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## From the Editor

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**Lesley Pocock, Chief Editor  
Publisher and Managing Director  
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The MESA region contains some of the wealthiest and some of the most impoverished countries of the world.

This month we cover the extremes of national economic situations.

Both ends greatly affect all humanity. While the favourable economic situation in the GCC states has seen rapid development and improved conditions for residents of GCC states the wider region houses some of the most disadvantaged people on the planet. The most disadvantaged of these tend to be original indigenous people of the various countries who also tend to suffer from political and cultural persecution and economic denial.

The gap between these two groups is growing ever wider in the region and the world, creating two economies of different scales with little interplay between them despite the efforts of major NGOs.

In Rawalpindi and Chittagong only small steps can be taken at a time, with societies and economies dragging themselves forward inch by inch, often with just the help of a few inspired and dedicated people.

We also need healthy major economies as these can bring about great change for the better of all society as well as humanity generally and invest in growth and development, education of the young ...

The challenge for us all is to make sure economic advances filter down to the lowest stratas and provide equal opportunity to all people of the region.

# What is strategy: Back to basics

Eric Van Genderen

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## 1. Introduction

*'After more than 30 years of hard thinking about strategy, consultants and scholars have provided an abundance of frameworks for analyzing strategic situations. Missing, however, has been any guidance as to what the product of these tools should be—or, what actually constitutes a strategy. Strategy has become a catchall term used to mean whatever one wants it to mean (p. 51)... Great generals think about the whole. They have a strategy; it has pieces, or elements, but they form a coherent whole. Business generals, whether they are CEOs of established firms, division presidents, or entrepreneurs, must also have a strategy—a central, integrated, externally oriented (sic) concept of how the business will achieve its objectives.'* (Hambrick and Fredrickson, 2005, p.52)

Hambrick and Fredrickson get straight to the heart of the issue - 'strategic fragmentation'. "This problem of strategic fragmentation has worsened in recent years, as narrowly specialized academics and consultants have started plying their tools in the name of strategy." (Hambrick and Fredrickson, 2005, p. 51)

Apparently to avoid falling into the trap of strategic fragmentation and overtly demonstrating an overly simplified strategic perspective, Hambrick and Fredrickson propose a 5-element strategic framework; the elements being: 'arenas,' 'vehicles,' 'differentiators,' 'staging,' and 'economic logic,' further emphasizing the need for integration and 'holism' (2005). They liken their

model to that of a 5-pointed diamond, which they term their 'strategy diamond'. While the author agrees whole-heartedly with their concern over the misuse and misunderstanding of the concept referred to as 'strategy', surely its realm extends beyond: 1. where the company will be active (arena); 2. how the company will get there (vehicles); 3. how the company will win in the marketplace (differentiators); 4. what will be the company's speed and sequence of moves (staging); and, 5. how the company will obtain its returns (economic logic) – even if the choices are 'integrated, reinforcing, and form a coherent whole' (Hambrick and Fredrickson, 2001, p. 57), the major shortcoming of this model lies in the fact that the sum total of all the parts, holistically, configure to form a somewhat narrow perspective as to the art of strategy, thereby further fueling the ambiguity surrounding the concept, whilst simultaneously stimulating its misuse by both academics and practitioners.

What is missing in the analysis, is the 'DNA' of organizational strategy. This paper contends that human (and other) resources and organizational structure neither 'come after strategy' as many have chosen to interpret Chandler's research into the relationship between companies and organizational structure (1962), nor are they 'supporting organizational arrangements' (Hambrick and Fredrickson, 2005), but rather integral threads within an elaborate tapestry we refer to as - strategy.

Along with the hypercompetitive global marketplace within which today's businesses operate (D'Avanni, 1997), is a far more complex business environment than ever before, with change being the constant. Such an environment requires broad consideration matched with advanced skills that cross multiple competencies and various areas of expertise. The 'general' of today must embody this reality, embrace change, and sophisticatedly apply the 'art of the general' i.e., strategy. This 'art' requires leadership skills, the utilization of resources, the 'arranging' of troops (structure), encompasses the organization's mission and vision, and mobilizes 'the troops' to overcome adversaries; or at least to deter them. The 'art of generalship' requires true genius in being able to 'see the victory', and all the contributions required to reach this objective – simultaneously; i.e., 'strategy'.

