres of hill land in *kabuliyats*, issued in 1983. However, in reality, more than 14 Bengali families settled in Chakmachari, and from 2006, the number of Bengali families increased rapidly on the west side of Chakmachari. The number of Bengali households in the Bengali *para* of Chakmachari was estimated to be 70-80 (based on group discussion). Among 105 households in Chakmachari village, a total of 38 cases of conflict was found in Chakmachari involving 43 Chakma households¹⁵⁵. 9 cases of disputes over plough land, 26 cases of disputes over hill land and 3 cases of conflict over homestead plots were identified.

Types of land	Number of disputes
Over hill land	26
Over plough land	9
Over homestead land	3

¹⁵⁵ In a few cases, people talked about the same conflict case since those households belonged to the same family and they held their land as *ezmali* or joint property.

Total	38
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Table 9.1: Number of Disputes over Different Kinds of Land

In all these cases, Chakmas and Bengalis had competing claims of ownership of lands based on varying norms (legal and social) or both claimed to have titles (i.e. overlapping of titles). Below, conflicts over different types of land are discussed to identify the differences in how these conflicts emerged and evolved in different time periods (Pre and Post- Accord period).

9.2.1 Conflicts over Hill land

In Chakmachari, households in conflict over their hill land could be divided into two groups: households that owned hill land without titles (i.e. owned hills based on social norms) and households that owned hill land with titles. These divisions help to analyse how these different groups tried to negotiate and contest over hill land.

All these 26 households lost control over their hill lands when they were occupied by the Bengalis during the first settlement. When Bengalis left in 1986, they got back possession. When the Bengali settlers returned in 2006, conflict over those lands re-emerged. Out of these 26 households, 17 households did not own legal titles for their hill lands, but they took Headman's recommendation/report for allotment application for those disputed hill lands. 6 households created a *samity* for fruit plantation (discussed in Chapter 8) to retain possession. 11 households¹⁵⁶ had a stamped paper listing names of household heads, their fathers' names, and amount of land (varying from 30 decimal – 2 acre for different households) they possessed as the Headman's recommendation paper for their land allotment application. While making claims, they mentioned having this 'Headman's recommendation' paper and emphasised that their land claims derived from putting labour into the land, having continued to use the land for years and social recognition of the land as their property. Their allotment application recommended by the Headman in 1991 had not been submitted yet. One of them, Kalpa Chakma, said he could not complete the allotment process, since the government had suspended allotment grants since 1989. Most regarded the Headman's recommendation as a valid land document. Kalpa maintained *dakhal* over part of his land by continuously contesting with the Bengali who had

¹⁵⁶ There are two Marma households in the list.

occupied part of his homestead land since 2006. Kalpa knew it was important to maintain possession before the Bengalis re-emerged in order not to get dispossessed, so he made a mud house and planted trees to retain *dakhal*. However, a Bengali family occupied his land partially and built a house right next to his house. While making a chicken cage with bamboo sticks on his yard, he stated in a low despairing voice: ‘Don’t know what else should have been done to retain *dakhal*. The Bengalis never attacked physically, but threatened regularly and tried to pick fights.

There were 9 households that had land titles for the hill lands that were occupied by Bengalis. Most of these households were allotted their hill land in 1964/65 as Displaced Population (D.P). Moni Chakma (aged 65 or above), an ex-commander of Shanti Bahini, received an allotment of 5 acres of hill land as an incentive offered to those who surrendered to the government in 1983. He planted three thousand *shegun* (teak) tree saplings on that land. When Bengali settlers came back in 2006, some Bengalis took *dakhal* over his land. He went to the Headman with his complaint, but the Headman told him to stay quiet. Later, he went to the Zone commander of the Khagrachhari Army Zone. The zone commander said he would ‘see it’, meaning he would solve the matter, but did not take any measures. Moni received 8,700 taka as compensation from the Land Office in the presence of the magistrate when his land was acquired by the government to construct the Rangamati-Khagrachhari highway in 1987/88. He showed me his land title and that receipt of compensation as evidence of his ownership. He was also paying tax to the Headman for that hill land (categorised as grove land) when I interviewed him. In 2008, he took out a loan from Bangladesh Krishi Bank, a government bank that gives loans to farmers, by mortgaging his plot (after he lost possession over the land). This bank document and tax receipts (*dakbila*) were kept as evidence of his ownership of that land. He made a claim on the land based on having been a commander in Shanti Bahini and the political history leading him to surrender to the government, his allotment document, the trees he had planted (which he was not allowed to cut to sell by the Bengali occupiers), the compensation he got for his land, the bank loan document and tax receipts.

The majority of households with land titles (6 out of 9 households) had not gone to any of the state institutions – army, bureaucratic administrative or legal- to gain back their land. They said they collectively tried to resist (see Chapter 8) and that they would wait for the Land Commission to function to settle their dispute. Apart from Moni Chakma, only two others had taken some measures. One of them was Nirob Chakma, who had submitted a petition to DC with complaints multiple times, and Shapan Talukdar who had made a contract with a Bengali *dadal*-leader to recover his possession over the land through a court settlement of dispute (see section 9.4). Even though their lands were legally owned, in losing their *dakhal* or in their attempt to gain back *dakhal*, accessing government institutional actors (military and bureaucratic) had proven futile.

Having legal titles enable hill people to take their claims to institutions such as the Headman (Moni), Army Commander at Zonal office(Moni), and DC office (Nirob). Moni Chakma explained that he had lost possession over his land because it was by the side of the road and opposite the army camp, which made it possible for the Bengali settlers to settle in and to maintain/gain *dakhal* by having military protection. On the other hand, households without title for their hill land had maintained *dakhal* partially (Kalpa or the *samity* members) through contestation and negotiation because their plots were a bit far from the road. As such, based on Chakma experience, it is the distance of the land from the road/army camp and the Chakma owners' home that matters in having control over land, more than having legal claims in order to maintain *dakhal* over land, as legality does not shape dispute processes, highlighting why *dakhal* is central to land struggle in CHT.

9.2.2. Conflicts over Homestead land

Three households in Chakmachari were having conflicts over their homestead plots. All these households were landless and living on land owned by others. For instance, Sen was living on the land which was given to him by Ranga who, as a D.P, got allotment of their *tila* (Chapter 5). In 2010, a Bengali filed a case at the Land Commission accusing Sen for illegally occupying that land. Sen went to the Land Commission office twice for a hearing. He submitted the local deed in which Ranga's son declared giving him that plot to build a home. He did not know what happened to the case afterwards (LC has not functioned since 2010). Two other families moved into the plot where their parents lived, when the land on which they lived was taken by Bengalis.

9.2.3 Conflicts over Plough Land

Barakat et al. (2008) found that in Khagrachhari district, Bengali and indigenous households possessed almost equal amount of agricultural (plough) land (around 45 decimals).¹⁵⁷ Bengali settlers were not granted plough land by the government; however, my findings also suggest that increasingly, since 2005/2006, Bengalis started owning plough land both in Chakmachari and Banglachari.

Bengalis gain plough land in two ways: firstly, Bengalis gain access to plough land by taking lease or taking land on share cropping contract from a hill person. Once they have access to the land,

¹⁵⁷ Barakat Abul et al. (2008), Socio-Economic Baseline Survey of Chittagong Hill Tracts, conducted for UNDP-CHTDF by Human Development Research Centre (HDRC), Dhaka.

they gain and establish *dakhal* by controlling the owners' access to the land, by refusing to evacuate and by denying the owners' claims over the land. For instance, Om's (the Chakma interpreter and research assistant in this study) father was forced to give their land to a Bengali on a share cropping basis (see Pratik's case below). Two years previously, the Bengali share-cropper had damaged the dam built by Om's grandfather which was used for irrigating their plot in past. During the time of my fieldwork, the Bengalis installed a deep tube-well on that land despite Om's father raising objections. Om told me he would go and break that tube-well, but he didn't as his father feared conflict. It was made clear that the Bengalis would not move out of their land even though Om's father did not want to give them the land for share cropping any longer. The fact that the Bengali sharecropper was making investments on their land by installing a tube-well indicated that Om's family was gradually losing control over the land and Bengalis gained *dakhal*. Damaging the small dam or *goda* also meant that Om's family was losing the signs of their *dakhal* claims. All the households (9) that owned plough land in Batchari *mauza* were having conflicts or *vejal* with Bengalis, as their lands were next to Bengali settlement areas or *para*. Most of them (6 households) stated that they were forced to mortgage their land to Bengalis, as Bengalis prevented them from cultivating their land. They lost possession or *dakhal* gradually (as shown in Om's case). Pratik Dewan sold his land to a Bengali in 2012, for being 'coerced and tortured'. He owned that plough land with *Khatian*, which was issued in 1964/65. The Bengali living on the hill next to his land had destroyed his crops a few times. Bengalis used to defecate and also let their cattle and chickens to graze on his plot. They cut the *badh* or small dikes on his rice fields at night to drain out the water from the field; after they had spent money, time and labour to irrigate those rice fields. In the end, he had to sell the land to that Bengali for one third of the market price. Only Shantash Chakma (aged over 45), out of 9 families that owned plough land with legal titles in Batchari mauza since the 1960s, was cultivating his plough land. Although he was clearly tired of the everyday struggle to retain his *dakhal*, he told the Bengalis who were trying to take *dakhal* - 'grab my land killing me, but do not to tell me to sell the land to you', since his land was his only source of livelihood and was his ancestral land.

The other way in which Bengalis take or try to take *dakhal* is by making claims that the plough land falls within the hill plot allotted to them by the government. In Chakmachari and in Banglachari, a few cases were found in which Bengalis claimed to own plough land with *kabuliyat* that they received in 1983 from the government. For instance, in the cases of Ronmoy Chakma (see section 9.3.1) and Amol Dewan (see section 9.6), Bengalis took *dakhal* over their land, claiming those lands fell within the plots allotted to them by the government. The cases show that although Bengali settlers were not allotted plough land, they were mainly gaining plough land by gaining *dakhal*. In gaining or maintaining *dakhal*, people use various strategies; people try to avoid physical fight or harm, to avoid ethnic clash (see Chapter 8).

9.3 Land Dispute Processes: Contestation through Negotiation

This section discusses how land disputes mapped out in previous section were settled or not settled. My findings suggest that in most cases of disputes, property in land, is formed through negotiations that takes place at village level in social meetings.

9.3.1 Contestation through Informal Negotiation

Among 26 cases of conflict over hill land, in 14 cases Chakmas tried to settle contestation over their land by 'going to Bengali leader'. All these households (owning hill lands without title), were having on-going conflicts over partition and negotiations with Bengalis who partially occupied their land. These negotiations were referred to as *bichar* i.e. trial or meetings. *Murubbis* from both communities attended the *bichar* meetings. The *murubbis* from the Chakma community usually include the Headman, the *karbari*, elderly or respected members of land owning families, members of the local Union Council¹⁵⁸ and members of political parties (both hill and national parties). The *murubbis* from the Bengali community consist of the Bengali leaders, members of national political parties, and members of local Bengali political organizations and ex/members of the local Union Council. Besides, the neighbours or kin of the disputants often remained present in the meetings or *bichar*. In these *bichar* meetings the actors usually speak in Bengali. Most of the Chakma *murubbis* in Chakmachari village can speak Bengali quite well. Some Bengali leaders can also speak Chakma.

