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# **The Myth of Colonial ‘Protection’ of Indigenous Peoples: The Case of the Chittagong Hill Tracts under British Rule**

*Mohammad Shahabuddin\**

## **Abstract**

Through a critical examination of British colonial policies in the Chittagong Hill Tracts (CHT) in Bangladesh, this paper challenges the conventional wisdom that colonial administration had a benevolent strategy of ‘protecting’ indigenous peoples. To this end, this paper specifically dispels three examples of such protectionist rhetoric advanced in the CHT by the British colonial administration: protection of hill people from external invasions, from the exploitation of dominant Bangalee groups, and from their own oppressive chiefs. I conclude that these protectionist policies were in fact self-interest motivated and, therefore, often proved to be counterproductive for hill peoples by further empowering dominant Bangalees and tribal chiefs. Therefore, in engaging with the question of ‘protection’ of ordinary hill peoples in the CHT from ongoing oppression and marginalisation, we must consider new paradigms, beyond the colonial isolationist and seclusionist model of protection.

## **Keywords**

colonial protection – Chittagong Hill Tracts (CHT) – Bangladesh– British colonial rule– ethnic marginalization – legal history – indigenous communities

## **1 Introduction**

The Chittagong Hill Tracts (CHT), located in south-eastern Bangladesh and comprising the Rangamati, Bandarban and Khagrachari Hill Districts, occupies an area of 5,093 square miles (a tenth of the total land area of Bangladesh) with a population of 1,598,000 (out of a total population of 150.6 million in the country).<sup>1</sup> It is surrounded by the Indian states of Tripura on the north and Mizoram on the east, Myanmar on the south-east, and Chittagong district on the west. The CHT’s hilly landscapes are dramatically different from the plains, and the original inhabitants themselves look strikingly different from the overwhelming majority of

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<sup>1</sup> According to the census report of 2011. See Bangladesh Bureau of Statistics, *Statistical Pocket Book Bangladesh 2012* (Bangladesh Bureau of Statistics, Dhaka, 2013) pp. 8, 92.

Bangalee people in the rest of the country. The CHT is the home of around thirteen different indigenous communities.<sup>2</sup>

Yet, the Constitution of Bangladesh recognises the existence of only the dominant Bangalee majority when it declares in Article 6 on citizenship that “[t]he people of Bangladesh shall be known as Bangalees as a nation and citizens of Bangladesh shall be known as Bangladeshis”.<sup>3</sup> Likewise, Article 3 names Bangla as the official language and Article 9 refers to “[t]he unity and solidarity of the Bangalee nation which, deriving its identity from its language and culture [...] shall be the basis of Bangalee nationalism”.<sup>4</sup> It is in Article 23A that the Constitution imposes an obligation on the State to “take steps to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities”.<sup>5</sup> While this provision acknowledges the existence of communities other than Banglaees, it nonetheless underscores that unique cultures of these communities fall outside the ‘national culture’ (defined in line with Banglaee nationalism) that the State is obliged to promote under Article 23.<sup>6</sup>

In fact, soon after the War of Independence in 1971 and Bangladesh’s independence from Pakistan, a hill peoples’ delegation called on the then Prime Minister demanding regional autonomy and a separate legislature for the CHT. The Prime Minister rejected these claims, advising the delegation to relinquish such “parochial and ethnic aspirations in favour of these being subsumed under a broader notion of nationalism to facilitate national integration”.<sup>7</sup> Successive military governments pursued even more coercive measures to achieve this goal of national unity that ultimately resulted in armed conflicts lasting nearly three decades. The civil war finally ended with the signing of the Chittagong Hill Tracts Peace Accord in 1997. This was largely due to local and international pressure out of humanitarian concerns as well as other economic and geopolitical considerations. However, the Accord is still far from being fully implemented.

As we shall see, throughout the process leading up to the Accord and also in its aftermath, the protection of hill communities of the CHT has been essentially conceived of in line with the protectionist rhetoric of the British colonial administration. It is in this context that this paper takes up the task of problematising this conventional wisdom about colonial protectionism vis-à-vis indigenous communities in the CHT. Based on a close reading of archival materials and secondary sources, this paper demonstrates that the colonial protectionist rhetoric was in fact less about the protection of indigenous peoples than about other economic and security concerns. To this end, this paper specifically dispels three such protectionist claims by the British colonial administration: that they protected the CHT hill peoples from external invasions, from their own oppressive tribal chiefs and from the exploitation of dominant Bangalee groups. The paper exposes how each of these categories of

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<sup>2</sup> These are: Chakma, Murma, Tangchangya, Tripura, Murang, Mrung, Bawm, Pangkhua, Lushai, Khumi, Khyang, Mru, and Sak. There is an ongoing debate about the ‘indigenusness’ of these communities; however, for the purpose of arguments made in this paper, such debates are not directly relevant.

<sup>3</sup> Article 6 of the Constitution of the People’s Republic of Bangladesh amended by the Constitution (Fifteenth Amendment) Act, 2011 (Act XIV of 2011), section 6.

<sup>4</sup> *ibid.*, Article 9, section 9.

<sup>5</sup> Inserted by *ibid.*, section 14.

<sup>6</sup> Article 23 of the Constitution of the People’s Republic of Bangladesh.

<sup>7</sup> Quoted in *Mohammad Badiuzzaman v. Bangladesh*, 7 Law Guardian (2010) High Court Division, para. 10.

protectionist discourse disguised the colonial administration's vested economic, political and strategic interests and increased the vulnerability of indigenous groups by empowering the dominant Bangalee petty bourgeoisie and tribal chiefs against whom the colonial administration claimed to have designed its protectionist measures.

## 2 The Myth of Colonial Protection

The evolutionary science of the nineteenth century that came to be known as Darwinism, offered not only a blueprint for a hierarchical mapping of the international society but also an agenda of action for dealing with 'primitive-uncivilised' nations. Depending on underlying monogenic or polygenic perceptions of social Darwinism, responses to these 'backward' nations took different paths.<sup>8</sup> This racially motivated hierarchical mapping worked at the micro level too; social Darwinism proved to be an extremely handy tool for ordering according to evolutionary progress various groups that European colonial powers 'discovered' in the rest of the world. In India, as Radhakrishna notes, the evolutionary theory was applied to "sort out the loyal from the disloyal, the respectable from the criminal, the malleable from the obstinate [...]".<sup>9</sup> She demonstrates how British colonial ethnographers, such as W. W. Hunter and James Samuelson, Brahminized social Darwinism to this end.<sup>10</sup> Samuelson, for example, writes: "A comparison of the accounts that are given of (*dasyus*) in the Vedas with the Indian aborigines of today shows conclusively that some of them must have possessed a very low bodily and mental organisation – indeed, that they were a more debased type of beings than what is now called mankind. ... The Aryans called them Dasyas, or enemies ... in fact, their description is almost identical with that of some of the Andaman Islanders of the present day".<sup>11</sup> In this way, Radhakrishna concludes,

[v]iews of Aryans of yesterday (Brahmins), Aryans of today (British) and Darwin converge on the other. [...] The invocation of Darwin in the description of an evolving section of mankind invited the contemporary audience to consider the natural trajectory of the aborigines in general: they ought to be conquered again like the Aryans did earlier, except that this time they can then be civilised through the missionaries.<sup>12</sup>

An important aspect of this civilising mission was the protectionist rhetoric: dominating colonial discourse on indigenous peoples was the idea that backward communities cannot survive and progress towards modernity without the helping hand of the colonial rule. Thus, most British colonial policies governing indigenous communities in India, for example, were

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<sup>8</sup> See M. Shahabuddin, *Ethnicity and International Law: Histories, Politics and Practices* (Cambridge University Press, Cambridge, 2016) pp. 62-97.