Furthermore, the general must possess the leadership skills and competencies to effectively communicate the long-term vision, intermediary objectives, purpose of the campaign, explicit roles and responsibilities, of 'the troops' (as well as the anticipated personal benefits once the victory has been secured), address any immediate SOP modifications needed so that all policies and procedures align with the overarching vision (inspired by Kotter, 1996) – in addition to considering the 'war room' decisions that were so admirably laid out within Hambrick and Fredrickson's (2005) 'strategy diamond'.

Strategy is not a 5-pointed diamond, as proposed by Hambrick and Fredrickson (2005), but rather a 'tapestry' of varying complexity, whose 'threads' should not be thought of as 'components,' 'elements,' or 'linear stages' to be followed, but instead, in its purest art form, strategy should be likened to a grand tapestry, complex - yet vivid; a complete masterpiece within the strategists mind, with every 'thread' clearly defined and carefully considered as to its contribution to the envisaged masterpiece. This is strategos, when each and every thread intertwines in a relationship with one another of innate coexistence and beauty.



## 2. What is Strategy?

'Strategy' "στρατηγία" Greek-stratēgia); first noted in the 18th century, conveyed the 'art of the general' and the 'art of the arrangement of troops' [people and structure] (Matloff, 1996). The term "στρατηγία" Greek-stratēgia), developed from the word strategos, 'general', and supreme commander of the troops (Wilden, 1987).

The Greeks developed the term "στρατηγία" - stratēgia to represent and convey those activities associated with military generals - namely the 'art of the general', and 'the art of arrangement of troops' i.e., the overall responsibility for the army including mission, vision, resources/resource allocation, structure, organizational culture, leadership and related activities – not the least of which subsume the decision making responsibility of addressing 'battlefield tactics' such as: 1. where the army will be active; 2. how the army will get there; 3. how the army will gain advantage 4. what will be the army's speed and sequence of moves (tactics); and, 5. how the army will remain financially viable and true to its mandate (modified from Hambrick and Fredrickson, 2005).

## 3. Mission, Vision, People and Structure

Increasingly, business executives are realizing the power of culture in achieving (or preventing) enterprises from attaining their objectives and stated visions (Kotter, 1996). If a firm's 'mission statement' communicates its 'reason for existence' (mandate), as well as broadly indicating 'how this will be achieved', and the organization's 'vision' offers 'a snapshot of how the company will look in the future', supported by a statement that qualifies any ambiguity within the vision, further offering a timeline, milestones, actions and resources required, etc. – culminating with an outline as to how the main stakeholders will benefit from reaching the stated corporate vision (Kotter, 1996), the author fails to see how academics and CEOs can relegate 'culture' to the periphery of strategy. A good mission and vision fit squarely

within the scope of a comprehensive strategy.

Without "troops", there is no 'general' (strategos), and no 'art of the general'; the art of the 'arrangement of troops' (strategia). Business leadership is no different. In many ways, people and corporate culture form the very DNA of any organization. Experts have referred to culture as 'the way things are done within an organization'. The beliefs, values, attitudes, work ethic, leadership, etc. are all subsumed into 'culture'. Southwest Airlines has quite successfully developed a culture of highly-motivated, productive, customer-centric, emotionally intelligent, employees, who play central roles in Southwest's strategy to gain a competitive advantage within the airline industry; this 'differentiator' is immediately apparent to anybody who has the good fortune of experiencing their superior service.

Baring's Bank was the oldest merchant bank in the city of London, and was favored by royalty and other distinguished patrons. In 1802, Baring's facilitated the Louisiana Purchase. However, its eventual demise was the direct result of a corporate culture based on informality and arrogance, reflected in inadequate corporate governance and risk management practices. The investigation carried out by the Bank of England, after Baring's failure and liquidation, supports the author's view. It was revealed that by running Baring's Bank as a 'gentlemen's club'; which may have been appropriate for such traditional activities as deposits, personal loans, and customer relations, had directly contributed to the creation of the casual, word-of-mouth, 'take the situation at face value' work culture that was exploited by a 'rogue trader', and led to the end of Baring's Bank (insolvency was declared on February 26, 1995).