Negotiations take place at multiple levels and multiple times. For instance, in the case of Jagat, the boundary between his plot and part of the land occupied by a Bengali settler, had been negotiated twice since 2006. In 2006, when a Bengali named Hamid settled on their land, Jagat's father had gone to the army camp. Hamid (Bengali broker-leader) occupied approximately one acre of land within their two acre plot. The Major of the local army camp came to the spot, marked the boundary between the plots and told Hamid not to move onto Jagat's plot. In 2008, after the army Major left the local camp, Hamid started to occupy more land within Jagat's plot. Jagat asked the Headman and Bahar (a very influential and original/old Bengali broker-leader) for a *bichar* meeting. In that meeting, according to Jagat, Hamid was given the land that he acquired crossing the boundary (which had been previously set by the Major) and Jagat lost part of his land again. A new boundary was created by cutting a narrow drain between two plots and that boundary was determined by Bahar. When I interviewed Jagat Chakma in December 2013, he mentioned that Hamid was again trying to occupy more land, pushing the boundary determined by Bahar. In April 2014, Jagat found that Hamid had filled in the drain and expunged the partition between the two plots. Jagat did not take action, because he thought if he called

¹⁵⁸ Local government institution.

Bahar for another meeting, Bahar would 'give more land to Hamid'. However, if Jagat was able to give Bahar some money then Bahar would decide in his favour, but it would not resolve the problem or *vejal* permanently since Hamid would try again.

In cases of disputes over plough lands, before selling land (Pratik), moving out (Ronomoy) or going to court (Amol) multiple negotiation meetings were organized to settle their conflicts. Ronomoy's land was occupied twice by two different Bengali settlers. The land was first occupied by a Bengali called Jakir. Ronomoy called for a *bichar* meeting to recover *dakhal*. The meeting was attended by the Headman, the *Karbari*, Bengali leaders and a few elderly important people from both communities. In the *bichar*, the verdict was given in favour of Ronomoy since his document was strong. He had *khatian* for the plough land registered in his grandfather's name in 1964/65. Jakir threatened to file the case in court, but did not. A year after, Ronomoy's land was occupied by Hamid (the same person who was in conflict with Jagat). Hamid claimed that Ronomoy's plough land fell within the *chouboddi* demarcated in his *kabuliyat*. Despite Ronomoy's education (BA) and political connections (member of local Union Council and ruling party-AL) he could not maintain his *dakhal* over his plough land. He did not try to arrange another *bichar* or go to court because Hamid was a B.N.P leader, was a *mastaan* i.e. 'violence professionals' and knew people at police station and court well. Moreover, Hamid had been to jail and also had 'good network with army camp'.

Disputes between Chakmas and Bengalis are in most cases taken to village level i.e. *bichar* meeting for settlement. The outcome of *bichar* meetings are different based on the actors' position in the local power structure, which to a large extent depend on access to institutions and political parties. Ronomoy's case shows that while he recovered possession the first time it was occupied by a Bengali, the second time he lost *dakhal*, since the Bengali who occupied his land was a leader, member of BNP and a political *mastaan*. It also shows that contestation over partitions recur and land disputes are not settled once and for all.

The plough land ownership process of Bengalis shows the role of *dakhal*, of power and of the ability to influence power in gaining land. In Banglachari, among the respondents, those who managed to own plough lands with titles were found to be leaders. Ronomoy's stated that the Bengali settler's claim over his plough land categorised as '1st class land' was established through Bengali's *kabuliyat*, in which they were only allotted hill land categorised as '3rd class land' show it was about power – the Bengali leaders' power to mobilise support within their community and at institutions, and the power of the state.

9.3.2 Negotiation through Coercion

Analysis shows a pattern whereby Bengalis gain *dakhal* and ultimately legal ownership of plough lands, illustrating that power to coerce or compel is required for contestation through negotiation in the local context. Once Bengalis gain possession over plough land they attempt to buy up those plough lands to own the legal titles or *khatians*. The Bengalis who owned plough land in Banglachari were leaders, brokers or worked with VDP. For instance, Abdul Hafiz who was a VDP commander and original leader, owned half an acre of plough land. He bought 2 acres of hill land from a Bengali settler (who got allotment from the government). He stated that half an acre of plough land fell within his plot, although a Chakma owned that land with title. He first took mortgage of that plough land in an arrangement called ‘*tita bondbok*’, a long-term mortgage contract. He managed to gain *dakhal* because it was next to his hill plot and was on the ‘inner side’ of Banglachari. After that he claimed that the land fell within his hill plot and he was the rightful owner. He told the Chakma owner that he could either sell the land to him or wait for the land survey to declare who among the two was the legitimate owner. According to Hafiz, that Chakma man was ‘*niriho*’ i.e. simple/non-violent and was not one of those hill people who create trouble¹⁵⁹. He begged Hafiz to give him some money in exchange for the land. Hafiz bought the plough land from that Chakma for half the market price, according to him, ‘without coercing, through negotiation’ i.e. ‘*aposh*’.

The fact that he took out a long-term mortgage in the beginning suggest that the Chakma person was in *dakhal* over the land. Hafiz took the land as mortgage first, got *dakhal* over it, then claimed it as his property and eventually bought it with title. Throughout the discussion, he stated that he legitimately owned the land with title, so I asked Hafiz why he had spent money buying land that he owned with title already. Hafiz said it was because the Chakma person begged for it and then Hafiz said ‘His [the Chakma person’s] land document was *khatian* and he got the allotment first [1962], so his document is real [stronger]’. While describing to me Hafiz could also see the dissonance in his narrative by making legitimate claim over a land as state granted property and then buying up the land to gain valid document from the ‘real owner’. As a way of giving an explanation, he said that this was actually a case of ‘double settlement’, which occurred because of corrupted or ‘evil-minded’ or *saitan* Bengali leaders who tried to give Bengali settlers plough land which Bengalis were not supposed to get legally. He could have retained *dakhal* over the land without buying up but that he would not get ‘real’ ownership. It was not for the land, he

¹⁵⁹ The hill political parties set a rule for the hill people not to sell out land to Bengalis. In Chakmachari, few people mentioned about the rule, but they said when someone is left without option, the rule is flexible. In Banglachari, the Bengali leaders said that the ‘*bhetor party*’, which means ‘parties inside’ or underground, tell the hill people ‘don’t move a inch out from your land, otherwise you will be killed’. For Bengalis, these ‘*bhetor parties*’ are one of the obstacle in buying up land from hill people.

paid the Chakma person to conduct the land mutation process to get the stronger and valid title in his name.

Hafiz narrative shows how the negotiation was forced by taking *dakhal* and by having the capacity to maintain his *dakhal* till a land survey take place. In cases where Bengalis gain *dakhal* and claim to have title for the land, they buy up or try to buy up the plough land in order to own *khatian* to gain secure landed property in CHT. The land mutation process involves authorisation from all institutions (including Headman) and having *khatian* enables them to own secure landed property in CHT. Unlike *kabuliyat* given by the government to the settlers, the legitimacy of which is challenged (see Chapter 8), *khatians* is a strong land document.

9.3.3 ‘Formal’ Negotiation: the Shanti Committee

Negotiations to settle land conflicts between Bengali settlers and hill people are also initiated by various state institutions. When Chakmas attempted to resist the re-settlement of Bengalis in the *mauza*, in 2006, a meeting was held at the D.C office at which the DC, OC, TNO, and Bengali political actors from both national and local political parties pressed for creating a committee to settle land disputes that emerged at Chakmachari *mauza*. The Chakma leaders of the collective resistance movement which included members of JSS and UPDF, members of citizen committee, rejected the proposal because there was nothing to negotiate as the lands belonged to the Chakmas and Bengalis needed to be moved to another place. Besides, they stated that since a Land Commission was being established by the government under agreed clauses of the CHT Accord, creating another committee would be contradictory and create conflicting authorities. A committee was still created where almost all the members were Bengalis and no hill person involved in the resistance movement participated in the committee. The committee eventually failed to function.

Although the bureaucratic administration failed, in 2007, the army succeeded in creating the Shanti Committee or Peace Committee in Dhanchari *Mauza* (opposite Chakmachari across the river Chengi). 2-3 hill person or ‘*upajati*’ including the Headman and 6-8 Bengalis who were all referred to as ‘respected or well known’ people (based on 5 minutes of meetings of the Shanti Committee collected from a Bengali leader) participated in the Shanti Committee meetings

From the Bengali point of view, the Shanti committee was effective in settling disputes, managing to re-settle Bengali settlers in Dhanchari in almost 90 per cent of cases. It worked mainly by negotiating compensation for the hill people in cases where a hill person had trees planted on lands occupied by Bengalis; they also settled partitions between plots belonging to a hill person and a Bengali. Bengali leaders claimed that their authority and decisions in settling disputes were abided by the hill people as they realized the need for negotiation to live in peace

as neighbours. However, according to hill people, negotiations were imposed and hill people complied with orders from the military to participate in these meetings. According to the Union Council Chairman of Dhanchari, a Chakma, hill people were forced to become part of the committee during emergency rule in the country. When this period ended in 2008, it dissolved as the hill people refused to participate in the meetings. The Bengali members of the Shanti Committee said the hill people were told by their political parties not to participate. Atia said, 'They (hill people) have another 'administration' (hill political parties), they instructed the Headman and others not to come to the meetings.' This shows how the army was perceived as being further empowered during the emergency period and how national politics as well as hill political parties matter in shaping land conflicts at village level (Chapter 8). It also shows organizations, such as the army or hill political parties continuously contesting over territorial control in determining who can own land in CHT, influencing individual Bengalis' or hill people's ability to own land.

9.4 Institutions Involved in Land Dispute Settlements

This section highlights the role of institutions involved in land dispute settlements and the dynamics of authority relations. As discussed above, the institutions involved in dispute processes are: Headman, Bengali leaders, the army, the deputy commissioner's office, courts and the Land Dispute Resolution Committee.

9.4.1. Role of the Headman

Traditional institutions consisting of a Headman and *Karbari* do not have formal authority to solve land dispute between Bengalis and Chakmas. In negotiation meetings, organized by disputants or institutional actors, the Headman's presence is considered essential. However, the Headman's authority in land distribution, allocation and maintaining records was recognised by disputants of both community and authorities. On the other hand, analysis of dispute processes suggests that although the Headman's presence was essential, his role was limited to verifying land claim made by the Chakmas, supporting the Chakma claimants and witnessing the negotiation outcomes. Like Jagat, most Chakma respondents mentioned that during the *bichar* meetings the Headman usually 'stayed quiet'. According to the Headman, in the *bichar* meetings his endorsement or verification of Chakmas' land claims were 'never heard by the Bengali settlers and the leaders'.

In Chakmachari, both the Headman and *Karbari* had been called to the local army camp for *bichar* several times. At the military camps, according to them, hill people's land documents issued by the government before the Bengali settlement (1979-1983) were dismissed as being 'obsolete'

and as having 'lost temper'. In such cases, Headmen and *Karbari* had to stay quiet as both of them stated '*jor jar mulluk tar*' (see Chapter 8) and just watched the army's recognition of *kabuliyats* granted to Bengali settlers as valid in settling disputes between settlers and Chakmas.

9.4.2 Role of the Bengali Leaders

In *bichar* or negotiation meetings, Bengali leaders played a decisive role. Chakmas stated that the Bengali leaders 'can give/grant land' in disputes. Bengali leaders had more authority in settling disputes or *vejal* because the Bengalis were bound to listen to their leaders, not to the Headman. The support a Bengali could derive from their leaders was essential to get the decision in his favor in land disputes.