<sup>9</sup> M. Radhakrishna, 'Of Apes and Ancestors: Evolutionary Science and Colonial Ethnography', in B. Pati (ed.), *Adivasis in Colonial India: Survivals, Resistance and Negotiation* (Orient Blackswan Private Limited, New Delhi, 2011) p. 39.

<sup>10</sup> *ibid.*, 40.

<sup>11</sup> J. Samuelson, *Indian: Past and Present* (Trubner and Co., London, 1890) pp. 2, 13-14.

<sup>12</sup> Radhakrishna, *supra* note 9, p. 40.

presented in protectionist terms although often they were, in reality, driven by political, economic, and strategic interests of the British.<sup>13</sup>

Such rhetoric about the protectionist role of the colonial administration survived beyond colonialism per se and continued to dominate discourse on the CHT centuries later. For example, in his study on the Status of Implementation of the Chittagong Hill Tracts (CHT) Accord of 1997, the Special Rapporteur Lars-Anders Baers, appointed by the Permanent Forum on Indigenous Issues under the United Nations Economic and Social Council (ECOSOC), mentioned the colonial administration's protectionist role: "[D]uring the period of British influence, the area had the special status of an autonomously administered region, safeguarded by the Chittagong Hill Tracts Regulation of 1900, which inter alia, strictly controlled the entry and residence of non-hill people and barred the sale and transfer of land to non-indigenous peoples".<sup>14</sup> He notes that Bangladesh's first constitution, adopted in 1972, offered no such autonomy and none of the constitutional safeguards of the 1956 and 1962 constitutions of Pakistan. Baers's account of this oft-cited dramatic shift from the colonial 'protection' of indigenous communities to the hegemonic assimilationist tone of Bangalee nationalism can be endorsed by the fact that the indigenous elites themselves demanded continued protection under the 1900 Regulation when they met the President, Prime Minister and Minister for Law and Parliamentary Affairs of Bangladesh in early 1972 when the country was drafting its first constitution. The hill delegation's four-point demand included not only retention of the CHT Regulation of 1900 but also a constitutional provision restricting the amendment of the Regulation and banning Bangalee settlement in the CHT.<sup>15</sup>

The CHT Regulation was also featured in the CHT Peace Accord itself. Clause C.11 of the Accord stipulates that "[i]f the Regional Council finds any rule of the 1900 CHT Regulation [...] contradictory to the 1989 Hill District Council Acts then the government shall remove that inconsistency by law [...]". Although the legal status and enforceability of the Regulation is yet to be confirmed following numerous contradictory judgments from the High Court Division<sup>16</sup> and pending a final ruling from the Appellate Division in the case of

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<sup>13</sup> However, Damodaran contends that despite the dominance of evolutionary ideas, nineteenth-century British attitudes towards indigenous peoples in India were not 'homogeneous or unchanging'. She depicts at least some British protectionist policies as informed by an emerging sense of genuine humanitarianism towards indigenous peoples and their futures, and unlike Radhakrishna, in the writings of Hunter she found evidently '[a] vision of partnership between the colonial state and non-Aryan groups'. V. Damodaran, 'Indigenous Agency: Customary Rights and Tribal Protection in Eastern India, 1830-1930', 76:1 *History Workshop Journal* (2013) pp. 85-89.

<sup>14</sup> L.A. Baers, *Study on the Status of Implementation of the Chittagong Hill Tracts Accord of 1997*, Permanent Forum on Indigenous Issues, 10<sup>th</sup> session, 16-27 May 2011. UN doc. E/C.19/2011/6, p. 4. Footnotes omitted.

<sup>15</sup> See *Mohammad Badiuzzaman v. Bangladesh*, 7 Law Guardian (2010) High Court Division, para. 10.

<sup>16</sup> In the case of *Rangamati Food Products Ltd. v. Commissioner of Customs and others* (10 Bangladesh Law Chronicles, 2005, High Court Division 525), the HCD while discussing the question of the applicability of tax laws to the CHT declared that the CHT Regulation 1900 is a 'dead law'. However, the Regulation has been accepted as valid and current in the following cases before the Supreme Court: *Mustafa Ansari v. DC, CHT & Another* (7 Dhaka Law Reports, 1965, 553), *Collector of Central Excise & Land Customs v. Azizuddin Industries Ltd.* (23 Dhaka Law Reports, SC, 1971, 73), *Shew Hla Prue TK v. Commissioner Chittagong & Others* (44 Dhaka Law Reports, 1992, 539), *Aung Shwa Prue Chowdhury v. Kyaw Sain Prue Chowdhury & Others* (50 Dhaka Law Reports, AD, 1998, 73), *Sampriti Chakma v. Commissioner of Customs & Others* (5 Bangladesh Law Chronicles, AD, 2000, 29), *Bikram' Kishore Chaklma v. Land Appeal Board* (6 Bangladesh Law Chronicles, 2001, 436), *BFIDC & Others v. Sheikh Abdul Jabbar* (53 Dhaka Law Reports, 2001, 488), *Abu Taher v. Land Appeal Board* (8 Bangladesh Law Chronicles, 2003, 453), and *Raj Kumari Unika Devi v. Bangladesh & Others* (9 Bangladesh Law Chronicles, AD, 2004, 181).

*Rangamati Food Products Ltd. v. Commissioner of Customs and Others*,<sup>17</sup> the High Court Division in the case of *Mohammad Badiuzzaman v. Bangladesh* observed that “the validity of the Regulation must in our opinion, figure prominently and provide a fundamental legal basis in the Government’s continued efforts to ensure a sustainable peace process in the CHT”.<sup>18</sup>

The celebration of colonial protection of indigenous groups in the CHT is also evident in the writing of a former Cabinet Secretary, Mohammad Siddiquer Rahman, who was a Rehabilitation Officer and ex-officio Additional Deputy Commissioner of the Karnafully Hydroelectric Project in the CHT from 1962 to 1966. Having served the CHT for nearly five years, he asserts, he came to know the people of Chittagong Hill Tracts, especially the tribal people, quite closely and to understand the administrative system, the tribal customs and the minds and sentiments of the people quite intimately. And with this first-hand experience, he notes:

Initially during the British rule Chittagong Hill Tracts [...] [had] a loose form of police administration primary [sic] responsible for protecting the land and the people from attacks and looting, killings and plundering by the more belligerent tribes living on the bordering hills. [...] Chittagong Hill Tracts being a non-regulated district, was administered by special laws and regulations, and not governed by the normal laws which were applicable in other regulated districts like Chittagong, Noakhali, etc. because of the special requirements of the Tribal people and for the protection of simple tribesmen and their economic and socio-cultural interests [from Bangalee influence]. Chittagong Hill Tracts Regulations of 1901 [sic] was the basic code of law that governed administration of the Chittagong Hill Tracts. Under this law Deputy Commissioner was given all powers to control the administration on behalf of the government on the one hand and to protect the interest and welfare of the tribal people on the other. [...] *The Deputy Commissioner’s powers were legendary, but all these were for the protection and benefit of the tribal people against exploitation by the [Bangalee] people from the plains districts.*<sup>19</sup>

Indeed, the 1900 Regulation had pragmatic relevance as a benchmark for the indigenous peoples in the CHT seeking greater autonomy in 1980s and 1990s. This paper, however, challenges the conventional wisdom that colonial administration in the CHT had a benevolent strategy of extending protection to indigenous peoples and their cultures in the process implementing a policy of seclusion. In the following sections I dispel three protectionist myths about British colonial policies in the CHT and show the various vested interests of the administration behind each, which made hill peoples even more vulnerable.

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<sup>17</sup> 10 Bangladesh Law Chronicles, 2005, High Court Division 525. The civil Petition for Leave to Appeal No. 696 of 2006.