People and culture are embedded within the 'genes' of an organization and its strategy. In essence, ABB is another good example. This highly successful engineering/electronics MNC is truly global, with no 'home country', and consisting of 5000 profit centers, An essential part of ABB's global strategy

has been attributed to its ability to coordinate its global operations, facilitated by:

*'A set of 500 global managers who can adapt to local cultures while executing ABB's global strategy. These people are multilingual and move around each of ABB's 5000 profit centers. Their assignment is to cut costs, improve efficiency, and integrate local businesses with the ABB world view. ABB requires local business units such as Mexico's motor factory, to report both to one of ABB's traveling global managers and to a business area manager [i.e., the use of a matrix structure]...'*

For ABB, their global culture, lack of a patriotic 'home country' or facility, complimented by its successful use of a matrix organizational structure, has enabled the firm to become globally competitive. The conscious connection between their mission, vision, resources, culture, and structure – is firmly within the scope of their global strategy; and should also be acknowledged as lying well within the framework of Hambrick and Fredrickson's strategic diamond (2005) i.e., specifically: arenas, differentiators and economic logic. The matrix structure allows companies with diverse products/services to serve disparate markets (Bartlett and Ghoshal, 1990; Nicholson, 1998).

In 1962, Professor Alfred D. Chandler (now retired from Harvard Business School), wrote a book on his observations of US companies that had grown to a point where it was necessary for them to introduce a revolutionary new company structure (the 'M' or divisional structure) in order to pursue their future competitiveness in the market; the companies observed were General Motors, Du Pont, Standard Oil, and Sears Roebuck. Chandler (1962) concluded that 'structure follows strategy'. Recognizing the relationship between strategy and the need to appropriately adapt organizational structure accordingly, was a colossal contribution at that time; in fact, Chandler's book covering this research was nominated the 11th most influential business book of the 20th century by the Academy of Management in 1997 (Bedeian, A.G. and Wren, D.A., 2001).

Within the 'zeitgeist' in which this research was conducted, Chandler's demonstration that the relationship between strategy and structure was not 'abstract', but rather 'innate', was a giant step forward. However, many have misinterpreted the meaning of Chandler's thesis that 'structure follows strategy'. Prima facie, one might interpret the statement as simply implying that once a strategy has been determined, one must look at the structure of the organization. The author on the other hand, understands a much deeper meaning, one that more accurately reflects Chandler's observation. Like a river that 'follows its banks to the estuary', organizational structure 'follows the strategic framework defined within a strategy', thus indicating and recognizing the mutuality of strategy and structure.

If we return to the true meaning of 'strategy', i.e., 'the art of the general' and 'the arrangement of the troops', we realize that the true nature of structure is such that it is embedded within the art of strategy. Throughout history, generals have used structure as a central consideration within their overall strategy; from the positioning of various units (infantry, artillery, cavalry, etc.) thus enabling – or disabling – them from being utilized as resources to their full potential. The ability for an enterprise to successfully facilitate its competitiveness in the marketplace (or within multiple marketplaces), in-and-of-itself necessitates that structure be considered within the boundaries of strategy.

## 4. Summing-up

Too often, 'strategy' is viewed as being synonymous with the 'war room battlefield tactics' aspect of strategy, as reflected in Hambrick and Fredrickson's 5-point 'strategy diamond' (2005). Executives and academics alike, want to overly-simplify the complex art of strategy that subsumes everything from mission and vision, to structure, people (and other resources), culture, and of course, the points so carefully addressed by Hambrick and Fredrickson (2005): i.e., the arena, the vehicle(s), the differentiators, the staging, and the economic logic.

More-often-than-not, stripped down perspectives of what constitutes strategy lead to a more 'sequential' approach to strategizing as well; executives and academics speak of 'supporting arrangements' 'stages', 'components', 'elements', etc; relegating several critical considerations to a 'different time and a different place'. In essence, such mindsets seek to carve up strategy into small, bite-sized, pieces that can be more easily 'ingested'.

After decades of strategic thinking and observation within organizations, the author has come to the conclusion that this is due to a rapidly changing, and ever-increasingly competitive external environment; one with multifarious global contributors to its overall complexity. As a result, the required competencies and skills of exceptional corporate 'generals (strategoi)' today, equipped to lead their corporations to victory, are characteristic of an increasingly select few.