All Bengali leaders did not have the same capacity to influence a dispute (within and between communities) and exercise authority. In Chakmachari, Bahar (leader) was considered the most powerful and influential. He was an old leader (selected by the authority at the Haji camp), a *dalal* (broker) and leader of BNP. In *bichar* meetings, the presence of Bahar was considered essential in making decisions and distributing lands between disputants. Although Bahar-leader could influence most negotiations and was considered an influential leader, his authority to control people and land within the Bengali community was challenged by other Bengali leaders. Competition, fragmentation and coalition among Bengali leaders also played a role in Bengalis' ability to *dakhal* land in cases of disputes between Bengalis and Chakmas (see Shapan Talukdar's case in section: 9.4).

9.4.3 Role of Army

The army in the local camp in Chakmachari played a role in recognising land property (Jagat's case) and authorising land titles (Shufol's case in Chapter 8) in cases of disputes. All Bengali respondents in Banglachari went to camp multiple times to settle land disputes or gain *dakhal* over land. In contrast, in Chakmachari, in cases of overlapping claims between the Chakmas and Bengali settlers, only 4 Chakma persons went to the local army camp to make a complaint. The Bengali settlers described the army commanding them to go to the hills, following them and then staying to help them gain *dakhal*.

The role of the army in property governance has shifted in different periods. In 2006/7 the army exercised power in shaping dispute processes by establishing the Shanti Committee. Besides, land disputes were also settled at the informal military court. In Banglachari, according to the leaders, land dispute cases were settled in the camp by the Major regularly and leaders stated that for days they stayed until midnight in the camp to settle land disputes during the emergency

period. The land dispute However, military orders were not always executed at village level, particularly in cases where the disputed lands were a bit far from the camp, according to Bengali leaders and disputants. After re-settling Bengalis in the settlement areas, since 2008, the army has lowered their direct involvement in settling Bengalis physically and also in dispute settlements, and ‘the camp’ in some cases ordered disputants to leave all disputed land empty and to wait until the government land survey had been carried out. This apparent shift in the role of the army has been frustrating and confusing for the Bengalis. Since the establishment of the Joint District Judge court in Khagrachhari, it was possible to take land conflict cases to court (Amol’s case) and challenge the army’s authorisation over Bengalis’ property claims. The army’s authority was contested by the hill political parties in the case of the Shanti Committee, which was dissolved in 2008.

9.4.4 Courts

Two courts where land related cases are resolved are- the Additional District Magistrate court and the Joint District Judge Court, as mentioned in Chapter 6. In the following section, I discuss dispute cases taken to the courts from Chakmachari.

9.4.4.1 Additional District Magistrate (ADM) Court

As described in Chapter 6, the ADM (Additional District Magistrate) court is presided over by the Additional District Magistrate. At the ADM court, land related cases are lodged for relief under penal code 145¹⁶⁰ (under the Code of Criminal Procedure 1898) and few cases were logged under penal code 133. Most suits filed by the petitioners are to get relief for declaring their *dakhal* over land, to get a restraining order on the other party to access their land or to issue an order to the defendant to remove obstruction (under 133). In such law suits, the petitioner is required to have *dakhal* over his land and to prove that in court. Thus, *dakhal* enables the filing of lawsuits.

In Chakmachari, only Amol Dewan filed a case in 2007 to the Additional District Magistrate Court (ADM Court) at Khagrachhari under penal code 145 to recover possession of his plough land. He was wrongly advised by his lawyer to file this case, since Amol was not in possession of his land when he filed the case. Following the advice of ADM, he revoked the case from the ADM court and in 2008, filed a law suit at the Joint District Judge court (civil court), seeking a permanent injunction of the illegal occupier and declaration of title.

¹⁶⁰ Procedure where dispute concerning land or water is likely to cause breach of peace.

9.4.3.2 Joint District Judge Court

At the Judge Court, functioning since 2008 in the Hill Districts, the majority of suits heard every day were land dispute cases¹⁶¹ and the majority of these cases heard were between Bengalis. Two dispute cases were brought by Chakmacharis: Shapan Talukdar's case and Amol Dewan's case, both on-going cases during my fieldwork.

Shapan Talukdar's case: Bahar Leader vs. Mollah Leader

Shapan Talukdar's owned 5 acres of hill land, registered in his father's name with a *kabuliyat* issued in 1969. This land was by the side of the main road and had been occupied by Bahar-leader and 6/7 other Bengali families since 2006. To contest Bahar's possession over the land, Shapan made a contract with another Bengali *dalal*-leader named Mollah, who offered to run Shapan's case in the court against Bahar in exchange for 50 decimals of land from that disputed plot as a fee.

On paper, Shapan sold 50 decimals of land to Mollah. The transaction was registered in a local deed which was submitted as evidence of Mollah's ownership at the court. The suit was filed by Mollah as a plaintiff, accusing Bahar of occupying his 50 decimals of land bought from Shapan, demanding relief from the court to evict Bahar as illegal occupier. Shapan went to court twice as a witness to state that he had sold 50 decimals of his land to Mollah. The Headman also went to court to verify that the transaction was authorised by him in the local deed. According to Shapan, if Mollah won the suit and could establish ownership over 50 decimals of land occupied by Bahar, then this would simultaneously prove Shapan's ownership of the plot. This would make Bengalis' *dakhal* over his land illegal and Shapan would get back his land. Shapan agreed to Mollah's offer, because there was no hope of recovering possession. The only option was to sell to another Bengali who had 'power' to evict Bahar. No hill person would buy up that land, since they would not be able to evict Bengali settlers and leaders. Shapan did not want to sell the land because it was his ancestral land. However, in the end, his land was going to be owned by a Bengali, at least partially, if the lawsuit went the way he hoped.

Shapan's case shows hill people's *Kabuliyat* being used by a Bengali settler to contest another Bengali settler's claim. Ironically, this case lodged by a Bengali settler challenged *kabuliyat* issued by the government to settlers which weakened settlers' claim that they were only granted empty land. Not only Bengali settlers but the state actors repeatedly denied any case of 'double-settlement' claiming the allotment process was legitimised. Shapan belonged to the most land rich family in Chakmachari and was an ex- member of the Union Council (Local government institution). Despite being educated, he did not run the suit for his land by himself because, he

¹⁶¹ From 18th until 23rd May 2014, between 31 to 37 cases were heard every day, of which between 21 to 32 cases were land dispute cases.

said, he lacked knowledge about court procedures, access to lawyers, offices (institutions) and institutional actors. Besides, Shapan stated, a hill person's land claim was unlikely to get validated at the court as judges were Bengalis who were unlikely to go against the Bengalis' interest. Besides, Bengali judges also owned land in CHT (Chapter 6), so they had a vested interest in the matter.

Land contestations are not just between individuals or between two ethnic communities; the state institutions as well as the state actors are parties with interest and objectives. This case shows how Chakma and Bengali individuals actively manoeuvred ways to retain or to gain land within this context. Shapan stated that he adopted this strategy in despair as his back hit the wall; however, as a citizen he did not consider claiming his legal entitlement in court. This shows that Bengalis are perceived as having a better chance to win a case than a Chakma person, not because of Bengalis' knowledge and access to legal matters, but because of his ethnic identity, since ethnic solidarity and mutual interest of Bengalis shape the legal process at every stage in the courts. On the other hand, Bengalis access legal courts as citizens, as individuals with disputes and also, collectively, to protect their land being acquired by the state (Chapter 8).

There has been an increasing trend involving Bengali *dalals* making contracts with hill people to make their land 'free from possession' (*be-dakhal*) in exchange for land as a service fee. Shapan's case shows Bengali leaders competing over hill people's land by working as brokers or *dalals* to eventually gain land.

Amol Dewan's case

Unlike Shapan, Amol took dispute over his plough land to the legal court. Rahim, as a Bengali settler, obtained 3 acres of hill land from the Government under the settlement project in Batchari. However, he took possession over 5 acres of land with that title, including Amol's plough land. He took complete *dakhal* over Amol's land in June 2008 by restricting Amol's cultivation of his land. Rahim also raised a complaint against Amol at the local camp. Amol went to the camp with his *khatian* and tax receipts since his 'father's time'. He showed his documents to the *Subedar* (non-commissioned army officer), who stated that his papers had lost 'temper' and threatened that 'If you still give them [Rahim] any trouble, I will hang you upside down and hit you'. After that, Rahim started cultivating *aman* rice (wet rice) in Amol's land.

In 2008, Amol Dewan filed lawsuits at the Joint District Judge court seeking a permanent injunction against the illegal occupier and declaration of title. During my fieldwork, Amol missed hearings at the court because he could not bear the expenses. He wanted to bring a Bengali leader as witness to verify his ownership of land but could not, because that would have cost taka 1000. Amol said 'What does a *subedar* know about land paper? My land title was issued in the Pakistan period, how he would understand its value and be able to judge! Camp gave the land

to Rahim and he is running expenses at court with the money from cultivating my plot'. His family and others in the village thought it was pointless to run a law suit as he would never win.

Amol Dewan was hopeful about winning the case because he owned the plot with a *khatian* issued in 1964 and a field-map or *math-kehashra*. In June 2014, for the final hearing at the Joint District Judge court, Amol managed to bring the Headman as witness. I observed this hearing. Amol's lawyer submitted the *khatian*, field-map and tax receipts as evidence of Amol's ownership. Rahim's lawyer submitted the *kebuliyat* and a document of compensation received for his land, which was acquired by the government to build the Khagrachhari-Rangamati highway, as evidence of Rahim's ownership. On that day, Amol as petitioner and the Headman as witness were questioned by the defendant's lawyer. While questioning Amol, the lawyer emphasised *chouboddi* or the boundary description of the plot to determine whether Amol's ownership claim was valid. When he asked Amol to state the *chouboddi* or schedules of boundary for his plot, he insisted that he owned *Khatian* with a *dag* number and that the *chouboddi* was not needed to identify his land. However, as the lawyer and judge asked him again, he mentioned the *chouboddi* of his land which was stated as a road, a dam, his own plough land plot and land plot of Nayan Chakma on four sides. The lawyer then stated that the *chouboddi* of his client's land (Rahim's) did not mention the dam. Moreover, Rahim's plot's *chouboddi* referred to a mosque (as mentioned in Chapter 7, building a mosque can be useful to mark the boundaries of a plot) on one side, which was not mentioned in Amol's document. The lawyer then asked Amol if there was a mosque on the west side of the disputed plot. Amol replied 'yes, but it was built later when the Bengalis arrived'. The lawyer insisted he answer either 'yes' or 'no'. When Amol said 'yes' the lawyer said the description matched his client's i.e. Rahim's plot's *chouboddi*, therefore, Rahim's land document was the correct one. Since the *chouboddi* described in Amol's document did not match, Amol's claim was declared invalid. Finally, the defendant's lawyer stated that as the *chouboddis* for the two plots were different, it was not the same land and Amol was trying to occupy Rahim's land with a false document. The judge also probed Amol by asking 'The *chouboddis* in two documents of the plot are not similar, how can you claim it is the same land?' Amol tried to explain that the *chouboddi* demarcated in Amol's paper was written in 1964, the mosque was built later and Rahim turned the dam (mentioned as *chouboddi* of his plot) into a road. He said 'Rahim made his *chouboddi* inside my plot'. The Headman, who was then questioned as witness for Amol, stated that the land was owned by Amol's father with *Khatian* whose family had cultivated it since then and that the plot had been occupied by Rahim since 2008, which resulted in the dispute. Below is the questioning of the Headman by the defendant's lawyer regarding Rahim's ownership claim to that plot,

Lawyer: Do you know Rahim?

