

## **Executive Summary of the Report on ‘The State of Being Stateless: A Case Study of the Chakmas of Arunachal Pradesh’**

### **1. The nature and scale of the problem**

1.1. It is very difficult – if not impossible to determine the exact number of Chakmas in Arunachal Pradesh. For one thing, the All-Arunachal Pradesh Students’ Union (AAPSU) – the main body spearheading the movement for the disenfranchisement and expulsion of the Chakmas – and the Committee for the Citizenship Rights of the Chakmas of Arunachal Pradesh – the organization that demands Chakmas’s right to citizenship - are seldom one in accord on the number. Moreover, many of the Chakmas have allegedly been kept outside the scope of Census operations. For, it is widely feared that their enumeration would lend some sort of legitimacy to their claim to Indian citizenship. For another, it is also widely believed by a section of the local Arunachalese people that Chakma immigration from across both internal and international borders continues unabated till date.

1.2 As per a report of February 1995 from the Government of Arunachal Pradesh, the Chakma refugee population was 34,493. One more recent estimate, however, indicates that their number may be larger and in the range of 46,000 to 50,000. In a memorandum submitted by People’s Referendum Rally for removal of Chakma/Hajong refugees, in September 1995 it is indicated that the number has swelled to over 60,000. The Census figure for Chakma and Hajong resettlement in Arunachal Pradesh indicates that in 1981, 24,083 Chakmas and 1433 Hajongs and in 1991 census, 30062 Chakmas and 2134 Hajongs were recorded. The decadal growth rate of the Chakmas, according to Census figures, has been 25 percent, compared to the state average of 36.83 percent.

### **2. The profile of the population affected**

2.1 The Chakmas and the Hajongs have been living in designated areas of Diyun and Bordumsa in Changlang, Chowkham in Lohit and Kokila areas of Papum Pare districts. In his appeal to the members of Parliament made on 8 August 1995, the President of the Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh (CCRCAP) estimated the Chakma population at 66,000 approximately. Miao subdivision has the largest concentration of the Chakmas in Arunachal Pradesh. In 1981, tribals constituted a majority in all the districts of Arunachal Pradesh excepting Lohit and Dibang valley and the number of refugees of all varieties stood at 81000 - although according to AAPSU – that was agitating for the repatriation of the refugees to Bangladesh – their number stands at 100,000. By 1991, the tribals<sup>1</sup> lost their majority status also in Changlang formerly known as Tirap – where their fall has been rather sharp and spectacular (from 62.15

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<sup>1</sup> Such terms as ‘tribe’ and ‘tribals’ are freely used in India- both in official circles and popular parlance – without necessarily any of their pejorative meanings.

percent in 1981 to 34.83 percent in 1991). There has been a slight but steady decline of tribal population in all the districts. According to Ahmed, ‘today there are 64,000 people of Chakma origin painfully fighting against the fury of the local people of Arunachal Pradesh’ (Ahmed in Hazarika ed. 2003:243). The growth is phenomenal compared to the total population that stood at 8,58,392 according to 1991 Census. By all accounts, the number of Chakmas in Arunachal Pradesh is estimated to be around 60,000.

### **3. The causes and obstacles to solutions to statelessness**

3.1. Due to the construction of the Kaptai hydroelectric project over the river Karnaphuli in 1962 with its funding from USAID – an overseas development agency – about 40 percent of the best agricultural land of CHT was submerged. The project displaced about 100,000 indigenous people comprising about one-third of the total indigenous hill peoples’ population of that period, who were forced to evacuate the designated area.

