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BETWEEN AGONY AND HOPE: THE CHAKMAS REFUGEES OF ARUNACHAL PRADESH OF INDIA

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Some 42, 333 Chakmas have been living in Arunachal Pradesh since the time of their migration from East Pakistan (now Bangladesh) during 1964-1969. But, confusion over their political status continued to plague their lives. The Supreme Court of India delivered a judgment on 9th January 1996 calling upon the Indian Government to confer citizenship right to these Chakmas under Article 5 (1) (a) of the Citizenship Act of 1955. It was because of some proactive measures of the Election Commission of India; only 1497 Chakmas could register their names in the electoral roll and exercise their right to vote for the first time during the Assembly Election of 2004. In the 2009 Assembly Election, 1740 Chakmas were included in the state electoral list. However, the Chakmas are still living with statelessness situation due to non-implementing the judgment of the Supreme Court of India.

KEY WORDS: Citizenship right, statelessness, AAPSU, NEFA, CCRCAP, Inner Line Regulation, Xenophobia.

Abstract:

The Supreme Court of India in a *Public Interest Litigation* filed by the National Human Rights Commission (NHRC) on the plight of the Chakmas of Arunachal Pradesh delivered a judgment on 9th January 1996. The judgment called upon the Government of India to expedite the process of conferring citizenship right to the Chakmas and Hajongs refugees living in Arunachal Pradesh under Article 5 (1) (a) of the Citizenship Act of 1955 (Singh 2010: 98-104, Mukherji 2000: 97). But, even after one and half decade of that judgment, the Chakmas are still struggling with statelessness and marginalisation due to stiff opposition of the Government of Arunachal Pradesh and a non-interventionist approach of the Government of India in implementing the judgment of the Court.

INTRODUCTION:

The Supreme Court of India in a *Public Interest Litigation* filed by the National Human Rights Commission (NHRC) on the plight of the Chakmas of Arunachal Pradesh delivered a judgment on 9th January 1996. The judgment called upon the Government of India to expedite the process of conferring citizenship right to the Chakmas and Hajongs refugees living in Arunachal Pradesh under Article 5 (1) (a) of the Citizenship Act of 1955 (Singh 2010: 98-104, Mukherji 2000: 97). But, even after one and half decade of that judgment, the Chakmas are still struggling with statelessness and marginalisation due to stiff opposition of the Government of Arunachal Pradesh and a non-interventionist approach of the Government of India in implementing the judgment of the Court.

The Indian Constitution provides equal opportunities to every citizen of India. Every citizen is entitled to enjoy the rights as laid down in the Constitution. Article 14 of the Constitution provides equality before law and equal protection of law. Articles 15 and 16 also prohibit the State from discriminating any Indian on the ground of race, caste, place of birth, sex, religion etc. Because the Chakmas are entitled to the right of Indian citizenship, and over the years, as many of them have been included in the electoral roll as citizens of India, they are equally entitled to enjoy all the constitutional rights. But despite Indian Constitution providing equal opportunities to all its citizens, the Chakmas have been denied many of such rights. What are reasons for discrimination against the Chakmas of Arunachal Pradesh? Why did the Government of India fail to deliver justice to them?

The objective of this paper is to analyse the reasons for such discrimination against the Chakmas of Arunachal Pradesh and the factors for which the Government of India has failed to establish justice to them.

The Chakmas of Arunachal Pradesh and the Basis of Their Immigration into India

During 1964-69, the Government of India provided settlement to some 2,748 families of Chakma and Hajong refugees totaling about 14,888 in North Eastern Frontier Agency (NEFA), now Arunachal Pradesh (Mukherji 2000: 87). According to the 2001 Population Census, the Chakma population in Arunachal Pradesh was 42,333.¹ They are living mostly in Lohit, Changlang and Papumphare districts. Who are the Chakmas of Arunachal Pradesh? What was the basis of their migration to India?