Headman: Of course, I know him.

Lawyer: Do you know the disputed plot?

Headman: Yes.

Lawyer: Government allotted the land to the defendant in 1982/83. Do you know that?

Headman: They received allotment without our report [recommendation for allotment application].

Lawyer: Do you know that or don't you?

Headman: I don't know about government's allotment of land to Rahim. I did not give any report.

Judge: What? Did you say that you did not know [you were not informed] when the Bengalis were allotted land?

Headman: No. I don't know if he got allotment from the government or not.

(There was a silence. Both the judge and the lawyer seemed unsure about how to respond to that declaration. As the lawyer had no further question, judge ordered the Headman to step down.)

A month later, the judgement of was delivered in court and Amol Dewan lost the suit. Rahim won because Amol failed to identify or give identification of his land (based on *chouboddi*), Rahim's *dakhal* over the land (since the time he received allotment) was proven by the account of witnesses. The document of receiving compensation following the government acquisition of Rahim's land was taken as evidence of ownership.

Amol Dewan's case reflects the ambiguity of land records management in CHT resulting from the process of carrying out the Bengali Settlement Program. According to the surveyor at the sub-district Land Office in Khagrachhari, a separate register book was opened to register the land allocated to Bengalis and their *kabuliyat*. The hill people's *kabuliyats* and *khatians* are recorded in a different volume. It was also not possible to check from these two different volumes or records if these two titles overlap. It was only possible to find out whether they were claiming over the same plot if the boundary descriptions match. However, the *chouboddi* descriptions of Amol's plot did not match the *chouboddi* described in Rahim's *kabuliyat*. The Bengalis' *kabuliyat* only mentioned 'plough land' if there was plough land on one side of the plot, not the owner's name. Therefore, from Rahim's documents, it was impossible to know whether Amol's or Nayan Chakma's land was next to Rahim's hill land.

Rahim won the lawsuit though he had a land title i.e. *kabuliyat* proving that he had been granted 3rd class land or hill land, while the disputed land was plough land. The state granted hill land to Rahim as a settler and the state gave compensation to Bengali settlers for acquisition of land based on settlers' land documents (regardless of whether Bengalis were living on that plot or not). This compensation document was considered stronger evidence of Rahim's ownership over land which was a plough land than the *khatian* owned by Amol. Amol couldn't show evidence of compensation from the government, he lost the lawsuit. This shows that through various state institutions (Land office and Court) Bengali property claims are reinforced and their property rights are established.

Institutional competition manifests power relations 'by making use of a certain structure of entitlements, which sanction certain claims while eroding others' (Lund 2008). In the final hearing of the trial, the Headman contested the government's authority to grant land titles to Bengali settlers by declaring his consent had not been sought when giving land allotments to the settlers. This statement challenges the legitimacy of all the titles given to settlers in Chakmachari *manza*. Various institutional actors mentioned in interviews that in absence of a '*khas khatian*' or 'record book for government owned land' in CHT, the Headman's report was crucial in allocating land to settlers, because it was only the Headman who could verify if a land was empty or not. This was also stated by the judge describing the land management system in CHT. However, the Headman's endorsement of Amol's land claim as valid was undermined in court. The case shows the state's legal institution undermining the traditional institution's authority.

Ambiguity in land ownership, as discussed in Chapter 4, became apparent in land disputes in court, because of two different titles (*Khatian* and *Kabuliyat*), two different system of identifying plots (*dag* number and holding number), recording land documents in two different volumes and with *chouboddis* or boundaries identified at different times. Shapan's case also reveals the complexities of land allotment and property governance in CHT. The bureaucratic authorities and judicial actors described their work as nothing more than upholding rules and laws which largely depend on scrutinizing papers and documents submitted as evidence. However, the decision to validate a certain land document is not based on strict rules. Amol owned the plough land with *Khatian* and Rahim as settler was not granted plough land. Moreover, emphasizing *chouboddi*, which weakened Amol's claim, shows that legal dispute processes over land are neither neutral nor apolitical. The case shows that the law's objectivity and neutrality are questionable in the context of ambiguity in land systems and records, leading to the erasing of certain forms of property rights and the circumvention of the authority of certain institutions.

Institutions do not settle the disputes or grant property in land once and for all. Among the Chakmas in Chakmachari, only three people (Nirob, Amol and Shapan) took their disputes to state institutions. Disputes were only getting settled formally in court. However, the court's

verdict was also not perceived as permanent nor does the court sanction permanent property in land. Like everyone else in Chakmachari, during my fieldwork, Amol was also waiting for the Land Commission to function, as he then intended to re-open his dispute case by filing his petition to Land Commission. Land disputes between communities show that land dispute processes remain open for negotiation and property formation is influenced by on-going political contestation and changing authority dynamics in CHT.

9.5 Conclusion

This chapter has discussed how people claim, compete and own property in land within ambivalence in the legal and administrative systems in CHT. It highlights the state formation process by showing the dynamics of authority and contestation over land through which property is produced at the local level. However, it shows that dispute processes have evolved largely outside of the state formal legal-administrative system through contestation over *dakhal* i.e. forceful or physical occupation over land and negotiation meetings by actors with informal authority at local level. It is shown that contestation over landed property centres largely on contestation and negotiation over having *dakhal*. Coercion and violence also play a role in determining who can have *dakhal* and thereby, in property formation.

Disputes are taken to the army, in meetings/*bichar* (Headman, leaders and claimants) and in very few cases, to the court. Who goes to which authority depends on ethnic identity: Bengalis access courts and the army more than hill people. Chapter 5 illustrated that inequality in accessing land within the Chakma community corresponds to inequality in accessing institutions, which in turn, depends on one's class position, education and lineage. However, for a Chakma person, having greater access to institutions than other Chakmas in the village does not enable or increase their ability to recover *dakhal* or to secure property in land, when that land is occupied by a Bengali.

There are formal and informal authorities involved in land allocation and dispute settlement. There is also contestation among institutional actors exercising formal and informal authority (Army vs. Headman). At the local level, despite the Headman having formal authority, the army recognise property in land without having formal authority. Their recognition of land claims as property consolidates their authority and establishes the state's authority. The Headman's capacity to exercise authority and to compete for authority in land control, varies. In negotiation meetings, at the village or at the camp, the Headman's authority in decision making was not effective; but the Headmen contested government's authority (bureaucratic and court) to allocate land to Bengalis as settlers by not taking tax from the settlers or by calling their title 'banana leaves'. Moreover, the Headman in Chakmachari influenced the dispute processes by giving recommendation papers for the allotment application to Chakmas who did not own their hill lands with titles (see section 9.3).

The state's control is being consolidated through various institutions. In the past, mostly by the army. At the time of writing, through the army's, the courts' and bureaucratic institutions' role in land conflicts and dispute settlements as well. However, the dynamics of authority in land control at the local level shows that who has the authority to sanction access, legitimacy and control over land is not settled in CHT. Dispute processes are influenced by and influence political contestations. Within the existing uncertainty and ambivalence regarding the settlement of disputes, Bengalis, particularly those who were capable of accessing institutions, law or mobilizing power, were the ones who were gaining land.

Chapter: 10

Conclusion

This study has provided an ethnographic account of land disputes within and between two communities, the Chakma and the Bengali, with a detailed analysis of institutional (state and non-state) set up and ongoing political conflict within which these disputes have been taking place in CHT of Bangladesh. My study is based in the Khagrachhari district of CHT, where between 1979 and 1983, the government settled Bengali people under the settlement programme. In exploring the formation of property, authority and identity relations, an ethnographic approach is employed. I have used land dispute process as lens to examine people's claim making, repertoire of rules, actual property practices, the authorities involved in dispute settlements and outcomes. My study explores property relations and property governance within the context of multiple identity claims, contested normative and legal orders in legitimising property and authority claims. The study also presents a detailed historical account of state-making in CHT by outlining the processes through which colonial and post-colonial states attempted to exert control over population and space. CHT remains a frontier because of the distinctive legal and administrative systems, the existence of two different property systems, ongoing processes of reconfiguration of institutional arrangements in land control and ethnic mobilisation which challenges the state's attempts to control and to define land relations, territory and population. By focusing on land contestation within and between communities and by taking a processual approach in understanding major concepts that are employed for analysis, my study provides an account of recurrent and interrelated processes of constitution of property, authority and identity relations in a frontier region, which has also been at the margin of the state historically.

In this thesis, following the chapters on theoretical framework, methodology, history and context, the first empirical chapter analysed land dispute processes within the Chakma community (Chapter 5). The following empirical chapter (Chapter 6) discussed how disputes emerge, evolve and get settled within the Bengali settler community. The last three empirical chapters (Chapters 7, 8 and 9) explored cases of land disputes between hill people and Bengali settlers and how land claims invoke and influence notions of identity and authority. This concluding chapter aims to draw together the main findings and themes that have emerged creating the thread throughout my research.

CHT: A Frontier Region

In studying state making in CHT, a historical approach was adopted to analyse the state rules and policies, institutional set up and construction of authority (particularly related to land control) and discourses by examining territoriality and frontier dynamics. I have argued that CHT has

remained a frontier by showing that framing the region as empty/unoccupied land and inhabited by unruly/lawless subjects have persisted in state discourses since colonial times. Since the independence of Bangladesh in 1971, state discourses and policies show that CHT has been considered as a territory where the nation state's unitariness and sovereignty are challenged by the hill people's political demands. The state has never established full administrative control with a legible property system. After the armed struggle ended with the signing of the CHT Accord in 1997, a new property regime has been created, but the old property regime has not been replaced. I have argued that CHT is a frontier by demonstrating continual processes of reconfiguration of institutional arrangements and competition among institutions for authority, illustrating that the land governance in the region remains unsettled and the state is in the making. My study provides an account of emergence and continuance of ambiguity in the land-owning system, showing that the illegibility and ambivalence in the property system are constructed historically through political processes of the central state's imposition of certain property and authority structures, which have been/are being resisted by hill people, hill political parties, regional and traditional institutional actors. The historical analysis of state making in CHT has enabled to situate contemporary processes of formation of property, authority and identity within the historical processes.

Defining property in Land: Property rules and claims

The historical analysis and ethnographic data reveal that although the state introduced formal property ownership for plough land in colonial times, the customary norms of ownership over hill land have persisted. The Chakmas make property claims based on social norms which are derived from first occupancy, by putting labour on the land to make it cultivable and by receiving ownership from the previous owner. For Chakmas, *dakhal* or possession is the main idiom around which legitimacy of ownership claims is made, based on social norms. Chakmas make property claims by having land titles such as allotment documents (*kabuliyat*, *khatian*), Headman's recommendation for allotment and informal documents (tax receipts and local deeds). The social position of the actors (social status, lineage status, class, gender and kin identity) influences their ability to access the formalisation process and turn their land claims into property rights in cases of disputes within the community. My study finds that informal formalization processes regarding land documents blur the dichotomies between formal and informal authorities, practices and proof of ownership.