As industry rethinks its extensive use of management consultancies for the purpose of corporate strategic planning activities, and moves towards a more inclusive and participative approach to strategy building (esp. since the mid-1990s, after its virtual extinction in the 1980s), the inclusion of young, bright, rising stars within firms' strategy formulation activities, has yet to be emphasized by most organizations. The author supports the views of the strategy expert Gary Hamel (2000, p.211) who exasperates 'I still find it amazing that young people, who live closest to the future, are the most disenfranchised in strategy creating exercises.' After all, these are the corporate generals of tomorrow, and as such, represent invaluable human assets, and 'golden threads' within the 'tapestry' of any enterprises strategy (stratégia).

'Strategy is about shaping the future' [It is about reaching] 'desirable ends with available means' (McKeown, 2011).

Any corporate 'general' worth his/her stripes, needs – in addition to the decisive 'battlefield tactics' proposed by Hambrick and Fredrickson (2005) – to be able to 'weave' the organization's mission (reason for existence, contribu-

tion to the world, and path for pursuing this contribution) and vision (a 'snapshot' of how the organization will look in the future, supported by a timeline, actions needed to be taken [including any structural modifications needed], resources to be allocated, and an explanation as to how the various stakeholders will benefit from reaching the vision) (Kotter, 1996), into a motivating 'mantra' that will mobilize and maintain a corporate culture, and moreover, compliments all of the critical 'threads' within the 'tapestry' of any grand strategy. While a 'complete' strategy may not guarantee 'victory on the battlefield', a lack thereof will undoubtedly secure 'defeat' – if not complete annihilation, given the global competitiveness of today's business environment; just look at the wake of corpses and lost vessels strewn over the sea of time.

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## Abstract

This paper examines the degree of competition and efficiency of 58 publicly listed national banks in the Gulf Cooperation Council (GCC) countries between 2003 and 2011. We calculated the Lerner Index to measure the degree of monopoly power for each bank in the loan market. We used a translog cost function to evaluate the efficiency of the GCC banking sector. Finally, we tested the causality between competition and efficiency and determined the direction of causality. Empirical findings reveal that there was increased competition among Bahraini and Omani national banks during the study period. However, there was decreased competition among Kuwaiti, Qatari, Saudi Arabian, and UAE national banks. Masraf Al Rayan of Qatar was the most efficient bank, while Kuwait Finance House was the least efficient bank. Competition and efficiency do not Granger cause each other.

### Introduction:

This paper examines the degree of competition and efficiency of publicly listed national banks in the Gulf Cooperation Council (GCC) countries between 2003 and 2011. GCC has six member states: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE.

The banking sector is crucial to the development of any economy; it is also one of the major driving forces of economic growth in developing countries. Banks are special financial intermediaries whose operations are unique in financial markets and impact strongly on an economy. Hence, research on competition and efficiency of the banking sector has important policy implications. A higher degree of competition and efficiency in banking markets is expected to provide welfare gains by reducing the prices of financial services and thereby accelerating investment and growth.

## Competition and Efficiency of GCC National Banks

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The objective of this paper is to study the competition and efficiency of commercial banks in the GCC countries. As commercial banks play a vital role in the financing of an economy, banking competition and efficiency exert an important impact on a country's economic development. Bank performance has been a key issue particularly in developing countries as commercial banks are the dominant financial institutions in these countries and they represent the major source of financial intermediation. Evaluating their competition and efficiency is crucial to depositors, owners, potential investors, managers, and regulators.

### GCC Economic Overview

The GCC is an oil-based economy with the largest proven crude oil reserves in the world. This region ranks as the largest producer, as well as exporter, of petroleum. The economies of GCC countries have been growing very rapidly during the 2000-2008 period. This spectacular economic boom came to a sudden halt in 2009 after the emergence of the global financial crisis in late 2008. Growth resumed in 2010.

Table 1 displays the real GDP growth rate for the six GCC members and three industrialized countries between 2000 and 2011. Compared to the world's three most industrialized countries, the GCC economic growth has been very impressive and all six GCC countries outperformed the three industrialized

countries. In particular, Qatar's economic growth has been phenomenal, with a double-digit average growth rate over this period.