<sup>18</sup> *Mohammad Badiuzzaman v. Bangladesh*, *supra* note 15, para. 27.

<sup>19</sup> M. Siddiquer Rahman, ‘CHT Agreement: A Broad Perspective’, *The Daily Star*, 22 April 1998. Emphasis added.

## 2.1 *Protection from Invading Tribes*

Many measures taken by the colonial administration in the CHT were justified as necessary steps towards the suppression of various invading tribes. As noted, this need for protection was echoed much later by Rahman, who justified arbitrary powers given to the DC in the CHT to ‘protect’ hill peoples. As a matter of fact, far from protecting indigenous peoples, the Deputy Commissioner’s extensive power crafted in the 1900 Regulation was a necessary tool for the suppression of any indigenous resistance against the British rule. The Regulation gave the DC the authority not only to fix the number of firearms and the quantity and description of ammunition which may be possessed by the inhabitants of any village,<sup>20</sup> but also to withdraw any previous permission to hold arms and require the surrender of those arms.<sup>21</sup> The DC retained the same authority with regard to the manufacture of gunpowder.<sup>22</sup> Even traditional hunting weapons and tools such as spears, bows and arrows, and daos<sup>23</sup> that indigenous peoples used to carry for hunting purposes were not spared from this sweeping regulative control of the DC: he could prohibit the carrying of these items if he felt it necessary for maintaining peace and order in the area.<sup>24</sup> This ban on these traditional weapons also reinforced the colonial reading of the indigenous people – “they are always armed”.<sup>25</sup>

These powers of the DC, Mohsin notes, were designed to ensure that “no military uprisings could again take place against the British in the area. They had effectively destroyed the military structure and organisation of the Hill people which could have posed a challenge and threat to the hegemonic position of the British in the HT. This ensured a steady and stable supply of revenues from the area [...]”.<sup>26</sup> Bureaucrats like Rahman, groomed very much within the colonial mind set of Pakistani and then Bangladeshi civil and military administration, are naturally not likely to question the idea that the colonial administration was protectionist.

It is, therefore, no surprise that the colonial officers themselves would define their actions in protectionist terms. Sneyd Hutchinson, the then Superintendent of the CHT, published in 1906 *An Account of the Chittagong Hill Tracts* in which a series of military expeditions that eventually consolidated full colonial administrative control in the region came to be depicted as a necessary response to atrocities committed by some tribal groups against others. He writes: “The history of the Chittagong Hill Tracts is a record of constantly recurring raids on the part of the bordering hill tribes, against whom it has been necessary to send several punitive expeditions”.<sup>27</sup> For example, a ‘punitive’ expedition against Kukis ended in the submission of their chief in October 1861. The 1871 expedition against the

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<sup>20</sup> Article XI, Clause 1 of the CHT Regulation.

<sup>21</sup> Article XI, Clause 3 of the CHT Regulation.

<sup>22</sup> Article XI, Clause 4 of the CHT Regulation.

<sup>23</sup> A kind of sharp object with a wooden handle that is generally used to cut glass, bamboo and similar things. This is a very common household item throughout South Asia.

<sup>24</sup> Article XII, Clause I of the CHT Regulation.

<sup>25</sup> B. Pati, ‘Introduction: Situating the Adivasis in Colonial India’, in *The Adivasis in Colonial India: Survival, Resistance and Negotiation* (ed.), B. Pati (Orient Blackswan Private Limited, New Delhi, 2011) p. 5.

<sup>26</sup> A. Mohsin, *The Politics of Nationalism: The Case of the Chittagong Hill Tracts, Bangladesh* (University Press Ltd., Dhaka, 2002 [1997]) p. 147.

<sup>27</sup> S. Hutchinson, *An Account of the Chittagong Hill Tracts* (The Bengal Secretariat Book Depot, Calcutta, 1906) p. 5.

Howlong clan was even more far reaching: two military columns, each accompanied by one hundred-armed police, entered the Lushai country simultaneously and penetrated deep in the Lushai hills. According to Hutchinson, the tribes submitted without much resistance, and the columns were withdrawn.<sup>28</sup> As a matter of fact, the resistance was far from over; the Lakheres launched fresh attacks against the British in 1888, culminating in the massacre of a survey party under Lieutenant Stewart on February 3. As a result, Hutchinson continues, in 1890 a punitive expedition entered the Lushai country, which remained occupied militarily for four years. Also, the Lushai hills were annexed and divided into two districts: the northern hills under the administration of the Assam Government, and the southern hills under the Government of Bengal. “After considerable fighting and trouble, the country was finally disarmed”.<sup>29</sup>

It was ostensibly to prevent Kuki invasions that the Chittagong Hill Tracts (CHT) was created as a separate district by Act XXII of 1860 and withdrawn from the jurisdiction of the civil, criminal and revenue courts and offices of the Regulation district of Chittagong. This new district served as the buffer district in checking Kuki invasions from the ridge-tops of the CHT as well as the north-eastern borders to the plains of port city Chittagong.<sup>30</sup> The CHT was gradually militarised by the British; it came under the charge of a Superintendent, a military official who in 1867 was re-designated as Deputy Commissioner.<sup>31</sup> Although there were some political activities to pacify tribal chiefs, the control over and administration in the CHT was mainly military: “A paramilitary unit was in charge of guarding the eastern frontier from Lushai [Kuki] invasions. Military camps were set up in the interior of the Hills to maintain ‘law and order’”.<sup>32</sup> This strategy is by no means unique to the CHT. As Piang notes, in the context of colonial policies vis-à-vis hill tribes in northeast India, British officers often capitalised on internal feuds among tribal groups as well as brief raids, and “on the pretext of pacifying the ‘savages’ and punishing perpetrators of raids, they launched various expeditions into the territorial homelands of tribal people, which resulted in the eventual annexation of these areas”.<sup>33</sup>

At the same time, protective arrangements under the colonial administration simultaneously distorted and constructed ethnic identities by carving administrative units according to military interests. The classic colonial principle of ‘divide and rule’ was seen as an essential antidote to future ethnic trouble. For example, following the suppression of resistance against the British in Manipur in 1919, the colonial administration quickly brought

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<sup>28</sup> *ibid.*, p. 6. The late Commander-in-Chief of the British Army, Lord Robert, then a Lieutenant-Colonel, accompanied the Cachar column in this expedition. He named the famous white Arab charger that carried him so well between 1877 and 1896 ‘Volonel’, after the great Kuki Chief. Thus, it would be difficult to believe Hutchinson’s narrative that the tribes so easily tendered their submission to this expedition without any meaningful resistance.

<sup>29</sup> *ibid.*, p. 7.

<sup>30</sup> S. Mahmud Ali, *The Fearful State: Power, People and Internal War in South Asia* (Zed Books, London, 1993) p. 170.

<sup>31</sup> A. Mackenzie, *History of the Relations of the Government with the Hill Tribes of the North-East Frontier of Bengal* (Home Office Department Press, Calcutta, 1884) p. 342. See also, M. Ishaq (ed.), *Bangladesh District Gazetteers: Chittagong Hill Tracts* (Ministry of Cabinet Affairs, Government of Bangladesh, Dhaka, 1971) p. 29.

<sup>32</sup> Mohsin, *supra* note 26, p. 144.