Dispute processes show that property rules, both statutory and customary, are negotiated, continuously interpreted and circumvented through practices and in people's claim-making. My study finds social norms of land ownership being contested and property relations based on Chakma social norms gradually being replaced. Chakmas make competing property claims based

on different norms (formal and social), various kinds of land documents, practices and varieties of authority sources, showing fluidity in constitution of property and authority relations as processes.

Among the Bengalis, individual property rights based on land titles issued by government is prioritised and considered as valid property claims. However, within the settler community, ownership based on legal titles are also challenged. For instance, within Bengali settlers' community, land rights also derive from having physical occupation, i.e. *dakhal*, over lands that belong to absentee settlers. Land claims based on *dakhal* over absentee's plots are legitimised by narratives of suffering of those Bengalis who stayed on the ground in Banglachari, fighting adversities. Land dispute processes show statutory property rules as fluid and the object of negotiation within the settler community. My study found that property rules, practices, dispute types and processes are specific to the settlement area and relate to the history of settlement and political conflict and settlers' experiences.

Property claims of individuals, in cases of disputes within the Bengali community, are linked to the authority of the leaders and the army. Legitimacy of certain land claims, rules and practices are changing in the post-Accord and post-emergency period in the settlement village. In Banglachari, Bengalis mentioned 'flaws and gaps' in the allotment process and their title as sources of uncertainty with their property in land. Bengalis also make land claims based on various documents, such as the headman's recommendation for allotment and local deeds. Inequality in land ownership among the settlers is growing because of changes in land use patterns and increased competition for land. Class identity and power relation matter within Bengali community, as poor Bengali settlers are losing their lands because of increasing numbers of land disputes which are being maneuvered and driven by the *dalals* i.e. brokers who are the local power holders. In recent years, 'people from outside' are buying up hill lands owned by the settlers, causing increased land prices, dispossession and land disputes.

Disputes between Bengali settlers and Chakmas arise when Chakmas claim to own lands, based on either social or statutory laws that are claimed by Bengalis as lands being allocated to them by the state under the settlement programme. I argued that land conflict in CHT is rooted in clashes between two different property systems since colonial times. My study shows that land contestation in CHT evolved/evolves within the contradiction between the state's property claim over most of the hill lands with the authority to acquire and to allocate land to Bengalis under the CHT 1900 Act and hill people's claim over those land on the ground based on customary norms of ownership. In cases of disputes between the Chakmas and the Bengalis, disputants' narratives and debates show that their competing claims and legitimisation narratives are situated within the clash between two different property systems. The state's and Bengalis' ownership of land legitimised by statutory laws are viewed and framed as a theft by the hill people who claim to have owned those hill lands for generations. While Bengalis perceive

Chakma claims based on social norms as absurd, and only being made in '*magher mulluk*' (meaning a territory with no rules or with absurd rules), the Chakmas perceive Bengalis' claims over lands that they have possessed for generations as unfair and manifest that '*gor jar mulluk tar*' meaning that 'the one who can employ power/force rules the territory'. The idiom '*magh er mulluk*' actually indicates the difference between the Mughal land system and local land system i.e. a clash between different property systems¹⁶². Both statements highlight the contradiction between the local land system and the state imposed land system, which is at the core of contestation over landed property (between Bengalis and Chakmas). The statement '*gor jar mulluk tar*' illustrates that property claims are viewed as intricately linked to the authority's control over territory or *mulluk*. Exercise of control is closely linked with the practices and processes constituting authority, the Chakmas see that the state exercise control through enforcement or *gor*. Here, *gor* i.e. power to enforce/physical force, is seen as a source of authority of the state to define and to sanction property in land, demonstrating it as an emic notion of authority.

Despite calling the CHT 1900 Act 'archaic' ('a rule from British period') and customary law of ownership 'absurd', Bengalis stated that the process of allotting land to them did not defy existing customs or the CHT 1900 Act. Land claims are also made by referring to the past as a source of legitimacy. The Bengalis depict the history of the settlement process and their struggle during the insurgency period in the past, while the Chakmas argue that the past is embodied in the land as the land contains the history of generations of Chakmas who have lived on and cultivated the land. They also refer to the past as tradition, emphasizing their traditional livelihood and rights over land.

The Chakmas' and Bengalis' narratives of land allotment processes under the settlement programme are contrasting and reveal the basis on which people legitimise their land claims, essentially by delegitimising the claims of the other. The main points of contention centre around the definition and demarcation of *kebas* land, adherence to existing laws in CHT (i.e. CHT 1900 Act) while allotting land to Bengali settlers and whether Headmen's recommendation were taken for the allotment of land to Bengalis. Institutional actors, traditional and bureaucratic, differ in narrating the process of settlement programmed and endorsing legitimacy to the process. The traditional institutional actors stated that their authority was circumvented by the government by allotting land to Bengalis and stated that the army administered this process. On the other hand, the state bureaucratic actors' narratives maintained that the land allocation process was carried out in accordance with the legal and bureaucratic framework as a development project, leaving politics or the political situation out of it. However, few institutional actors' narratives imply that the Bengali settlement programme was a political project which was carried out in a particular political situation and was largely administered by the army, maintaining that procedures and legality were not priorities for the administrators at that time. These contrasting narratives regarding the settlement process employed by institutional

¹⁶² This meaning of the idiom was communicated by Professor Willem Van Schendel in examiners' viva-report.

actors and disputants show discursive practices as part of the ongoing land conflicts. These are also important in the context of land politics in CHT to unravel how it is linked to larger political contestation over territory and recognition of identity.

The examination of dispute processes shows how property relations are not fixed. Local politics and dispute processes reveal that the authority of the state for sanctioning property in land is not given and legal titles backed by laws do not guarantee property rights. These are mentioned among other reasons why *dakhal* or physical occupation is central to owning land in CHT.

Dakhal

My study finds that land contestation between hill people and Bengali settlers centres around contestation over gaining/having physical occupation i.e. *dakhal* (both in the pre and post-Accord period). Gaining and maintaining *dakhal* depend on certain strategies, taking actions and existing on the ground, not just claim-making based on norms or titles. In the case of Bengalis, though granted by the state, their property in land is not given, it requires work. *Dakhal* is not static but needs to be maintained continuously. The *Dakhal* regime is constituted by the power and authority of both state and non-state actors, as discussed in a later section. Having *dakhal* means having ownership over a piece of land according to Chakma social norms and customs. Bengalis in most cases claim to have *de jure* rights over lands they took under *dakhal*. However, I found that *dakhal* also entails a process of gaining land as property which one did not own legitimately in the first place. *Dakhal* becomes a strategy to turn *de facto* possession into *de jure* rights over land, as the cases of contestation over plough lands demonstrate.

Dakhal, as a notion, provide a powerful lens for exploring and capturing how people are owning land in a situation where state rules and authority are ambivalent and contested. *Dakhal* depends on the local authority structure for endorsement, individual's/disputant's position in the local power structure and their ability to exist on the ground. There are certain practices and strategies in gaining/maintaining *dakhal*. There is no written rule that planting tree or using part of the land as a burial ground would enable claims to be made in cases of competing land claims between communities; however, these rules to maintain *dakhal* and strengthen land claims have evolved through practice.

Dakhal also depends on certain practices of the army (physical force i.e. *jor* and intimidation) to support Bengalis' possession over land and proximity of the army camp. During the time the Shanti Committee operated to settle land disputes in 2007, the *Dakhal* regime also involved the process of informal formalisation. The Shanti committee did not determine the ownership of the disputed plots; rather, the committee worked to divide the land plots among disputants for them to have *dakhal*. The Shanti Committee was established by the local army camp and consisted of Bengali leaders, Headmen and locally 'respected people'. It functioned by imitating some of the state practices such as, receiving petitions or applications from disputants, keeping meeting minutes, documenting the committee's decisions and sending copies to the bureaucratic

institution and local camp. Shanti Committee was dissolved in post-emergency period facing opposition from hill political parties. As a consequence, people whose *dakhal* over land were determined and negotiated by Shanti Committee turned unstable. This shows how the *dakhal* regime is constituted through contestation and negotiation among various authorities. *Dakhal* shows that local processes of constitution of property in land is not linear in a contested territory and involve variety of authorities influencing, and in turn, influenced by unstable property regime. The centrality of *dakhal* in owning land in CHT, as described by both hill people and Bengalis, also shows that land disputes between communities are intricately linked to the state's territoriality which is contested in CHT.

The Dynamics of Authority

Exploring the constitution of property relations as a process is useful in identifying the wide range of authorities (formal and informal) involved in property governance and trace the dynamics of authority. My research reveals considerable variability in the sets of institutions that exercise authority in legitimising property in land, at different levels and in disputes involving different ethnic identity groups.

In Chakmachari, the authorities involved in dispute settlements are the Headman-karbari, village seniors and 'respected people', and political parties (i.e. JSS or UPDF). The authority of these institutions in legitimising property has waxed and waned at different time periods, showing that authority is not inherent to particular institutions. The political authority of JSS was dismantled and undermined by UPDF for almost a decade after the Accord was signed. During my fieldwork, both parties' (JSS and UPDF) judgements were stated as having equal effectiveness and value in dispute settlements, while the Headman's verdict was less effective. For political parties, authorising property in land is important in constituting their authority; however, their authority also derives from providing judicial services for other kinds of disputes and these institutions compete in different arenas (including parliamentary election, maintaining squad etc.) to gain political and territorial control. However, my research shows that in situation where multiple institutions operate, they function not only through contestation but also negotiation.

The multiplicity of institutions (formal and informal) provides people with alternative avenues for raising the same disputes, showing fluidity in property and authority relations. Besides, people sometimes re-open disputes when the authority of the institution that previously settled one dispute has been eroded, which shows the mutually constitutive process between property and authority. The constitutions of authority relations involving various institutions (Headman-Karbari, village seniors and 'respected people', and political parties) to sanction property and repertoires of rules that are employed, show that the state authority is challenged and built at the same time at the margins of the state.

In disputes within the Bengali settler community, disputes are settled or negotiated by the army, Bengali leaders, *dalal*-leaders (brokers) and political party (national and local) leaders. Since 2007, Bengali settlers also take their disputes to courts; however, most disputes still get settled at the village level *bichar* (in *samaj* and the army camp). Besides, in some cases, leaders also ‘transfer’ dispute cases from the Judge Court to *samaj* or village court by requesting the judge to dismiss a case in the formal court, showing how informal practices take place at state institutional level. The leaders’ authority mainly derives from the army’s approval of their position as leaders and from political connections. Their authority also derive from their ability to conduct land-related work as a broker and having access to state bureaucratic and judicial authorities. The army and bureaucratic institutions, together referred to as ‘government administration’, depend on leaders for ‘controlling the settlers’, according to the leaders. In cases of land disputes, the leaders compete not only to consolidate their authority but also for their own interest in landed property itself.

With regards to disputes between Bengalis and Chakmas, the authorities typically involved in dispute settlements are the army, Bengali leaders, Headman and courts. The dispute and resolution processes, such as construction and dissolution of the Peace Committee, reflect the competition among institutions such as the army, leaders, hill political parties and Headman, to assert legitimacy of their control over land access and legitimacy of certain forms of property. My findings show that disputes between Bengali settlers and Chakmas are being resolved in most cases at the village meetings i.e. *bichar* by non-state actors. Land disputes between Bengali settlers and Chakmas in most cases evolve through contestation over gaining and maintaining *dakhal*. Collective strategies (protest, blockade and court cases), violence and *dakhal* reveal the highly politicized nature of land conflicts between communities in CHT. State violence as well as inter-community violence are an integral part of land politics. Even without an actual war in CHT, violence (actual or potential) has a role in structuring land contestations in CHT, which highlights the specific characteristics of a frontier zone and the importance of further studies on various forms and manifestations of violence, the relationship between violence and subjectivity, and the meanings given to violence in contestations over recognition of identity, authority and property.