The Chakmas of Arunachal Pradesh originally belonged to the total Chakma population of the Chittagong Hill Tracts (CHT) of present Bangladesh. They migrated to India because of (i) their displacement from their original homesteads in the aftermath of construction of the Kaptai hydroelectric dam on the Karnafulli River in the early 1960s, (ii) inadequate response from the Pakistani State in respect of their rehabilitation and compensation (Kabir 1998: 16, Shelley 1992: 31, Islam 1978: 31-32) and (iii) treatment as '*rejected people*' within the laws of the Pakistani State (Mohsin 1997: 33-77).

These Chakmas migrated to India because (i) as Nilaratan Chakma² argued, unlike Pakistan, India was a secular and democratic country with multi cultural diversity, (ii) presence of their ethno cultural proximity with many ethnic groups of the Northeastern India and (iii) presence of sizable number of Chakma population in many of the Indian states such as Tripura, Mizo hill district, Assam and West Bengal. According to Nilaratan Chakma, the intention of their migration was preeminent and it was aimed at living in India permanently as Indian citizens and they had never thought of going back to the CHT as they lost everything there.

What was the basis of their settlement in NEFA? Several explanations are available about the basis of the Chakma settlement in NEFA. One of such explanations states that the Chakma settlement in NEFA was done on the basis of a casual decision of the then Governor of Assam, Vishnu Sahay, who in a letter on 10 April 1964 to Sri B. P. Chaliha, the then Chief Minister of Assam opined:

It occurs to me that we may trouble between the Mizos and the Chakmas in the Mizo district. The Chakmas would be quite suitable to go into Tirap division of NEFA, where there is easily found vacant land in the area about which you and I have often spoken (Mukherji 2000: 87).

Once, the present Mizoram state was under the administrative jurisdiction of the Governor of Assam. Therefore, looking at the factor of given historical enmity and estranged relations between the Mizos and the Chakmas, Governor Sahay did not want to see trouble to occur in the Mizo hills. However, according to Ajay Sen Chakma,³ the Chakma settlement in NEFA was sought for other reasons. In the *first* place, the Chakma settlement areas were non-populated remaining almost as no-man's lands. *Secondly*, the agencies of the Government of India considered the existence of religion and cultural proximity between the Chakmas and other ethnic groups like Singphos and Khamtis, who live in closer adjacent to the Chakma settlement areas. *Finally*, it was also partially motivated by the Indian government to guard the Indian territory from illegal encroachment by the Chinese armed forces in the Eastern Sector.

Whatever might have been the motive behind Chakma settlement in NEFA, it was true that the issue of their settlement was done and monitored officially by the Government of India. They were jubilant and saw their dream was coming true, as Mr. Chakma argued, when they were given settlement in NEFA with valid migration certificates. These helped many of them to get government jobs and obtain ration cards, which further assisted them to avail the rationing facility under the Public Distribution System. Each family was also allotted with 5 acres of land (Mukherji 2000: 87-88). The Chakma children got educational access to the schools located there. They could avail health care facilities without any discrimination. The state government issued trade licenses to those who were encouraged to do business. There was good neighbourliness between the local tribes and the Chakmas. Therefore, the Chakmas thought that they had become citizens of India like other East Pakistani immigrants who migrated to India during that period in other parts of India.

Chakma Settlement in Arunachal Pradesh: An Issue of Centre-State Conflict and Human Rights Violation against the Chakmas