3.2. According to the Government of India estimate, by the middle of 1964, at least 140,000 persons including Chakmas and Hajongs consisting of 2902 families had migrated to Assam. The then Government of Assam expressed their inability to settle such a large number of migrants in the State and consequently requested for their shifting to other places. A suggestion was also made that a substantial number of families could be accommodated in NEFA as ‘some surplus land was available there’ and ‘NEFA agreed to accommodate some new migrants including the Chakmas and Hajongs under the already approved scheme’ (CCRCAP, n. d.: 2). During 1964-68, 2902 Chakma/Hajong families were settled in NEFA in three districts of Lohit, Tirap and Subansiri. Plots of land varying from 5 to 10 acres per family (including 3 to 5 acres of land on an average for cultivation) depending upon the particular size of the family was allotted to them under a centrally sponsored rehabilitation scheme. A cash grant for each family was also sanctioned by the Rehabilitation Ministry as rehabilitation grant. In addition to 2902 families settled in Arunachal Pradesh at that time, about 31,770 agricultural families were also settled in various other parts of the country. In addition, over 15000 non-agricultural families were also settled in some of the states of the country.

3.3 Arunachal Pradesh is a sparsely populated state with lowest population density (about 13 per square kilometer according to the 2001 census) amongst all the states in India. The tribal people formed 88.76 percent in 1961 which fell down to 63.66 percent in 1991. The rise of non-tribal population in Arunachal Pradesh over the decennial censuses is remarkable (9 percent in 1951, 12 percent in 1961, 40 percent in 1981 and less than 37 percent in 1991). The demographic decline has alarmed the tribal people of the state.

3.4 Since its NEFA (now Arunachal Pradesh) days even in the pre-Independence era, the area has enjoyed a ‘Special Protected Area’ status under the provisions of the Bengal Eastern Frontier Regulation of 1873. The State Government cites a series of legislative measures taken by the Central Government to uphold the essentially tribal character as well as the rights of the indigenous people in Arunachal Pradesh – some of these being

the Bengal Eastern Frontier Regulation of 1873, the Assam Frontier Tract Regulation of 1880, the Assam Forest Regulation of 1891 and the Chin Hills Regulation of 1876. These regulations, say Government sources, prohibit non-locals and non-residents from acquiring interest in land or in land produce, prohibit 'outsiders' from acquiring forest land, and empower the State government to extern any person, if his or her presence is considered to be harmful to local interest. Arunachal Pradesh became a full-fledged Indian State under the State of Arunachal Pradesh Act 1986. The Inner Line Permit (ILP) system was introduced to ensure that the entry of 'outsiders' into the union was restricted.

3.5 It is not surprising to understand why there has not been any significant resentment against Chakma settlement during the initial years, that is to say, between 1964 and 1986. First, NEFA being the least sparsely populated of all the administrative units in India could provide enough land to the Chakmas so much so that they could be settled in areas by and large distant from those of others. There was little scope of interaction between the locals and the 'foreigners'. Secondly, since NEFA was kept out of the ambit of elections till 1979, the opinion of the indigenous people was never taken into account.

3.6 By all accounts, resentment of the locals against the apparently prosperous migrants was first articulated in the Changlang district by the AAPSU when its Changlang district unit enforced an 'economic blockade' upon the Chakmas in 1995, calling upon the natives not to buy anything from the refugees.

3.7 Though the refugee population was settled in a way that did not displace the local, indigenous population from their ancestral habitat, it created a potentially inflammable situation. The refugees were initially granted 10799 acres of land. As their population increased, they reportedly started encroaching on forest reserves as well as pastoral land of the indigenous communities. Since in the eye of law, they remain 'foreigners', they have no right to own land, designated for them.

3.8 In 1980, the State Government banned the employment of Chakmas and Hajongs. It stopped issuing trade licenses to members of either community. Furthermore, all trade licenses issued to them were seized in 1994. AAPSU organized economic blockade of the Chakma and Hajong refugee camps. The State Government started dismantling the basic social and economic infrastructure in the Chakma and Hajong settlements. In October 1991, the state government discontinued issuance of ration cards to the Chakmas and Hajongs, most of whom lived in extreme poverty and penury. In September 1994, the State Government began closing and burning down schools in these areas, effectively denying them their right to education. Schools built by the Chakmas using local community resources were closed down or destroyed. Health facilities in the Chakma and Hajong areas were all but non-existent.