My study shows how contestations among different institutions of land control (bureaucratic, traditional and regionally elected institutions) are shaping the authority relations and practices. The state in CHT is composed of several branches of government (administrative, legislative, judiciary and traditional) operating at multiple levels (central and regionally elected government institutions). These institutions are competing over recognising property and recognition of certain identities in relation to the entitlement of owning land. With the formation of the Land Dispute Resolution Committee there are also multiple legal systems adhering to different laws in settling similar land disputes. There is a multiplicity of institutions with overlapping claims of

authority competing within the context of contradictory laws and legislation. My study unravels diverse ways in which competition and contestation among various state institutions (among central government, bureaucratic, regional and traditional institutions) take place. I have shown how different state institutions compete for authority by discussing institutional contestation over the applicable rules, procedures and laws. In the post-Accord period, the amendment of LDRC (Land Dispute Resolution Commission) Act, how LDRC would function and survey procedures are major points of contestations between regional government institutions and national government. Central and regional government institutions contest the terms of carrying out the survey, and compete over whose/which land claims will be validated in the survey, over which their authority in land control hinge on. Various state institutions also compete by employing certain practices. For instance, the traditional institutions challenge the central state's authority of granting land to Bengalis without their approval by not taking tax from the Bengali settlers. Institutions also compete when disputes are taken to authorities for settlement (Amol's court case). Far from operating as a coherent and well-integrated whole, the state as an institution is incoherent and fragmented.

While various kinds of state institutions belonging to administrative and legal framework compete to exert control, local processes of property and authority formation reveal that the army continues to exercise authority in land control and administer in complicity with central state institutions in the post-Accord period. People stated that the army represents and runs the state in CHT, indicating the dominant way they see and encounter the state. The army exercises authority in land control by imitating state (bureaucratic and judicial) practices, such as legitimising land rights in dispute settlement by scrutinising documents, interrogating witnesses, giving compensation for land to the one occupying it in certain cases and keeping records of dispute cases/disputants' list. My study shows militarised land relations that denote a way in which the state is being formed in a frontier region or in a contested territory; since through this process the state-recognised property relations, the central state's territorial control, property claims of certain categories or groups of population are being established. To understand militarised land relations, further investigation is required to examine authority practices in different periods (insurgency and post-insurgency). It is also important to take into account that there has always been tension between the army and political governments in Bangladesh, and at the local level there is a tension between the army and the bureaucratic authorities. The role of the military in CHT is constitutive of its own power and authority as an institution, which is important for their influence in national politics as well.

My study shows that a wide range of authorities (state and non-state) are engaged in land politics (local and national level), thereby shaping property governance and disputes which are mostly

being settled by non-state authorities¹⁶³. While Gupta and Sharma (2006) argue that everyday state practices and mundane procedures are crucial for understanding production and reproduction of the state, in the CHT context, property governance shows the importance of state actors (without formal authority) and non-state actors' practices in the state-making process. The evidence suggests that authority to sanction land claims is not inherent to or reserved for state institutions only, while the authority of non-state actors and the army are also challenged, resulting in fluid property and authority relations. The fact that property relations are largely being constituted by practices and authority exercised by the army, non-state authorities and actors, shows that the language of state and state practices are not employed by government institutions alone (Das and Poole 2004, Lund 2006), blurring the boundaries between the state and society. This finding aligns with Trouillot's argument that the state has no institutional or geographical fixity and can only be studied through a focus on the multiple sites in which state processes and practices are recognizable through their effects (2001: 126). My study shows that various political constellation of institutions and authority relations formed through authorising land relation at the local level can be seen as taking place outside of the state through informal practices, however, on the other hand, these actors have connections with various state institutions and state institutional actors with/without formal authority in land which is important for them to exercise power. However, as indicated in Chapter 1, the process of assertion and legitimisation of authority at the local level could not be explored in much detail in my research.

Dynamics of Identity

My research has explored how notions of identity influence or have influenced land claims and how land claims (re)produce notions of identity. The study focuses on relations between hill people, settler communities, and the state (state's policy, institutional arrangement, and categorisation). Statist discourses suggest that the land question in CHT is linked to the state's sovereignty and nation's interest. Hence, my research finds that notions of nationalism, recognition of separate ethnic identities, indigeneity and citizenship rights are debated and evoked in people's narratives to claim land in CHT. I have argued and showed that the politics of land influences or shapes the politics of identities and vice versa.

The historical analysis of state and nation building, presented in my thesis, shows that historicising the construction of the nation-state, nation and border-making in post-colonial

¹⁶³ It is important to point out that in most cases, unless the Bengali disputants are able to buy up the land titles from the Chakma disputant for the disputed land, land disputes are not being closed or getting settled. Only at the state court, land disputes can get settled, yet not necessarily permanently. For instance, Amol, who was the only one who took his dispute to Judge Court and lost his case, would lodge his case again at LDRC.

states is crucial to understanding hill people's relations, their encounters and experiences as citizens. Hill people do not fit into 'neat national boxes' (J. Chatterji 2012) or nationhood based on religion in the post-colonial period, and they fall into the category of 'minority citizens' (ibid.). They constitute the 'other' as opposed to the nations constructed as homogenous based on Muslim identity (in the Pakistan period) and Bengali-Muslim identity (in the Bangladesh period). The Chakmas' accounts stress their experience of marginalisation, invisibility and not being considered real and full citizens as religious and ethnic minorities which circumscribe their entitlement and rights. As such, land conflict is not about land per se, their accounts indicate that it is a conflict which is largely about hill people's difference in religious and ethnic identity from the majority of population. For instance, when I asked Goirananda bhante how Bengalis occupied part of the land that belonged to the village monastery, he stated with a wide smile that- 'the name of the country is Bangladesh! Right? So it is Bangalis' [Bengalis] country! Is it named as Chakmadesh?'

Since my research explored land conflicts, I only focused on Chakmas' and Bengalis' encounters, views and experiences of interacting with state (bureaucratic, judicial and army) institutional actors and practices relating to their land claims. Only very few Chakma people have ever taken their land disputes or claims to the army because the army never supports Chakma's land claims. In Chakmachari, only Amol Dewan took a land dispute to the Judge Court and it was considered fruitless, as everybody in the village knew for sure that the Judge or any Bengali state institutional actor would not legitimise a Chakma's land claim over a Bengali's claim. This view of the state as not a guarantor of Chakmas' property rights, whether or not the Chakmas have legal claims based on title, is more obvious in Shapan's case. As a citizen of the state, Shapan did not consider claiming his legal entitlement at the Judge Court; rather, Shapan gave part of his land to a Bengali *dalal* who lodged a suit against those Bengali settlers occupying that land, using Shapan's legal title as evidence of ownership. This strategy was adopted by Shapan not only because of the *dalal's* knowledge and access to legal matters, but because of the *dalal's* ethnic identity, since in Chakma experience, ethnic solidarity and mutual interest of Bengalis shape the legal process at every stage in the courts. On the other hand, Bengalis access legal courts as citizens, as individuals with disputes and also, collectively, to protect their land being acquired by the state. A major difference between these two groups in encountering the state and making citizenship claims is that- while Bengali settlers' political organisations are taking up law/legal struggles, the hill political organisations are engaged in political struggle. However, there has been a shift in hill people's position in relation to the state, a shift from being subjects to becoming citizens, as they are struggling and demanding for crafting new laws or amending certain laws to protect their rights in the post-Accord period. Besides, by demanding implementation of the Accord, hill people position themselves as citizens who have a signed contract with the state, and emphasise the state's accountability to adhere to that. Kabeer's (2005) discussion on citizenship studies in Bangladesh focuses on the realization of formal citizenship rights. She stresses the fact that identity, affiliation and access to resources are defined

by one's place within the social order that is family, kinship, caste and so on, 'the communities of birth'. Jayal (2013:105) notes that in the Indian context 'class [still] mediates... relations between aspiring citizens and the state'. However, in the context of CHT, my study suggests that, although class identity matters, particularly in cases of land conflicts are within communities, the ethnic identity of the actors to a large extent shapes how people encounter the state and their relations to the state.

Historically, the state's categorisation in CHT as a space and also its population, produced marginality and also influenced the production of multiple identities among hill people. My study shows how land and community are intertwined inextricably in people's land struggle. The notion of indigeneity, *jumma* and ethnicity emerged and evolved in opposition to state categories such as tribal and ethnic minority. These identity relations also emphasise hill people's intrinsic bond to nature, referring to the past and tradition to strengthen their territorial claim. Claiming for these identities shows that hill people are in dialogue with statist discourses of tribalism and nationalism that they find derogatory and marginalising.

Bengali settlers claim they have the right to reside and own land in CHT not only as settlers but as Bangladeshi citizens. The Bengali settlers demand the removal of administrative legal distinctiveness and 'separateness' of CHT from the rest of the country with regards to laws and institutions. Bengalis make claims to land and territory as Bengalis. Firstly, this claim is made to oppose the hill people's claims of being indigenous, and is therefore shaped by the debates about indigeneity. Secondly, they make territorial claims by establishing that Bangladesh is a land of Bengalis, resonating with nationalist discourses, thereby aligning themselves with the state and the Bengali state actors' discourses. However, although state actors were trying to diffuse the category of Bengali settlers, I found that settlers the settler identity is mobilised for strengthening land claims and rationed food. Their arguments and claim-making as settlers demonstrate the insecurity and marginality they face. Bengalis helped the state in territorialising CHT, but their land claims are not secured and the state is not unambiguously on their side. The state granted them land as settlers, however, as per the CHT Accord, has also created categories of tribal and non-tribal permanent residents, which makes their property in land insecure since by definition, they do not fit into the category of non-tribal permanent resident in CHT. This was repeatedly mentioned by the traditional and regional government institutional actors as well as by hill people. Because of existing contradictory laws in terms of land rights and identity recognition in CHT, the state appears to have two faces. As a response to this, Bengalis also try to fit in opposing and multiple categories, such as Bengali, indigenous in Bangladesh and CHT, non-tribal permanent residents and settlers. They make their claims over land by invoking or reproducing Bengali, Muslim, indigenous and settler identities.

My study finds a religious dimension in the politics of difference and in land politics in CHT. In both communities, consolidation of their religious identities, strengthening of religious practices and increasing religiosity, influence and are influenced by the disputants' struggles over land.

Religion emerges as an important part of constructing ethnic boundaries and shaping land conflict. Bengalis are building mosques to occupy land in a similar way as they say that Buddhists grab their land by building monasteries. Building a mosque is a visible way in which Bangladesh state's presence is established. At the same time, monasteries are state recognised, which also helps establish Chakmas' presence. Chakmas have increasingly become more religious, mirroring growing Islamisation (in the region and in politics) and strong Muslim identity manifested by the Bengalis. The hardening of Buddhist identity among the Chakmas can be seen as a resistance to the increasing presence of the state and the state religion i.e. Islam. Religious identities are important for networking with other actors at regional, national and international level. My study shows a need to move beyond the ethnic lens in studying land conflicts between communities in the regions that are at the margins of the state or can be classified as state frontier in South Asia.