The euphoria and their jubilation were short lived. The local tribes such as Khamtis and Singphos, the immediate neighbours to the Chakma localities share a different acrimonious story. It argues that initially the local tribe did not show strong protest, but they expressed their resentment against settlement of these refugees in their locality (ibid). Therefore, ethnic tension between the Chakmas and the local tribes cropped up openly in the later years. The problem became a hot debated issue in the politics of Arunachal Pradesh in 1980s and emerged an issue of Centre-State conflict in the Northeast India. The Arunachal Pradesh Legislative Assembly in a private member's resolution on 23 September 1980 urged the state government to take some effective steps regarding expulsion of the Chakma refugees from Arunachal Pradesh.⁴ The situation warranted the Government of India to send a central delegation in 1982 to study the situation of the Chakmas of Arunachal Pradesh. The team in its facts finding report recommended for grant of Indian citizenship to the Chakmas and commented that such a move could provide a '*responsible social behavior*' to these refugees.⁵ The favourable attitude of the Central Government towards the cause of suffering of the Chakmas invited strong protest in Arunachal Pradesh. In protest, the Arunachal government took various discriminatory measures that included immediate withdrawal of scholarship, book grants and denial hostel facilities and admission access to the Chakma students in schools located outside the Chakma inhabited areas.

The Government also stopped completely providing employment facility and did not make permanent to those were already employed before creation of Arunachal Pradesh. It did not issue permit or license for trade and commerce, and cancelled up those trade licenses issued to them earlier.⁶

Having seen the failure of the state government to attain its objective even with the help of such discriminatory measures, in the beginning of 1990s, All Arunachal Pradesh Students' Union (AAPSU) spearheaded a strong anti Chakma movement mounting more pressure on the state government to take drastic action against the Chakmas. The Arunachal Pradesh Legislative Assembly passed resolutions in December 1992 and September 1994 demanding immediate deportation of the Chakmas from Arunachal Pradesh. On the contrary, the Government of India ruled out the possibility of their deportation from Arunachal Pradesh reiterating that the Chakmas of Arunachal Pradesh were eligible for grant of citizenship under *Section V of the Indian Citizenship Act of 1955* (Mukherji 2000: 93).

The most significant milestone in the history of citizenship right movement of the Chakmas of Arunachal was the judgment of the Supreme Court of India on 9th January 1996 that called upon the Union Government of India to expedite the process of conferring Indian citizenship right to these Chakmas and instructed both the Union and the state governments to protect and secure the lives and properties of the Chakmas of Arunachal Pradesh.

From the beginning of 2000, the Election Commission of India expanded its constitutional role in the Chakma localities of Arunachal Pradesh. It instructed the state electorate officials to revise the voter list with inclusion of eligible Chakmas, as a result of which, 1497 Chakmas could exercise their right to vote for the first time in the Assembly Election of 2004 (Singh 2010: xv). During the Assembly Election of 2009, 14000 applications were submitted to the State Electorate Department, and out of which 1740 Chakmas were included in the revised state electoral list.⁷ The AAPSU opposed the decision and demanded immediate resignation of the Chief Electoral Officer (CEO), MK Parida. It called for boycotting election process and threatened to close down Central Government establishments in the state.⁸

The institutional access at the time of their migration and constitutional role played by some constitutional bodies such the Election Commission of India and the Supreme Court of India created some hope for better political life but continuous opposition of the government of Arunachal Pradesh and AAPSU against their permanent settlement right within Arunachal

Pradesh in total violation of the constitutional role of the Election Commission of India and the judgment of the Supreme Court created agony for them. The Chakmas including those who have been registered as voters and exercised their right to vote in the last State Assembly election are still treated either as foreigners or refugees. They are still denied the basic services of the state. Therefore stalemate continues to plague their political life.

Causes of Opposition against Settlement of Chakma Refugees in Arunachal Pradesh

Why do the Arunachalese tribes oppose the Chakmas' permanent settlement in Arunachal Pradesh? Strong feeling of xenophobia remains present among the ethnic groups particularly the Adis, Mishmis, Khamtis and Singphos. They are anxious that citizenship right of these Chakmas within Arunachal Pradesh will change the demographic character in the state and dominate the future politics of the state making them marginalized. According to C. C. Singpho, who represents the Diyun-Bardumsa constituency, their fear is twofold-that their customary laws and traditional rights will be violated. Secondly, they are afraid of being outnumbered by the huge size of the Chakma population⁹ and rapid growth, as argued by Wakheth Nong Singpho, of the Chakma population in Arunachal Pradesh.¹⁰