Given the volatility in oil prices, the GCC countries have realized that economic diversification is the only feasible way forward to create long-term, sustainable growth. They have focused their development on industries such as tourism and financial services. As a result, the GCC banking industry is gearing up for change in a region that is accelerating its growth.

Table 2 shows the number of publicly listed national banks for each GCC country for 2011. UAE has the largest number at 18 while Bahrain and Oman have the smallest number at 6 each.

Table 3 presents four selected banking indicators for GCC banks for 2011. Saudi Arabian banks have the highest average total assets, average total deposits, average loans and advances, and average capital and reserves, while Bahraini banks have the lowest.

### Literature Review

A large number of studies have been conducted on measuring competition and efficiency in the banking industry. Two methods that have been applied to estimate the degree of competition for commercial banks are the Lerner index and Panzar and Rosse's H-statistic. The Lerner index measures the markup of



Year	Bahrain	Kuwait	Oman	Qatar	Saudi	UAE	USA	Germany	Japan
2000	5.2	0.1	4.6	10.9	4.9	12.3	4.1	3.3	2.3
2001	4.6	0.7	5.6	6.3	0.5	1.8	1.1	1.6	0.4
2002	5.2	2.8	2.1	3.2	0.1	-0.7	1.8	0.0	0.3
2003	7.2	17.4	0.3	6.3	7.7	16.4	2.5	-0.4	1.7
2004	5.6	11.2	3.4	17.7	5.3	10.1	3.5	0.7	2.4
2005	7.9	10.4	4.0	7.5	5.6	8.6	3.1	0.8	1.3
2006	6.7	5.3	6.9	26.2	3.2	8.8	2.7	3.9	1.7
2007	8.4	4.5	5.3	18.0	2.0	6.6	1.9	3.4	2.2
2008	6.3	5.0	12.9	17.7	4.2	5.3	-0.3	0.8	-1.0
2009	3.1	-5.2	1.1	12.0	0.1	-3.3	-3.5	-5.1	-5.5
2010	4.5	3.4	4.0	16.6	4.6	0.9	3.0	3.6	4.4
2011	1.8	8.2	5.5	18.8	6.8	1.8	1.7	3.1	-0.7
Average	5.5	5.3	4.6	13.4	3.8	5.7	1.8	1.3	0.8

Source: Knoema.com

Table 1: Real GDP Growth Rate (%), 2000-2011

Country	Number
Bahrain	6
Kuwait	9
Oman	6
Qatar	8
KSA	11
UAE	18

Source: Gulfbase.com

Table 2: Publicly Listed National Banks in GCC Countries, 2011

**Selected Banking Indicators**  
(End of 2011 average per bank, in billions of USD)

	Bahrain	Kuwait	Oman	Qatar	Saudi	UAE
<b>Total assets</b>	2.17	7.20	2.81	10.59	17.91	8.87
<b>Total deposits</b>	1.02	4.38	1.92	5.24	12.79	5.71
<b>Loans and advances</b>	0.55	5.41	1.91	6.70	9.45	5.72
<b>Capital and reserves</b>	-0.16	-1.29	-0.35	-1.34	-3.17	-1.38

Source: Central Bank Statistical Bulletins, 2012

Table 3: Selected Banking Indicators

price over marginal cost, indicating the market power of a bank.

Studies that have used the Lerner index include Kubo (2006) to examine the level of competition of the Thai banking industry and Pruteanu-Podpiera, Weill, and Schobert (2008) to investigate the degree of competition of the Czech banking industry. The H-statistic is defined as the sum of the factor price elasticities of interest income with respect to borrowed funds, labor and physical capital. Studies that have used the H-statistic include Abbasoglu, Aysan, and Gunes (2007) to study the level of competition of the Turkish banking sector. Since the H-statistic is a measure of competition for the banking industry as a whole, the Lerner index is used in this study as it requires individual measures of competition for each bank in the sample through the 2003-2011 period instead of aggregate measures for the full sample.