Within the Chakma and Bengali communities, land dispute processes reveal that kin, identity, gender, political affiliation, position in the local power structure (at institutions and political party), class identity matter in how disputes get settled and in shaping people's ability to influence institutional actors' decision making.

To conclude, there is ambiguity and uncertainty in the Chakma and Bengali communities over whose property claim is secured and in the long run, whose property claim will be seen and sanctioned as property in land in cases of land disputes between the Bengalis and Chakmas. Like the Bengalis in Banglachari, the Chakmas in Chakmachari also stressed the importance of carrying out surveys to resolve land disputes and to gain secure property rights guaranteed by the state.

Concluding Remarks

My research began with the aim to explore how land disputes are getting settled in CHT, and my study reveals that land disputes are not being settled i.e. the disputes are ongoing and in the making. My study has dealt empirically with questions about property, authority, identity and state formation in a frontier region. Studies on land and political conflicts in the South Asian context in most cases examine dispossession and displacement of populations (Gardner and Geharz 2016), and studies on dispossession stress the neoliberal effect or enclosure (Akram-Lodhi 2007), changes of land use and access, different forms of resistance or compliance by groups and individuals (ibid). Adnan (2013) employed the theoretical frameworks of primitive accumulation and 'accumulation by dispossession' (Harvey 2005 in Adnan 2013) to understand the processes by which dispossession takes place in Bangladesh, through the interplay of neoliberal globalization, state intervention and power relations. The analytical framework adopted for my research was helpful in unravelling the land contestation from differential forms of access and property relations involving complex interrelationships among various kinds of state and non-state institutions, competing forms of legality and norms, a wide range of

formal/informal practices, political movements and violence as well as cross cutting narratives of categorisation, identity and rights. This approach has revealed that competing land claims and competition for authority are interwoven with the politics of categorisation, differences, boundary-making and processes of identity formation. My research framework enabled insights to be gained with regards to identity formation, property relations and the formation of political authority, but also to discourses of nationalism, indigeneity, religion and ethnicity shaping people's claims and struggle over land. Class, ethnicity, indigeneity and religion all play a part in the struggle over property in land and property structures.

My study offers a unique understanding about differences in defining property in land and the constitution of it by different practices in different communities. The study provides an account of century long co-existence and clashes between two different property systems showing the ways in which different property systems mingle and evolve through conflicts within/between communities, people's practices and dispute outcomes. The study suggests that the endurance of traditional property system without being formally recognised by the state has remained at the core of a larger political contestation over territorial and land control since the state intruded in CHT.

In both communities, people hold land based on combinations of formal/social rules, drawing on formal/informal authorities and by formal/informal titles. The study contributes to the existing knowledge about land relations in CHT by examining conflict within and between hill people and the Bengali community. This is the first detailed study based on solid ethnographic data regarding the Bengali community who came to CHT under the settlement programme. The analytical approach to studying property and authority dynamics helped to explore militarised land relations by examining land dispute processes about which there is scant knowledge in the literature on property and state formation. My research shows that the army plays a role in how the state is being formed in a frontier region through recognising and enforcing one form of property relations by discounting the other. This findings highlights the importance of looking into authority relation in constitution of land relation in other regions in South Asia which were/are heavily militarised for security reasons and where the military were/are also involved in governing people and in development activities.

This research reveals how land conflicts in frontier regions are played out at multiple locations, involving multiple institutions and strategies. My gate keeper in Chakmachari, Amol Dewan, was a commander in Shanti Bahini who participated in armed struggle to protect hill people's rights. In the post-Accord period, he had participated in the protest when Bengalis were re-settled in Chakmachari. In the national election in 2014 he campaigned for the JSS candidate. While I was there, he attended, as a civil society member, different meetings for the rehabilitation of refugees organised by Task Force. In terms of his own land dispute, he tried to keep *dakhal* for which he would go to plant rice by himself, which was a challenge for him given that he started learning

agricultural work only after Shanti Bahini was officially dissolved. When Rahim occupied his land, he arranged few negotiation meetings or *bichar* at the village level to settle the dispute. When Rahim went to the army camp, he went there with evidence of his ownership and fought to prove it until he was threatened with physical torture. Finally, Amol was the only one who went to a formal court to settle his land dispute, which he took up as a new struggle, comparing it with his struggle against the state policies by participating in the armed movement. After he lost his suit at the Judge Court, he was waiting to re-open his case by taking his land dispute to LDRC once it was functioning. His land struggle was also intricately linked with his struggle to establish hill people's claim over land for being hill people, Chakma, 'son of the soil', and *jumma*- 'whose life and livelihood are connected to the hills'. This study draws out the varied ways in which land conflicts are played out- on the land itself, in protests on the street, at different institutions (state and non-state actors), through violent incidences, threats and political contestation at the national level election.

This study reveals significant discrepancies between the state property governance and actual property practices, by exploring local processes of property relation. Local process of constitution of property relation show competition among multiple politico-legal institutions within and outside 'the state'. State authorities- the judiciary, regional government, traditional institutions, military authorities; and non-state authorities (political parties, leaders, brokers), all partake to some degree in governance activities in 'post' conflict zones. State-making and consequent control over land is a competitive field in zones where ethnic insurgence or armed conflict has officially ended but institutional set up is unsettled and contested. The empirical focus on property constitution reveals local politics and processes and the making of state authority as an active and contested process.

My study aimed to contribute to the literature on property and authority relations. The analytical framework pursued in my study allowed to empirically investigate local processes and dynamics of property, authority and identity relation by focusing on actors' claim-making and actual practices. Through a combined historical and ethnographic approach and by using land dispute processes as a lens, my study provides a detailed account of dynamics of property, authority and identity relations showing how these relations are contested, fluid and in the making. This shows the relevance and importance of taking processual perspectives and analytical strategy in studying land relations and governance, which can be particularly useful in understanding land conflicts, struggles and rights in contested spaces or at the states' margins.

My study contributes to deeper understanding of mutually constitutive relation between property and authority. While property regimes are often discussed as an outcome of competition among different legal regimes, the *dakhal* regime shows the local processes of property constitution and constitution of authority relation, at the margin of the state. At the local level, in most cases, the

actors (disputants and informal authorities/ politico legal institutions) compete not to gain or to determine property in land, but to gain or sanction *dakhal* or physical occupation over land; which not only consolidate their own claim to property and authority, but simultaneously consolidate or destabilise the central state's authority in land and territory. People's ability to own land depends not only on titles, rules and recognition by politico-legal institution; people's practices and actions also matter. In many dispute cases what really matters in owning land is to have the ability to exist on the ground (*jomi*). People's ownership over land requires work, action and negotiation/contestation between individual land owners. My research also shows that local land disputes are shaped by various kinds of violence and coercion exercised by individuals, communities and institutions. Besides, land relation and conflicts are not only influenced by local and larger political contestation, but changes in land use patterns, increase in land price and demand for hill lands are also influencing people's ability to own land in both communities.

Struggle over recognition of property in land is intricately linked to people's struggle or claim to recognise certain identities. Moreover, dispute processes show that competition for property in land is largely influenced by the disputants' identity and social position. The processes of property constitution and recursive relation between property and authority are influenced by politics of identity. My research contributes to the literature on land conflicts, property governance and state formation, by highlighting the significance of studying multiple (distinct and intersecting) processes of formation of property relation and systems of governance at multiple levels and locations in frontier regions or at state margins. There is a need to study the role of violence in constitution of land relation and people's land struggle in the context of CHT and in other regions that can be categorised as frontiers. My analysis also shows the changing field of citizenship which requires a detailed exploration of people's engagement with the state, taking into account practices and strategies.

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Annexure

Annex: 3.1: List of institutional actors interviewed

Regional Government Institutions:

1. Hill District Council (present Chairman, Ex-Chairman and a member)
2. CHT Regional Council (1 member)

Local Government Institutions

1. Chairman Union Council (2)
2. Chariman of Upazila (sub-district)
3. Members of Union Councils (4)

Government Administration:

1. Deputy Commissioner
2. Additional Deputy Commissioner (Revenue)
3. TNO (Sub-district Executive officer)
4. Additional Commissioner Land
5. Sub-registrar at sub-district Land Office
6. Surveyor at sub-district Land Office
7. Officer at Land Record Division of District Office
8. Officer in Charge (Police Station of Rangamati District)

Judiciary:

1. Judge (Joint District Judge court)
2. Additional District Magistrate (ADM Court)
3. *Peshkar* (2, at ADM court and Judge court)
4. Lawyers (6, Bengali and Hill Communities)

Traditional Institution:

1. Circle Chief (Marma Circle, Khagrachhari)
2. Headman (2)
3. Karbari

4. Chief of Headmans' Association

Institutional Actors interviewed in Dhaka

1. Rashed Khan Menon, Parliament Member and Minister of Tourism Ministry, chair of the parliamentary caucus on Indigenous issues
2. Fajle Hasan Badsha, Parliament Member, Member of the parliamentary caucus on Indigenous issues
3. Additional Secretary and Deputy Secretary (Ministry of CHT Affair)
4. Additional Secretary and Deputy Secretary (Ministry of Land)
5. Deputy Attorney General (Supreme Court Dhaka)
6. CHT Commission

NGO (Regional, National and International):

1. Jabarang (Executive Director)
2. Kapeeng (Executive Director)
3. ALRD (Executive Director)
4. INCIDIN Bangladesh (Executive Director)
5. BARCIK (Programme Officer)
6. General Secretary, Bangladesh Indigenous Peoples Forum
7. President, Bangladesh Adivasi Odhikar Andolon
8. Member and Programme officer, CHT Commission

Annex 4.1: Bangladesh government letter regarding settlement program

“70-C dated 21/01/83 from the commissioner, Chittagong Division, Chittagong addressed to the deputy Commissioner, Rajshahi

Addressed to the Deputy Commissioner Rajshahi

Perhaps you are aware that Govt has undertaken a programme for the settlement of non-tirbal landless families in the districts of Chittagong Hill Tracts¹⁶⁴ and in Bandarban on top-priority basis. This programme is expected to provide employment and regular source of income to a significant number of landless from different part of the country and at the same time open up virgin lands in the above two hill districts for agricultural, horticultural and other production all of which have a positive impact on the national economy including the socio-economic development of the area. The settlement programme started from December 1979 has already been successful in settling a good number of landless families in various parts of Chittagong Hill Tracts and Bandarban districts and much of the credit for this goes to the district administration of the various districts from where they were sent after scrutinizing their background and ensuring their To settle in an environment that is not only different but hardship¹⁶⁵.

During the current dry season the settlement programme started in the ...of December 1982 and your district has been selected as one of the areas from where landless settler families are to be brought. The intending settlers should be selected on fulfilment of the following conditions.

1. They must be genuinely landless families and the head of the family must not be above 45 years of age.
2. Each family should not have family members more than five

¹⁶⁴When the settlement program was carried out Khagrachhari was not made a separate district and it was withing CHT district.

¹⁶⁵ I was given a copy of this letter by a Bengali settler leader. He showed me as an evidence of legitimacy of the settlement programme and their right to live in CHT as settlers. In places where it is not readable I indicated by putting dots inside brackets.