<sup>33</sup> L. Lam Khan Piang, ‘Overlapping Territorial Claims and Ethnic Conflict in Manipur’, *South Asia Research* 35: 2 (2015) p. 161.



the hill areas under direct administration by dividing the area into four subdivisions on the basis of two major ethnic categorisations. This classification of hill people by imposing certain categorical terms on them and playing one group against the other, Piang notes, generated enmity among locals: “This almost linear process of ethnic mobilisation resulted in construction of the ‘other’, engendering a resurgent and unsettling enmity, sowed in the first place by the colonisers’ efforts to gain control”.<sup>34</sup>

The CHT was not immune from this model of arbitrary ethnic division in the name of security and colonial protection. In fact, the CHT suffered from it much earlier than other hill regions under British colonial rule. The Soldiers Uprising of 1857 brought fundamental changes to the administration of India. For the historian Thomas Metcalfe, the uprising, or ‘mutiny’, of 1857, sought the extinction of the British Raj.<sup>35</sup> After 1857, the British administration in general began to fear that “they could actually be driven out of India, an apprehension that never hereafter left them, and was never dismissed as an impossibility”.<sup>36</sup> As a result, the British took over the direct administration of their Indian colonies from the East India Company. Soon after, by Act XXII of 1860 the Chittagong Hill Tracts (CHT) was created as a separate district, as we have already noted.

To consolidate their power and prevent any potential rebellion like the Santal Rebellion they faced in Bengal in 1855, the colonial administration in the CHT had to rely on local chiefs. When the chiefs’ allegiance was not easily forthcoming, the British decided that force and political manipulation were needed. In his memoir *A Fly on the Wheels or How I Helped to Govern India* (1912), Captain T. H. Lewin, the Deputy Commissioner of the CHT in 1866–1869 and 1871–1874, highlighted that fact: “These chiefs had hitherto exercised paramount authority throughout the hill [...]. It was plain that, unless I were content to be the merest shadow of authority, I must convince them that my power was greater than theirs”.<sup>37</sup>

The display of power entailed limiting the authority of the chief of the Chakma tribe, which was the most dominant in the region and resisted the British rule most actively, as we shall see later. The colonial administration curtailed the traditional authority of the Chakma chief to collect revenue from the Karnafuli River.<sup>38</sup> Also, to undermine the power of the Chakmas and the Tripuras, in 1881 the colonial administration created a new administrative subdivision, the Mong Circle, in the northern part of the CHT. This area was traditionally under the jurisdiction of the Chakma chief though nearly 60 per cent of the population were Tripuras. To punish these tribes for their resistance, the British made a local Marma chief, chief of the Mong Circle although the Marmas were merely 20 per cent of the local population.<sup>39</sup>

The British ultimately succeeded in securing the loyalty of local chiefs, mainly by conferring upon them unprecedented powers. The local people resisted the new autocratic powers of the chiefs, which “created a situation where the interests of the chiefs and the people often ran opposed to each other, while the interests of the British and the chiefs were

<sup>34</sup> *ibid.*, p. 162.

<sup>35</sup> T. R. Metcalf, *The Aftermath of Revolt: India 1857-1870* (Princeton University Press, Princeton, 1965) p. 298.

<sup>36</sup> J. Singh, *Jinnah: India-Partition-Independence* (Rupa Co., New Delhi, 2009) pp. 26-27.

<sup>37</sup> T. H. Lewin, *A Fly on the Wheels or How I Helped to Govern India* (Constable, London, 1912) p. 207.

<sup>38</sup> Mohsin, *supra* note 26, p. 30.

<sup>39</sup> A. A. Hussein, ‘The Tribal Problem of the CHT and the Government of Bangladesh’, (in Bangla) *The Journal of Bangladesh Asiatic Society*, 8 (1990) p. 122.

parallel to each other”.<sup>40</sup> In 1920 the CHT was designated an ‘Excluded Area’. The protectionist attitude appeared most vividly in the 1920s when the British government sent the Indian Statutory Commission (Simon Commission) to India to propose a suitable form of government in India. The Commissioners concluded that the so-called ‘Backward Tracts’, with few exceptions, must be excluded from general constitutional arrangements on the grounds that these people were not yet ready to fully exercise their political rights and that special provision must be made for their administration.<sup>41</sup> Thus, the India Act of 1935 declared the CHT a ‘Backward Tract’, formally severing political links with the province of Bengal.

The chiefs themselves shared the views of the Commission in this regard and had petitioned for this special status. For example, the Chakma Crown Prince Nalinakkho Roy pleaded with the Bengal Governor in 1934 not to give the hill people the franchise rights that the rest of India had, citing their backwardness and his wish to ‘protect’ them.<sup>42</sup> As Mohsin notes, indeed the local elites apprehended that giving the hill people political rights would be detrimental to the elites’ position and, thus, through these Acts “the chiefs were lulled into a sense of security, as by that time they had lost all means of ensuring their own security and had come to look upon the British as their ‘protectors’”.<sup>43</sup>

For the British, this seclusion was an effective way of keeping the CHT out of the heat of nationalist movement then at its height in the rest of India, Bengal being the epicentre. Thus, although the British government had allowed limited immigration into the CHT in order to facilitate trade and irrigation-oriented intensive agriculture, it was careful not to allow large scale immigration, fearing the growth of anti-British sentiments which were more common in the plains of Bengal.<sup>44</sup> By keeping the Hill Tracts segregated from the fervours of the nationalist movement both the colonial administration and the chiefs had hoped to protect their own mutually dependent powers and privileges.<sup>45</sup> This converging vested interest of the colonial administration on the one hand and the local elites on the other explains the political aspects of protectionism in the form of exclusion.

Thus, what started as the rhetoric of ‘protection’ of hill tribes in the CHT from invading savage tribes ultimately resulted not only in full colonial administrative and military control over the region by completely destroying indigenous military capabilities to offer any resistance but also the reconfiguration of ethnic composition in the area using classic ‘divide and rule’ principles. Also, political collaboration between tribal chiefs and colonial

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<sup>40</sup> Mohsin, *supra* note 26, p. 31.

<sup>41</sup> *Report of the Indian Statutory Commission, Presented by the Secretary of State for the Home Department to Parliament by Command of His Majesty*, 17 vols. (H. M. Stationery Office, London, 1930). See also, Vinita Damodaran, *supra* note 13, p. 106. The grounds for the exclusion of these territories were that “the stage of development reached by the inhabitants prevented the possibility of applying to them methods of representation adopted elsewhere”, and that the people wanted freedom for the “reasonable exercise of their ancestral customs, freedom in the pursuit of their traditional methods of livelihood and security of land tenure . . . Their contentment does not depend so much on rapid political advance as on experienced and sympathetic handling, and on protection from economic subjugation by their neighbours”.

<sup>42</sup> B. Mohan Dewan, *An Account of the Chakma Nation* (in Bangla) (Saroj Press, Rangamati. 1969) p. 184.

<sup>43</sup> Mohsin, *supra* note 26, p. 148.

<sup>44</sup> D. Roy, ‘The Discordant Accord: Challenges in the Implementation of the Chittagong Hill Tracts Accord of 1997’, in M. Boltjes (ed.), *Implementing Negotiated Agreements: The Real Challenge to Intrastate Peace* (TMC Asser Press, The Hague, 2007) pp. 121-122.

<sup>45</sup> Mohsin, *supra* note 26, p. 148.

administration left hill communities disenfranchised and thereby politically backward compared to already dominant Bangalee communities. Far from being ‘protection’, then, these measures deepened the vulnerability of ordinary hill peoples in the CHT.