Reasons for Which the Government of Failed to Deliver Justice to the Chakma Refugees

The constitutional law favours grant of Indian citizenship to these Chakmas. As a central subject, the Central Government has also exclusive jurisdiction over the issue of citizenship right. The Indian states are not as powerful as the federal states of the USA. In most cases, they are bound to comply with the directives of the Central Government especially during enforcement of laws emanating from the Union and Concurrent Lists. The Supreme Court is the highest of Court of law in India. The state administration of Arunachal Pradesh defied the order of the Supreme Court and acted against the directions of the Central Government in protecting the basic rights of the Chakmas. But such violation did not invite any action from the Government of India against the administration of Arunachal Pradesh. Why did the Indian Government fail to implement the judgment of the Supreme Court and deliver justice to the Chakmas of Arunachal Pradesh?

The continuous reference to the existence of "Inner Line Regulation" in NEFA even during the time of Chakma settlement by the government of Arunachal Pradesh created legal complexity in dealing with problem. The existence of ethnic sensitivity in Northeast India including Arunachal Pradesh had also influenced the decision makers of the Indian Government in this regard. Another factor was the involvement of parochial political interests of the two major national

political parties-the Indian National Congress (INC) and the Bharatiya Janata Party (BJP) which formed and run the Union Government in the last one and half decade. The central leadership of these two political parties expressed sympathy to the cause of the Chakmas at national level.¹¹ However; the local leaders of Arunachal Pradesh opposed their central leadership in this regard. No disciplinary action was taken against the defiant leaders of the state. Instead, these political parties paid utmost importance to their respective political interests in the state. The state party leadership exploited this situation in their favour. They realized the importance of overt or covert support of the Central Government to continue their opposition against the Chakmas' settlement in Arunachal Pradesh and make it an issue of politics. When the first National Democratic Alliance (NDA) was in power, Gagang Apang, the then Chief Minister, defected the INC with a large number party supporters and legislators and joint the BJP and formed the BJP government in the state for the first time. The BJP, whose central leadership always showed sympathy to the Chakmas, did not utter any word against the Mr. Apang led BJP government, when it meted inhumane treatment to the Chakmas. During 2004 General Election, the INC led United Progressive Alliance (UPA) came to power. Mr. Apang again took an opportunist stand. He rejoined the INC and winning the election, he became the Chief Minister. Therefore, the INC was in power both in the Centre and in the state of Arunachal Pradesh. But, the central Congress leadership maintained an ambivalent stance and decided not to harm the sentiment of the state Congress leaders by putting pressure on the issue of the Chakma imbroglio. Therefore, parochial interests of these two major political parties also factored in pre-empting the Union Government to a greater extent to take effective measures to deliver justice to the Chakmas.

The Chakma leadership of Arunachal Pradesh was also widely responsible for their cause. The Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh (CCRCAP) is Delhi based. The movement at home was not organised at an anticipated and required level. Instead, the CCRCAP preferred the path of legal battle to establish justice. Many of their leaders are now working in different government and non government sectors outside Arunachal Pradesh. They provide no time to the CCRCAP as they did once. Therefore, the fragmented and weak leadership of the Chakmas could not mould strong public opinion in their favour and exert required pressure on the political executive to solve their problem.