3. Each family must be certified by the Chairman, Union Council...countersigned by the T.N.O pr C.O/ C.O(Dev?) whichever is applicable as ...genuinely landless as per the enclosed prefar..
4. The settler families will have to pay for transportation from their village home to the receipting centre at Hajee camp, Chittagong.
5. The intending settler families should being enough fund to buy food for one or two days while they are in transit including their ... at Hajee camp. On arrival at the transit camp near the settlement area the settler families will be given first instalment of the G.R..... with medical facilities till they are taken to their respective settlement.
6. Each of the settler families selected by the district administration of various districts and registered at Chittagong will be given Tl.2,500/00 as G.R. cash in instalments after their arrival. Expenditure on account of transportation from the reception centre (Hajee Camp, Chittagong) to the settlement zones and ... of seeds, ... materials supplied on arrival at the settlement zones or subsequently shall be deducted from the total G.R. cash amount. The settler families .. will get 21 seers of wheat per week under Spl. Test Relief programme for a period of about one year. They are expected to engage in various activities on the plot ..of land allotted to them (5.00 acres of hilly land or 4.00 acres of bumpy land or 2.50 acres of plain land). Against the allotment of food grains... the Spl. Test Relief programme horticultural staff will be available for ... training and providing extending services to the settler families regarding agricultural and horticultural production..suited to their...

Settler families should be advised to bring ...their ... axes, spades, dao etc and those having background in vocational ... should be advised to bring tools and instruments of their respective trades.

It is expected that with these facilities and assistance to settler families will be able to stand on their own feet after one year and will be able to make out a living on their own. Those who can adopt to the local conditions quickly and are able to arrange income from diversified sources e.g. agricultural, horticultural fisheries (whenever possible), livestock , cottage industries, etc. will be most viable settler,

since all the lands allotted to them will not be fit for paddy..... diversification of production activities will be... their new way of life.

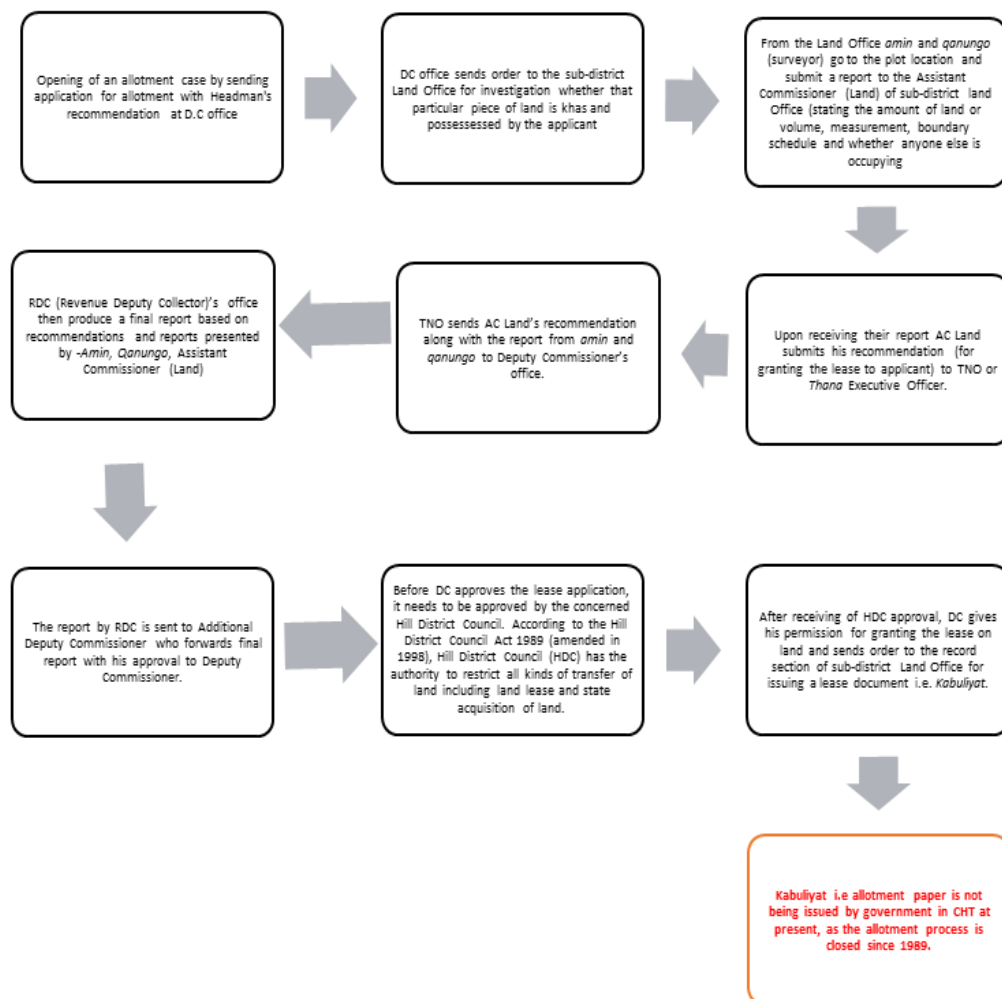
It is clear from the above that a great deal depends on the ..of right type of settler families and in no case person with ... be selected and dispatched for settlement in Chittagong Hill Tracts ...The chairman of UP (Union council) , C.O...and T.N.O s should be ...upon to ..secure against the inclusion of any unscrupulous elements in the list of the families as that they might be recommending for this purpose. The settler families should be sent in batches of not more than 50 (fifty) at a time ... interval of 3 days given between 2 batches. The deadline for sending the settler families is ... February after this rainy season will set in. Looking forward to co-operation and response..in the implementation of this program of national importance.

Annex-4.2

The key events listed by Parveen and Faisal (2010:201) of the period of Pakistan rule are:

Year	Event
1948	The CHT Police Regulation was annulled and the police force, which was managed by the hill people, was disbanded.
1955	The CHT area was surveyed and legal measures for land registration were adopted.
1956	The first constitution of Pakistan retained the special status of the CHT as the 'excluded area'. However, under Clause 51(I), only a Muslim could hold the position of the Head of the State of the Islamic Republic of Pakistan. Thus, all the non-Muslim people were effectively downgraded to second-class citizens.
1958	After the military takeover in Pakistan the 'opening up' of the CHT was accelerated.
1962	Construction of the Kaptai hydro-electric dam was completed
1964	The constitution changed the status of the CHT from an 'excluded area' to a 'tribal area'.
1971	Independence War of Bangladesh

Annex 5.1: Chain of procedures involving various institutions of granting land allotment in CHT



Annex: 6.1

Changing Religious Make-up of the population in CHT

Religion		Muslim	Hindu
1872	79.55%	0.60%	0.24%
1901	66.5%	6.0%	33.3%
1981	41.48%	41.16%	9.2%
2011(In Khagrachhari District)	37.6%	44.7 %	16.9 %

*Source: Hutchinson (1909), BBS (2011), PCJSS Website: http://www.pcjss-cht.org/?page_id=521 (Last Accessed: November 2016)

*The percentage of Hindu population also includes Bengalis who are Hindus. For instance in 1981, 16 % of the total Hindu population was Bengali Hindu.

* When the first population census was carried out, it was mentioned there were people who were of animistic religion and there were few Christian (who were Europeans) at that time. The census data of 2011 show that the percentage of Christian population is 0.67%. Spread of Christianity among the hill people is regarded as alarming by government, is a letter sent from the Ministry of Chittagong Hill Tracts (29/2010/25) it was stated- “Most of the ‘tribals’ in Bangladesh are giving up their culture and religion and have been converted to Christianity.’

Population Census in Khagrachhari District and in CHT

Distribution of Population of CHT based on Religion*

District	Muslim		Hindu		Buddhist		Christian		Others		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Bandarban	197087	50.8	13137	3.4	123052	31.7	39333	10.1	15726	4.0	388335	100
Khagrachhari	274258	44.7	103195	16.8	231309	37.7	4070	0.7	1085	0.2	613917	100
Rangamati	209405	35.1	30244	5.1	347038	58.2	8663	1.5	569	0.1	595979	100
Total	680750	42.6	146576	9.2	701399	43.9	52066	3.3	17380	1.1	159821	100

*Estimated from District Statistics 2011: Bandarban, District Statistics 2011: Khagrachhari and DISTRICT Statistics 2011: Rangamati; Bangladesh Bureau of Statistics (BBS), Statistics and Informatics Division (SID), Ministry of Planning, Government of the People's Republic of Bangladesh; 2013

Annex: 6.2

Minutes of the Meeting of Co-ordination committee on Settlement of Landless Bengalees Held At Rangamati Circuit House on 13 May 82¹⁶⁶

Present

- a. Major General Abdul Mannaf psc ----- Chairman
General Officer Commanding
24 Infantry Divisions
- b. A. H. M. Abdul Hye -----member
Commissioner
Chittagong Division
- c. Brigadier Manzur Rashid Khan
Commander
305 Infantry Brigade
- d. Brigadier Zahed Latif, psc
Commander
65, Infantry Brigade
- e. Brigadier Mohamman Abdus Salam, psc
Commander
69, Infantry Brigade
- f. Brigadier Mohammad Azizur Rahman, BU, psc
Commander
203 Infantry Brigade
- g. Mr. Ali Haider Khan
Deputy Commissioner
Chittagong Hill Tracts
- h. Mr. Farruk Ahmed
Deputy Commissioner

¹⁶⁶ I was given a photocopy of this meeting minute by a Bengali leader. In some parts it is not readable, which I put in bracket.

Bandarban

- i. Lieutenant Corporal Jhangir Kabir, psc
General Staff Officer-I
(Counter Insurgency)

- j. Muhammad Matiur Rahman ----- member secretary
24, Infantry Division

Opening talk by General Officer Commanding:

In his opening address, the general officer commanding and chairman of the committee, laid emphasis on the importance of settlement of landless families in CHTs and Bandarban in a planned manner to achieve our goal. He also emphasized on the concerted efforts to be taken for the all round welfare and security of the families already settled in different Zones under First and second phase settlement programmes. He pointed out that target for the Extended Second phase programme should be fixed and all arrangements like demarcation of plots and security arrangements should be completed sufficient time ahead so that during the early next dry season settlement work can be taken up without difficulties. General officer commanding also gave out policy in respect of settlement in areas to give coverage to all roads and water ways.

After the opening talk, discussion on settlement of landless families in CHTs and Bandarban took place which was divided two parts:-

- a) Progress and position of the families settled under second phase
- b) Selection and determination of zones and target for the settlement of families during next dry season under Extended Second phase programme.

Review of Second Phase Settlement Programme:

The progress, position and bottlenecks of the settlement of landless families under second phase programme was discussed in details and reviewed. Officers of concerned departments like Health, agriculture, PHE, Agriculture also attended and apprise their activities in settlement Zones and suitable decisions were taken to overcome difficulties and for further improvement of the overall [...]The second phase settlement started in Jan 81 with a [...]of 15000 families. Subsequently due to various difficulties handicaps time schedule was [...] The reception camp at

Chittagong was closed on 01 March/82, during this period in 14 zones a total number of 16, 582 families settled.

Deputy Commissioner, Rangamati CHTs informed that out of 16,582 families settled under second phase about 2000 families have [...]discussion on health, sanitation, security and ...aspects, in which officers of concerned departments participated following decisions were taken:-

a. List of absentee settlers:

A zone wise up to date list of absentee settlers ----- CHTs
and
should be prepared immediately
Bandarban

b. Action against-absentee settlers

Legal notice through Police to be given to absentees
And their allotment of land cancelled. Their land will be allotted to others. DC, SP,
CHTs and

Police case may be started against the settlers who have left camp.