3.9 The phenomenal growth of the refugee population has its impact on the encroachment on forest land. During 1993-94 about 400 hectares of Diyun reserved Forest land was retrieved, which was under the illegal occupation of the Chakmas since 1986. Continued presence of the Chakmas and the Hajongs has 'started threatening the fragile eco-system of the State of Arunachal Pradesh'

3.10 There are however primarily three sets of arguments in favour of the Chakmas claiming their right to protection, if not citizenship: One, the legal argument that the Chakmas need to be recognized as citizens is in consonance with the memorandum of understanding signed in 1972 between Sheikh Mujibur Rahman and Mrs. Indira Gandhi - the two prime ministers of Bangladesh and India respectively. The second argument is that the Chakmas have enormously contributed to the enrichment of the economy of Arunachal Pradesh. They have taught the indigenous people the art of rendering land cultivable and most importantly the technology of settled cultivation. The third argument is humanitarian. While the identity of the indigenous people could be an issue insofar as it faces threat, this per se cannot in any way be an argument for depriving the Chakmas of their most basic right to life and liberty, which they are entitled to as human beings.

#### **4. The Legal Battle**

4.1 On September 9, 1994, the Peoples' Union for Civil Liberties, Delhi brought this issue to the attention of the National Human Rights Commission, which issued letters to the Chief Secretary, Arunachal Pradesh and the Home Secretary, Government of India, making inquiries in this regard. On September 30, 1994 the Chief Secretary of Arunachal Pradesh faxed a reply stating that the situation was totally under control and adequate police protection had been given to the Chakmas.

4.2 On October 15, 1994, the Committee for Citizenship Rights of the Chakmas (CCRCAP) filed a representation with the NHRC complaining of the persecution of the Chakmas. The petition contained a press report carried in *The Telegraph* dated August 26 1994 stating that the AAPSU had issued 'quit notice' to all alleged foreigners, including the Chakmas to leave the State by September 30, 1995. The AAPSU had threatened to use force if its demand was not acceded to. The matter was treated as a formal complaint by the NHRC. On October 12, 1995 and again on October 28, 1995 the CCRCAP sent urgent petitions to the NHRC alleging immediate threats to the lives of the Chakmas. On November 22 1994, the Ministry of Home Affairs, Government of India sent a note to the NHRC reaffirming its intention of granting citizenship to the Chakmas.

4.3 The issue was referred to the Supreme Court and the apex Court maintained: "We are unable to accept the contention of the first respondent (the State of Arunachal Pradesh), that no threat exists to the life and liberty of the Chakmas guaranteed by Article 21 of the Constitution, and that it has taken adequate steps to ensure the protection of the Chakmas ... The AAPSU has been giving out threats to forcibly drive them out to the neighbouring State which in turn is unwilling to accept them. The residents of the neighbouring State have also threatened to kill them if they try to enter their State. They are thus sandwiched between two forces, each pushing in opposite direction which can hurt them. Faced with the prospect of annihilation the NHRC was moved which finding it impossible to extend protection to them, moved this Court for certain reliefs"

4.4 On the question of rights, the Court clarified: “We are a country governed by the Rule of Law. Our Constitution confers certain rights to every human being and certain other rights on citizens. Every person is entitled to equality before the law and equal protection of the laws. So also, no person can be deprived of his life or personal liberty except according to the procedure established by law. Thus the State is bound to protect the life and liberty of every human being, he be a citizen or otherwise, and it cannot permit anybody or group of persons, e.g., the AAPSU, to threaten the Chakmas to leave the State, failing which they would be forced to do so.”

4.5 On the operational part, the Court ordered:

1. ... [T]he State of Arunachal Pradesh shall ensure that the life and personal liberty of each and every Chakma residing within the State shall be protected and any attempt to forcibly evict or drive them out of the State by organized groups, such as, AAPSU, shall be repelled.
2. [E]xcept in accordance with law, the Chakmas shall not be evicted from their homes and shall not be denied domestic life and comfort therein.
3. [T]he application made for registration as citizen of India by the Chakma or Chakmas under Section 5 of the Act, shall be entered in the register maintained for the purpose and shall be forwarded by the collector or the DC who receives them under the relevant rule, with or without enquiry, as the case may be, to the Central government for its consideration in accordance with law; even returned applications shall be called back or fresh ones shall be obtained from the concerned persons and shall be processed and forwarded to the Central Government for consideration (adapted from Chimni ed. 2000:513-14).
4. [W]hile the application of the individual Chakma is pending consideration, the State of Arunachal Pradesh shall not evict or remove the concerned person from his occupation on the ground that he is not a citizen of India until the competent authority has taken a decision in that behalf.