## 2.2 *Protection from Oppressive Tribal Chiefs*

Another important element of protectionist discourse was the need to protect indigenous peoples from their oppressive tribal chiefs. However, the fact remains that the colonial rule was often dependent on collaboration with local elites, as we have already noted. In the case of the CHT, the issue of offering hill tribes protection from the oppression of their chiefs – in the form of establishing a government *khas mehal* outside the jurisdiction of any tribal chief – was a by-product of the initiative to re-organise administrative units. Captain Graham, the superintendent of the CHT, first recommended administrative reforms in 1862 for more efficient revenue collection.<sup>46</sup> The next Superintendent’s, MacGill’s, August 1864 report discussed the difficulties of settling in the hills following the ordinary principles in force in the plains.<sup>47</sup> He suggested that the joomeahs<sup>48</sup> should be encouraged to settle and take up plough cultivation, and he approved of the idea of apportioning a certain extent of jooming country to each chief.<sup>49</sup> MacGill believed that this arrangement would confine separate tribes within certain definite limits and ultimately tend towards the settlement of the country and, thereby, contribute to stable colonial revenue.<sup>50</sup> However, no decision was made on this proposal. The subject was reopened in 1867 by the Deputy Commissioner (a new designation replacing the old position of the Superintendent) Captain Lewin, who made recommendations similar to those of MacGill and Graham.<sup>51</sup>

However, it is Lord H. Ulick Browne, then Officiating Commissioner of Chittagong Division, who first proposed in correspondence to the Secretary to the Government of Bengal on 12 November 1868 that the CHT be divided into four: one division under each of three main tribal chiefs, *viz.*, Mong, Chakma, Bomang, and the fourth one as the government *khas mehal* - as a buffer space where no chief had jurisdiction.<sup>52</sup> Browne explained the advantages of the proposed measures in a protectionist language:

It will be a general check on the conduct of chiefs towards jhummas. If a chief does not treat the latter well, they will go into another division; and this, followed as it will be by a direct diminution of rent, will probably ensure good treatment. The khas

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<sup>46</sup> H. Ulick Browne, ‘Proposal for the Revision of Settlement and the Establishment of Certain Administrative and Political Principles and Arrangements in the Hill Tracts of Chittagong’ (12 November 1868) in Government of Bengal, *From the Correspondence on the Revenue Administration of the Chittagong Hill Tracts, 1868-1887* (The Bengal Secretariat Press, Calcutta, 1887) [hereinafter, *Correspondence*], para. 7.

<sup>47</sup> *ibid.*, para. 8.

<sup>48</sup> Also known as ‘Jumma’: cultivators by joom, which is the traditional mode of slash and burn cultivation in the hill. The colonial administration found this mode of cultivation problematic, mainly because joomeahs had to move from place to place in search of fresh virgin land necessary for jooming and, therefore, it was difficult to keep track of them for revenue collection.

<sup>49</sup> Ulick Browne, *supra* note 46, para. 8.

<sup>50</sup> *ibid.*

<sup>51</sup> *ibid.*, paras. 10-11.

<sup>52</sup> *ibid.*, para. 14.

mehal will suit those who are unwilling from clannish peculiarities to be under any one of the chiefs, and will be a sure refuge for all joomeahs who are not treated well, in the event of any combination among the chiefs.<sup>53</sup>

Browne was confident that this additional option of leaving their chiefs would offer hill tribes freedom from excessive taxation by chiefs and their aides, and other forms of serfdom.<sup>54</sup>

However, ensuing correspondence from the Government of Bengal demonstrates less interest in protectionist ethos while revealing great concern about the chiefs' possible reactions to the proposed changes. In a letter to Browne on 23 January 1869, Secretary to the Government of Bengal, Ashley Eden, writes that the Lieutenant-Governor finds the proposals sound and well-reasoned but is concerned about the potential risk of agitation by the chiefs; hence, he recommends getting the chiefs' consent first.<sup>55</sup> The Board of Revenue (Lower Provinces) expressed concerns in even stronger language. Commenting on Browne's proposal, T. B. Lane, the Officiating Secretary to the Board, warned the Government of Bengal that even the consent of chiefs would not be helpful because they were ignorant and untrustworthy people: "[t]hey will agree now but create problems later".<sup>56</sup> Seen purely from an economic point of view, naturally the Board could find no compelling reason for creating a buffer area (*khas mehal*) for people who do not want to have a chief.<sup>57</sup> For the same reason, the Board endorsed Browne's view that plough cultivation is superior to joom cultivation. Indeed, the Board were aware that by facilitating plough cultivation, the proposed *khas mehal* could bring economic gains. Nevertheless, the Board echoed the Lieutenant-Governor's concerns that the measure would adversely affect the chiefs.<sup>58</sup>

Browne's response to the Revenue Board's comments expressed frustration that their interest in the proposals was limited to their effect in promoting plough cultivation and the loss to the chiefs if it were established to any considerable extent.<sup>59</sup> More importantly, Browne regretted, many of the Board's assumptions were unfounded, and would not have been advanced by any one at all acquainted with the circumstances of the CHT.<sup>60</sup> For example, the Board assumed that the difference in the quality of the lands in the different divisions would make joomeahs flock to one division. According to Browne, this was a great and double mistake in that jooming is usually carried on in virgin land, which is of the same quality in all divisions. Also, he saw the Board was unaware that each tribe naturally favoured its own chief.<sup>61</sup> He thus reiterated that hill people will leave their chiefs only under compelling circumstances but the knowledge that a joomeah could leave his chief if he chose would nevertheless "act as a powerful check against oppression on the part of the chiefs, who

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<sup>53</sup> *ibid.*, para. 15.

<sup>54</sup> *ibid.*, para. 24.

<sup>55</sup> Ashley Eden, 'Response to Browne's Proposal' (23 January 1869) in *Correspondence*, para. 3.

<sup>56</sup> T. B. Lane, 'Comment on Browne's Proposal' (12 April 1869) in *Correspondence*, para. 8.

<sup>57</sup> *ibid.*, para. 11.

<sup>58</sup> *ibid.*, paras. 11-12.

<sup>59</sup> H. Ulick Browne, 'Report on the Meetings with Chiefs' (7 December 1869) in *Correspondence*, para. 16.

<sup>60</sup> *ibid.*, para. 17.

<sup>61</sup> *ibid.*

were exceedingly powerful, and over whom there is very little indeed in the way of check at present".<sup>62</sup>

With this conviction, Browne flatly accused the Board of opposing any improvements in the condition of the CHT and its inhabitants, save the establishment of plough cultivation, and maintaining the present serfdom in its integrity for the foreseeable future.<sup>63</sup> He thus concluded: "I should be the last to propose to suddenly place the hill man in the exact position of an Englishman as regards liberty and rights; but I do not think there ought to be no question as to the abolition of the system of serfdom and the substitution of a system of rents, and that the only question is, how soon we can do it, and how far we should advance at a time".<sup>64</sup>

The Lieutenant-Governor finally issued Orders on Browne's proposal in January 1870 that approved the proposal of establishing *khas mehals* while exhorting the local officers to encourage *khas mehal* joomeas to settle to plough cultivation and induce the chiefs to take leases on favourable terms of particular tracts on which to settle their own joomeahs.<sup>65</sup> These Orders provoked a lengthy and at times rather heated correspondence between the Commissioner of Chittagong and the Deputy Commissioner of the CHT regarding the possibility of carrying out the Orders, and then more exchanges of letters and further referral of the matter to the Government of Bengal in Calcutta.

In the meantime, Captain Lewin returned to the CHT as the DC and Browne was replaced by H. Hackney, the Officiating Commissioner of Chittagong Division. With his vast experience in CHT affairs, Lewin prepared a comprehensive report on revenue administration in the CHT. In his report, Lewin endorses Browne's proposal of a government *khas mehal* and reasons cogently for its necessity but at the same time questions its viability as a protectionist tool. To put it briefly, Lewin argues that a hill man under a settlement-holder is more or less a slave; he may be ill-treated to any extent, but remains in the same position as regards his headman. If he complains of ill-usage, his state will likely worsen. It is, therefore, necessary that he should have some place of refuge. Now if it were possible to ascertain the truth of each complaint of ill-treatment, justice would require the headman to suffer for his misconduct, and forfeit all claims to the profits his status as headman gave him. However, when *ryoots*<sup>66</sup> throw off their allegiance to their old chiefs, they avoid the feudal service that the chiefs, but not the Government, require. Thus, the assurance of a distinct tangible gain is held out to every *joomeah* who thinks of becoming a *khas ryoot*, and therefore applications for leave to settle in the *khas mehal* on the grounds of ill-treatment have to be received with caution. Without clear proof of culpability, he proposed, for every *joomeah* who settles in *khas mehal*, the chief who loses him as a *ryoot* should pay Rs. 1 less in tax. Also, the tax rate in the *khas mehal* should be Rs. 5 instead of the standard rate of Rs. 4 elsewhere.<sup>67</sup> Thus, as his proposal reveals, by proposing measures amounting to negative incentives for *joomeahs*

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<sup>62</sup> *ibid.*, para. 18.