Conclusion and Recommendations

The politics of realism has been dominating feature in the politics of Arunachal Pradesh in dealing with the Chakma problem. The tribal groups of the state are not against citizenship right of the Chakmas. They are against permanent settlement of the Chakmas within Arunachal Pradesh. The feeling of xenophobia among the major ethnic groups of the state and their apprehension of being outnumbered and politically overtaken by the Chakmas in the future politics of the state are the main sources of opposition against the permanent settlement of the Chakmas in Arunachal Pradesh. The central leadership of the two major national political parties like the BJP and the INC expressed sympathy to the cause of the Chakmas but paid utmost importance to the party's political interests in the state even at the cost of Chakmas' interests. On the other hand, the Chakmas, as Nilaratan Chakma said, have no other option but to live in Arunachal Pradesh as their children who were born and brought up here cannot go anywhere. The situation arrests the scope of institutionalizing the concept of equal opportunity as per the degree of certain leveling process as laid down in the Indian Constitution. The Central Government requires to a pro-active interventionist approach to break the stalemate with some policy measures that will address the cause of the both Chakmas and the apprehensions of the tribal communities of Arunachal Pradesh. Therefore, although they are living with agony, yet room for justice still remains because the constitutional laws of India are not against their Indian citizenship right.

Policy measures to address the cause of the Chakmas

1. The Chakmas should be granted citizenship right under Section V of the Citizenship Act of 1955 and all eligible Chakmas should be included in the electoral roll without any prejudice and discrimination.
2. The basic social services such as health care facility, public distribution system and trade licenses and regular employment under the state government and educational access to all educational institutions within the state should be provided to the Chakmas like other fellow citizens of the Country.

Policy recommendations to address the apprehensions of the local tribal communities

1. As part of reconciliation and negotiation between the parties in conflict, the Indian Government may facilitate tripartite talks with representatives from both Central and state governments and CCRAP.
2. With inclusion of the Chakma population, the number of the existing seats in the State Legislature may be increased to provide representation of all communities including the Chakmas. The existing seats which are presently represented by the Khamtis and Singphos, if required, may be reserved for them to address their concern.
3. The apprehension of alleged influx of Chakmas into Arunachal Pradesh from other parts of India may be addressed by providing Identity cards. The policy of the Indian Government to provide Aadhaar Card to its citizens may also serve the purpose.

Notes:

1. *Population Census Report, 2001*, The Directorate of Economics and Statistics, Government of Arunachal Pradesh. The figure was also confirmed by Mr. Subimal Bikash Chakma, the President and Mr. Santosh Chakma, General Secretary of CCRAP on 25 June 2008 in New Delhi.
2. Interview with Ajay Sen Chakma on 15/09/2010 in New Delhi.
3. Interview with Nilaratan Chakma of Dumpader of Arunachal Pradesh on 18/10/2010.
4. Chief Secretary, Arunachal Pradesh, to M. Kumar, Deputy Secretary, Home Affairs, Government of India, no. 236/72, 9 December 1976, White Paper, Annexure VIII, p. 56.
5. M. M. Jacob, Minister of State for Home and Parliamentary Affairs, Government of India, New Delhi, to Sri Laela Umbrey, D. o. n. 12/16/92 M. Z., 23 September 1992.
6. This is based on reply of the Minister of Home Affairs, Mr. M. M. Jacob to a Parliamentary Question no. 3861 on 16 December 1991 and the Minister of State in the Industry Ministry, Mr. P. J. Kumar to Question no. 4303 on 18 December 1991. Mr. Subimal Chakma also stated the same situation in this regard during the interview with him on 25 June 2008 in New Delhi.
7. Interview with Mr. Subimal Bikash Chakma and Mr. Santosh Chakma on 15/10/2010 in Diyun of Arunachal Pradesh.
8. *North East Press Service*, 18th March 2008.
9. <http://www.indiatogether.org/2008/sep/hrt-refugee.htm>, retrieved on 28/09/2008.
10. <http://www.arunachaltimes.in/2012/01/27/refugees-and-encroachment>, retrieved on 28/01/2012.
11. L. K. Advani, MP, to the Home Minister, S. B. Chavan, 4 March 1992, Chitta Basu, MP, to the Home Minister, 7 January 1993, Monoranjan Bhakta, MP, to P. M. Sayeed, Minister of State for Home, Government of India, (18 CHEC)/93, 27 February 1993, K. Purukasystha, MP, to Rajesh Pilot, Minister of State for Home, Government of India, 1 March 1993.

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