## 5. The Post-Verdict Scenario

5.1 The post-verdict scenario is marked by abject discrimination and haplessness of the Chakmas, although as our ethnographic account suggests, a section of the new generation Chakmas seems to have sensed a mild improvement of the situation in the sense that the court proceedings have lent to the issue a certain visibility so much so that it has now become a part of the human rights agenda in South Asia. Chakmas continue to find it difficult – as our ethnographic work suggests - to submit applications for citizenship and registration as voters.

5.2 The media interestingly plays a paradoxical role insofar as the Chakma issue is concerned. While the national media takes a stoutly rights-sensitive stand and often pleads for accepting them as Indian citizens, the local media appears to be completely polarized along ethnic lines: On the one hand, such newspapers as *The Arunachal Times* and some others tend to paint an alarmist picture and focus on the threat the presence of the Chakmas along with such other communities as the Hajongs etc poses to the

demographic balance, land, ecology, culture and language of the indigenous people of the state. On the other hand, the Chakmas in Arunachal Pradesh allege that, the media of the state is completely biased in favour of the local communities of Arunachal Pradesh or the indigenous tribes of the state. The Chakma media publishing mostly in local language constantly highlight the importance of turning the Chakma issue into a human rights question and the imperative of conferring citizenship, which will go a long way in addressing their rights claims and concerns. Citizenship, for them, is the surest way to protect their human rights. We do not know whether any readership survey has ever been conducted on the state. By all indications, our team feels that the readership too is so sharply polarized in Arunachal Pradesh that the Chakmas hardly take the reports published in the mainstream media seriously and vice versa. Instead of building bridges, media contributes to the reinforcement of the conflict between the locals and the migrants.

## 6. Proposed actions to address the problems of stateless Chakmas in India

6.2 Where do we go from here? There are at least three major issues which have to be taken into consideration before any recommendation is attempted: First, it calls for a certain renegotiation of the federal relations between the Centre and the states. While the Central Government urges on the State Government to carry out what it considers as its 'national' responsibility (CCRCAP n. d.: 3), the State Government accuses the Central Government of having taken a 'callous and indifferent attitude' towards the 'unanimous demand' of the people of the State. Secondly, one has also to understand that there is a limit to what law and law courts can do. The law and law courts perhaps did and do their best insofar as the Chakma issue is concerned; but these get stonewalled by the implementing authorities of the state. Options along the legal trajectory seem to have been exhausted. Thirdly, and this is a corollary to the second, civil society including media inside Arunachal Pradesh is highly fractured – indeed polarized between two mutually opposite forces. While a part of it gravitates around the Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh, most of the mainstream society in Arunachal Pradesh looks upon the All-Arunachal Pradesh Students' Union as the leading light.

6.3 The crux of the problem lies in the fact that the rights claims of the Chakma refugees come into conflict with the rights claims of the indigenous tribes with a 'distinct way of life'. It is only apparent that any initiative in this regard has to enlist wider social acceptance so that it is viewed as acceptable by the contending parties. One has to understand that rights-based solutions may not necessarily be acceptable solutions. How does one set the ball rolling? One possible step in this regard is to organize a series of dialogues till one becomes successful because we just cannot afford to be unsuccessful in this regard. Obviously this is going to be a long process. It is important that we organize dialogues with lower or middle-level leaders and that per se may be regarded as an achievement in an otherwise stalemated situation. These dialogues may be organized by CRG in a third venue presumably outside Arunachal Pradesh. CRG is ideally suited to launch the initiative and dialogues to begin with may take place in third party venues.