<sup>63</sup> *ibid.*, para. 20.

<sup>64</sup> *ibid.*

<sup>65</sup> Letter of the Secretary to the Government of Bengal to the Commissioner of Chittagong Division, dated 21 January 1870, no. 295 in *Correspondence*, para. 5.

<sup>66</sup> Sub-tenants.

<sup>67</sup> Letter of T. H. Lewin to H. Hankey, the Commissioner of Chittagong, dated 1 July 1872, no. 532 in *Correspondence*, paras. 16-21.

to leave their oppressive chiefs, Lewin not only understated the degree of oppression suffered by hill communities but also showed more concern about protecting the vested interests of chiefs than safeguarding vulnerable hill peoples.

Lewin's views on the proposed *khas mehal* were fully supported by his successors A. W. B. Power and Captain Gordon. On the question of 'oppression' of hill peoples by tribal chiefs or their agents, Power unequivocally writes that every *joomeah* who has intentionally moved out of the CHT will of course say that he was driven to do so by oppression, but on enquiry it will transpire that "such an 'oppression' generally means enforcing payment of tax, of just debts, and other legitimate obligations".<sup>68</sup> In general, he continues, a jooming community finds it necessary to move from one district to another. By its very nature, it has to move on, for there is much to gain by moving.<sup>69</sup> Similarly, Gordon asserted that the establishment of a government *khas mehal* is in itself a sufficient protection against oppression, but that entry into the *khas mehal* should not be made too easy. No inducements should be held out to the hill men to desert their tribal chiefs, either for other chiefs or for the government *khas mehal*; the *khas mehal* should be taxed more than the ordinary circles.<sup>70</sup> As a matter of fact, the colonial administration had to protect the interests of tribal chiefs for strategic reasons. As Gordon himself notes:

It is, I believe, generally admitted that the best, if not only, way of carrying out administrative scheme in this district, is to work through the hereditary chiefs of the people. The government administrative machinery is not, at present, strong enough to admit of the chiefs being set aside. The old feudal feeling is still pre-eminent among the hill men, and it is by working upon this feeling only, that the hill man can be induced cheerfully to set aside his prejudice and convene to our schemes of reform.<sup>71</sup>

The fact that the proposed *khas mehal* was indeed not seen by the colonial administration as a protective mechanism for hill tribes against their oppressive chiefs is also exposed vividly in an instruction from the Lieutenant-Governor in response to Lewin's proposal. In a February 1876 letter to the Commissioner of Chittagong Division, the Secretary to the Government of Bengal requested an explanation for the proposal for fixing a higher rate of capitation tax in the *khas mehals*, the Lieutenant-Governor being under the impression that "one main object of the establishment of the *khas mehal* was the encouragement of plough cultivation".<sup>72</sup> Given that the capitation tax is not paid by plough cultivations, the Government of Bengal was left perplexed as it transpired that there was no immediate plan on the part of the local administration to prohibit jooming in the *khas mehal*.<sup>73</sup>

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<sup>68</sup> See Letter of A. W. B. Power to the Commissioner of Chittagong, dated 17 June 1875, in *Correspondence*, para. 34.

<sup>69</sup> *ibid.*

<sup>70</sup> See Letter of A. Mackenzie, the Secretary of the Government of Bengal to the Commissioner of the Chittagong Division, dated 24 July 1878, in *Correspondence*, para. 23.

<sup>71</sup> Note by Captain Gordon. See *ibid.*, annex.

<sup>72</sup> Letter of H. J. Reynolds to the Commissioner of Chittagong Division, dated 5 February 1876, no. 331, in *Correspondence*, para. 10.

<sup>73</sup> *ibid.*

The requested explanation reveals an even more nuanced design for the instrumental use of the *khas mehal* to encourage plough cultivation – surprisingly not in the *khas mehal* but within the vast areas under circle chiefs. The then DC of the CHT writes in a letter of 20 April 1876 that when a *joomeah* village has cultivated its lands to exhaustion, and the community is tempted by the fresh jungle to move to a *khas mehal*, the circle chief will endeavour to settle the village down to plough cultivation within his own circle, so as to retain his chieftainship over its members.<sup>74</sup> Also, given that inadequate communication facilities and safety concerns meant that the *khas mehal* was not yet ready for plough cultivation, in the short run only the areas under circle chiefs – on the banks of navigable rivers, near comparatively cheap markets and in tolerably well populated places – could be used for plough cultivation.<sup>75</sup> In this sense, Power conceived of the *khas mehal* as a mere catalyst for the promotion of plough cultivation in the CHT.

The final Rules on this subject, proposed by the Commissioner of the Chittagong Division, John Reames, in February 1879 and approved by the Government of Bengal in October 1883, stipulated that *ryoots* in the *khas mehal* pay a capitation tax of Rs. 5 per house and four days' free labour (locally known as *begar* – a traditional custom in hill regions, offered to tribal chiefs), but if they wish to return their tribal chief's circle, the tax will be reduced to the ordinary rate of Rs. 4 per household. Also, only persons who could show valid and inseparable reasons for dissatisfaction with their chiefs and their representatives would be permitted to migrate into the *khas mehal*.<sup>76</sup>

As explained before, this is far from a design to protect hill communities from the oppression of tribal chiefs and their agents. The protection of tribal peoples was not the *raison d'etat* of establishing government *khas mehals* in the CHT. In dealing with the issue of *khas mehals*, the colonial administration had been essentially driven by considerations of stable revenue, to be secured by plough cultivation and, with this, of protecting vested interests of tribal chiefs, seen as necessary elements for consolidating colonial power and authority in the CHT in a (negatively) peaceful, hence less expensive, way.

### 2.3 Protection from 'Crafty' Bangalees

The colonial governance of indigenous peoples in the CHT was also depicted as a mode of necessary protection from the exploitation of 'cunning' Bangalees. Colonial officers' narratives frequently juxtaposed the simple mindedness of hill people with the shrewdness of Bangalees. For example, Lewin describes CHT hill people thus: "[t]hey have an honest bright look, with a frank and merry smile; and their look does not belie them, but is a faithful index of their mental characteristics".<sup>77</sup> His perception of Banglaee *mooktears*<sup>78</sup> and *mahajans*<sup>79</sup> is

<sup>74</sup> Letter of A. W. B. Power to the Commissioner of Chittagong Division, dated 20 April 1876, no. [...], in *Correspondence*, para. 13.

<sup>75</sup> *ibid.*

<sup>76</sup> *Rules for Territorial Circles in the Chittagong Hill Tracts*, Rules VI and VII. See, Letter of C. A. S. Bedford, Officiating Commissioner of the CHT to the Commissioner of Chittagong Division, dated 18 September 1884, no. 590G, in *Correspondence*, annex. However, *khas mehals* found no mention in the 1900 Regulation.

<sup>77</sup> T. H. Lewin, *The Hill Tracts of Chittagong and Dwellers Therein with Comparative Vocabularies of the Hill Dialect* (Bengal Printing Company Ltd., Calcutta, 1869) p. 33.

<sup>78</sup> Lawyers/assistants to lawyers.

quite different. The *mooktears*, he describes, exploit the simplicity and ignorance of hill people by quibbles, quicks, and chicanery, and draw them into unnecessary litigations; the *mahajans*' manipulation of simpleminded hill people reduces them to a condition of slavery. His candid account of such trickery deserves a full mention here:

In an ill-fated hour the hill man borrows a few rupees from some mahajun [...]. He can neither read nor write; consequently the bond in which the transaction is recorded, usually binds him to pay some enormous amount of interest, of which he is totally ignorant. Time goes on, the money becomes due, and is generally paid. In the latter case the mahajun says, "Go my son, I destroy the bond, the debt is cancelled;" here he will tear up some paper before the hill man, but most certainly *not* the bond. The debtor goes away satisfied to his home, leaving the mahajun chuckling in his sleeve at his successful villany. After a short interval the mahajun repairs to the Civil court, and, with an injured aspect, lays a suit for the recovery of the original debt, interest, and costs of suit, according to his bond. Formerly, when the summons to the hill man to appear in the suit was issued through a Bengallee peon, the mahajun would simply bribe the summons-bearer, who would report the summons as duly served, without going near the pseudo debtor's house. Should the mahajun not be successful in this, he will lie in wait at the river-side, and when his man comes down on the day fixed for the hearing of the case, he will seize upon him, "Ai! Bapre! Great is my misfortune, you have been summoned, my friend, quite by mistake; I have no case against you; you know, we made all square between us when last we met. I am afflicted for your trouble, out come with me, you must eat and drink at my expense as some small return for all this needless bother". So off goes the befooled hill man, and never appears in his case, when, according to law, a decree in default is given against him. In another case, supposing the hill man to have paid part of his debt and to owe the remainder, the mahajun will then meet him outside the Court, make a compromise with him, and agree to withdraw the case. The man goes away, while the mahajun, on his part, does not withdraw the case, but takes a decree in full, *ex parte*, in default of the debtor's attendance.<sup>80</sup>

And Lewin concludes: "[n]umberless are the tricks to which the crafty Bengallee resorts, and gradually he accumulates over his victim's head an amount of legally authorised debt, which the wretched creature can never hope to pay off. He then becomes the bond-slave of the mahajun".<sup>81</sup>

While such exploitation of hill people by Bangalees in privileged positions is not uncommon even today, it has to be noted that the Bangalee petty bourgeoisie acquired asymmetric power positions vis-à-vis hill peoples primarily through various colonial policy interventions. One good example is the hastened abolition of the customary practice of so-called 'slavery' in the CHT. In the hills, when a person borrowed money, he would give the

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<sup>79</sup> Money lenders.

<sup>80</sup> Lewin, *supra* note 77, pp. 25-26.

<sup>81</sup> *ibid.*, 26.



creditor one of his children or a female relative to serve as a menial servant, in lieu of paying any monetary interest. The creditor was bound to release the slave on the repayment or tender of the original sum borrowed, and not allowed to sell or transfer the slave to another owner.<sup>82</sup> As Lewin himself knew, “the condition of these so-called slaves was very little different indeed from free people. They were treated as members of the creditor’s family, and were never exposed to harsh usage”.<sup>83</sup> As soon as the British government established direct rule over the CHT, this traditional system of debtor-slavery was hurriedly brought to an end in line with Britain’s global anti-slavery campaign,<sup>84</sup> with the release of more than three hundred debtor-slaves. One direct consequence of the abolition of this local practice was weakening confidence between the debtor and the local creditors that gradually discouraged the latter from lending to the former. Lewin, therefore, unhesitatingly admits: “The consequence of our action being such, the old system under which hill people borrowed from each other in times of need having been rudely overturned, and in its place a law, unexplained and incomprehensible, being substituted, they fell easy victims to the [Bangalee] mahajuns, who expounded the law very much to their own advantage”.<sup>85</sup>

Other colonial policy interventions that put certain Bangalees in privileged positions were the direct outcome of the administration’s effort to increase tax revenue in the CHT. When the East India Company took control of the CHT in 1760, the British began collecting joom taxes, in the form of cotton.<sup>86</sup> Bangalee middlemen, serving as agents of the Company (in the absence of an administrative structure), collected the cotton, usually exploiting the hill people by collecting more than they paid to the Company.<sup>87</sup> Since the hill people needed cotton for their commercial transactions with Bangalee merchants too, they were left with little means to meet their daily needs.<sup>88</sup>

The Company’s incessant attempts to increase its revenue from the hills angered the hill peoples, who ultimately revolted against the Company in 1776 and refused to pay at all.<sup>89</sup> The resistance led by the Chakma chief Sher Daulat Khan, his son Jan Baksh Khan, and Deputy Rono Khan, offered the most powerful challenge to the colonial rule in the CHT. The report of this resistance is found in the earliest record of the colonial administration’s dealings with the CHT hill people - a letter dated 10 April 1777 from the Chief of Chittagong to the Governor-General, Warren Hastings: “a mountaineer, named Ramoo Cawn, who pays the Company a small revenue on their cotton farm, has, since my being here, either through ill-usage from the revenue farmer, or from a disposition to revolt, for some months past, committed great violence on Company’s landholders, by exacting various taxes and imposing

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<sup>82</sup> *ibid.*, 34.

<sup>83</sup> *ibid.*

<sup>84</sup> It is to be noted that the ‘formal’ abolition of slavery saw a simultaneous invention of a new system of bondage labour in which the British administration recruited various ‘hard working’ tribes from colonial India to work in overseas plantations, for example in Fiji, Mauritius, and Natal. These bondage labourers were treated ruthlessly and paid so little that they never had means to return home even after the so-called ‘contract’ had expired. For details, see Pati, *supra* note 25, pp. 20-21.

<sup>85</sup> *ibid.*, p. 35.

<sup>86</sup> Mohsin, *supra* note 26, p. 78.

<sup>87</sup> *ibid.*

<sup>88</sup> R. Lal Chakraborty, ‘Chakma Resistance to Early British Rule’, 2 *Bangladesh Historical Studies* (1977) pp. 138-139, quoted in Mohsin, *supra* note 26, p. 78.

<sup>89</sup> S. Hutchinson, *Eastern Bengal and Assam District Gazetteers: Chittagong Hill Tracts* (Pioneer Press, Allahabad, 1909) p. 24.

several claims on them with no grounds authority or legal demand”.<sup>90</sup> A more vivid account of the event is presented by the local Company stakeholders. A petition of 26 June 1778 by Bangalee landlords of the plains and the Company’s rent receivers succinctly records this resistance:

Jan Bakhsh, Chief of the Chakma tribe and Rono Khan, his Deputy dispatch Pulwans [warriors] to seize and lay hold of our Tallokdars [tenants] and Reiotts [cultivators] and exert from them Nuzzirs [tributes] [...] They have erected *Neeshauns* [flag of independence] on the former cultivated and Jumma Land whose situation in adjacent to the sides of the mountains and will not permit the Reiotts to bring the same into cultivation requiring the Reiotts to take Pottahs from them and to pay revenue to them ... They make a practice of sending pulwauns who seizing and confining our people and extorting from them sum of money and have established a jurisdiction and inflict punishment in matters which are only cognizable by the Huzzoor (government).<sup>91</sup>

Successive Company efforts to stop Jan Bakhsh Khan and Rono Khan failed as the latter had adopted guerrilla tactics and fled<sup>92</sup> and the British were unfamiliar with the interior terrain of the hills.<sup>93</sup> Having thus failed militarily to crush the resistance, the British forced an economic embargo upon the hill people.<sup>94</sup> As Lewin described it: “[T]his contumacy on the part of Ramoo Cawn was subsequently met by stopping all supplies, and not allowing the hill people to have access to our bazars; and these measures appear to have been successful, as we hear no more of this person”.<sup>95</sup>

The Chakma Raja Jan Bux Khan was ultimately compelled to sign a truce with the British Governor General in 1787, in which the chief not only accepted British sovereignty but also agreed to maintain peace in the areas bordering the Hill Tracts.<sup>96</sup> With this treaty of 1787, the CHT entered a phase of direct colonisation.<sup>97</sup> The indigenous military capacity was systematically destroyed soon after and the Company deployed its army in the area to ensure a steady and stable flow of revenue from the CHT.<sup>98</sup>

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<sup>90</sup> Lewin, *supra* note 77, p. 21.

<sup>91</sup> S. Islam (ed.), *Bangladesh District Records: Chittagong*, vol. I, 1760-1787 (University of Dacca, Dhaka, 1978) pp. 83-84.

<sup>92</sup> Lewin, *supra* note 77, p. 21.

<sup>93</sup> For a detailed account of these expeditions, see R. L. Chakraborty, ‘Chakma Resistance to Early British Rule’, 11 *Bangladesh Historical Studies* (1977) p. 148, cited in Mohsin, *supra* note 26, p. 143.

<sup>94</sup> Mohsin, *supra* note 26, p. 143.

<sup>95</sup> Lewin, *supra* note 77, p. 21.

<sup>96</sup> A. M. Serajuddin, ‘The Chakma Tribe of the Chittagong Hill Tracts in the Eighteenth Century’, 1 *Journal of the Royal Asiatic Society of Great Britain and Ireland* (1971) p. 56.

<sup>97</sup> Roy, *supra* note 44, p. 76. In contrast, Lewin argues that up to 1829, the colonial administration exercised no direct influence or rule over the hill tribes. The near neighbourhood, however, of a powerful and stable Government naturally brought the Chiefs by degrees under our influence, and by the end of the 18<sup>th</sup> century every leading Chief paid to the Chittagong Collector a certain tribute or yearly gift to purchase the privilege of free-trade between the inhabitants of the hills and the men of the plains. The amount of these sums fluctuated at first, but was gradually brought to specified and fixed limits, eventually taking the shape, not of tribute, but of revenue paid to the State. See Lewin, *supra* note 77, pp. 22-23.

<sup>98</sup> Mohsin, *supra* note 26, p. 144.

More importantly, this time the chief had to agree to pay cotton tribute to the Company on a regular basis (about 2.5 tons annually for each married man) in exchange for trading rights between the hills and the plains.<sup>99</sup> As part of this truce, the chiefs were also made responsible for the payment of this revenue to the Company.<sup>100</sup> Gradually the CHT became a supplier of raw material for textile industries in Britain.<sup>101</sup> As Lewin notes, an estimated 2,235 tons of cotton per year were exported by the hill people.<sup>102</sup>

However, only two years after the agreement, in 1789, the colonial administration modified this arrangement egregiously by changing the form of the tribute from kind to cash. Each married man had to pay what would later be called capitation tax of Rs. 4. “The government revenue was fixed upon a rough idea of the number of joomeas subject to each chief, and it has always been held liable to enhancement on the ground of increase in their numbers”.<sup>103</sup> When first imposed, the total revenue from the CHT was Rs. 5703.13; by 1846 it was Rs. 11,803.<sup>104</sup>

This introduction of a money economy into the CHT made the hill people even more vulnerable; they faced renewed exploitation at the hands of powerful Bangalees. To pay taxes in cash, they had to rely upon Bangalee traders paying for their products. These traders controlled and manipulated the market, and hill peoples had to sell their products at a greatly reduced price.<sup>105</sup> Short of cash, the hill peoples were then forced to borrow money from Bangalee *mahajans*, who charged exorbitant interest rates, sometimes as much as 600 per cent.<sup>106</sup> We have already noted other forms of trickery and exploitation that hill peoples suffered at the hands of these *mahajans*. Most of all, the old problem of exploitation by Banglaee middleman tax collectors continued. Writing on 21 April 1829, the Commissioner of Chittagong, Mr. Halhed, regrets: “We have no authority in the hills; the payment of the tribute which is trivial in amount in each instance is guaranteed by a third party, resident in our own territory, and who is alone responsible. He derives his own profit from the arrangement under stipulations which have no place in his agreement with us. He is merely an agent, or mooktear, or medium of communication between his constituents and the authorities. He is not the ruler of the clan he represents, and possesses no control over the members of it”.<sup>107</sup>

These colonial economic policy interventions fundamentally changed the indigenous economic system of the hill people. As Mohsin notes, they challenged and ultimately displaced the hill people’s age-old understanding of material ownership, economic exchange and sharing.<sup>108</sup> “At a more fundamental level it alienated the Hill people from their means of

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<sup>99</sup> D. Roy, ‘The Erosion of Legal and Constitutional Safeguards of the Hill Peoples of the CHT in Bangladesh: An Historical Account’, Unpublished paper (1992).

<sup>100</sup> *ibid.*

<sup>101</sup> Mohsin, *supra* note 26, p. 79.

<sup>102</sup> Lewin, *supra* note 77, p. 24.

<sup>103</sup> Mackenzie, *supra* note 31, p. 332.

<sup>104</sup> *ibid.*

<sup>105</sup> Mohsin, *supra* note 26, p. 80.

<sup>106</sup> W. Mey, *Genocide in the Chittagong Hill Tracts, Bangladesh*, International Working Group for Indigenous Affairs (IWGIA) Document No. 51 (IWGIA, Copenhagen, 1984) p. 79.

<sup>107</sup> Lewin, *supra* note 77, p. 22.

<sup>108</sup> Mohsin, *supra* note 26, p. 77.

production and turned them into a dependent and marginalised population.”<sup>109</sup> Thus, instead of protecting ‘innocent’ hill people from ‘crafty’ Bangalees, the colonial policy interventions further empowered profit-seeking Bangalee *mahajans* and traders and, ironically, pushed hill people even deeper into economic vulnerability.

### 3 Conclusion

As the foregoing discussion highlights, various colonial policy interventions in the CHT in the name of protecting hill peoples from external invasions or from oppressive tribal chiefs or from dominant Bangalees ultimately empowered these chiefs and Bangalees even more and ironically furthered the political and economic marginalisation of hill peoples. Having primarily been motivated by various economic, political and strategic vested interests of the colonial administration, these so-called ‘protectionist’ policies were doomed to failure as far as any meaningful protection of ordinary hill peoples in the CHT was concerned.

This assertion made in this paper, however, is not an attempt to downplay the oppression of hill peoples by various Bangalee vested-interest groups under direct patronage of postcolonial successors of the colonial administration. Invariably all civil and military administrations under the Pakistani rule and then in independent Bangladesh contributed to the suffering of hill peoples in the name of security, religion, nationalism or, simply, racism. Nevertheless, in engaging with the question of ‘protection’ of ordinary hill peoples in the CHT from ongoing oppression and marginalisation, we must consider new paradigms, beyond the colonial isolationist and seclusionist model of protection. The longstanding crisis in the CHT in turn is a necessary reminder of the deeper crises of postcolonial statehood and hegemonic nation-building projects that the state of Bangladesh, like many of its kind, embodies. Complexities involved in the CHT question, in this sense, cannot be fully grasped in separation from this larger problem. Regurgitating virtues of ‘colonial protectionism’ obscures this fact. Therefore, a plausible first step towards a better framework of protection for the hill peoples in the CHT should be an attempt to problematize the notion of colonial protectionism that this paper took up as a subject of critical examination.

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<sup>109</sup> *ibid.*