In the literature, two major approaches have been taken to measure efficiency in the banking industry: parametric and nonparametric. Nonparametric approaches like data envelopment analysis (DEA) consider the whole distance from the frontier as inefficiency. These methods are therefore deterministic as they do not include the possibility of measurement errors in the estimation of the frontier and hence they may overestimate the inefficiencies. DEA approach has been used by Ozkan-Gunay and Tektas (2006) to study the efficiency of the Turkish

banking sector, by Chang and Chiu (2006) to examine the efficiency of Taiwan's banking industry, and by Fitzpatrick and McQuinn (2005) to investigate the efficiency of UK and Irish credit institutions, just to name a few.

Parametric approaches such as the stochastic frontier approach (SFA) and the distribution-free approach (DFA) do not suffer from the above-mentioned drawback. SFA makes some distributional assumptions to disaggregate the residual from the frontier into an inefficiency term and a random disturbance, which are arbitrary. SFA has been used by Inui, Park, and Shin (2008) to study the comparative efficiency of Japanese and Korean banking and by Fitzpatrick and McQuinn (2005) to investigate the efficiency of UK and Irish credit institutions. DFA has been proposed to resolve the major criticism of the SFA, namely its distributional assumptions, by adopting more intuitive assumptions to separate inefficiency from random disturbance. DFA has been used by Matousek, R. and Taci, A. (2004) and by Pruteanu-Podpiera, Weill, and Schobert (2008) to examine the efficiency of the Czech banking industry.

This study is the first attempt to investigate the degree of competition and efficiency of commercial banks in the GCC. The Lerner index is used to measure competition and DFA is applied to measure efficiency.

## Methodology

This paper has three objectives. The first objective is to provide evidence on the level of banking competition in the GCC between 2003 and 2011. Using data on output prices and applying the Lerner index to measure competition, this study measures the degree of monopoly power for each bank in the loan market. The second objective is to evaluate the efficiency of the GCC banking sector during the 2003-2011 period. A translog cost function is estimated for all the banks in the sample. Each bank's efficiency is then computed as the deviation from the most efficient bank's intercept term. The final objective is to test the causality between competition and efficiency and determine the direction of causality.

## Measurement of Competition: the Lerner Index

The Lerner index is calculated to provide evidence on the degree of banking competition in the GCC. The index is defined as the difference between the price and the marginal cost, divided by the price. The Lerner index ranges between 0 and 1. The index is an inverse measure of competition. A greater index means lower competition. In this study, the focus is on the loan market because loans represent the largest share of assets for GCC national banks. Accordingly, the price of loans is used and the marginal cost is calculated by using loans as the output.

**Median Lerner Index, 2003-2011**

Year	Bahrain	Kuwait	Oman	Qatar	Saudi	UAE
2003	0.4837	0.2693	0.3158	0.3017	0.2290	0.2376
2004	0.4913	0.3841	0.3953	0.2667	0.2585	0.2995
2005	0.2810	0.3545	0.3099	0.2073	0.1855	0.3380
2006	0.3570	0.2032	0.3517	0.4624	0.1002	0.2148
2007	0.6769	0.1822	0.1133	0.2046	0.1150	0.1397
2008	0.0604	0.1573	0.2493	0.1309	0.1784	0.1425
2009	0.2454	0.2541	0.1975	0.3904	0.3625	0.2376
2010	0.2396	0.3406	0.1684	0.3271	0.4266	0.2833
2011	0.3645	0.3950	0.2073	0.3123	0.4156	0.3163

**Table 4: Median Lerner Index, 2003-2011**



The price of loans is calculated as interest income divided by net loans. Net loans are total loans minus non-performing loans. The marginal cost function is estimated on the basis of a translog cost function with one output (loans,  $y$ ) and three input prices (labor, physical capital and borrowed funds). The price of labor is measured by the ratio of personnel expenses to total assets ( $w_1$ ). The price of physical capital is defined as the expenses for physical capital to fixed assets ( $w_2$ ). The price of borrowed funds is defined as the ratio of interest expense to borrowed funds ( $w_3$ ).

$$\ln TC = \alpha_0 + \alpha_1 \ln y + \frac{1}{2} \alpha_2 (\ln y)^2 + \sum_{j=1}^3 \beta_j \ln w_j + \sum_{j=1}^3 \sum_{k=1}^3 \beta_{jk} \ln w_j \ln w_k + \sum_{j=1}^3 \gamma_j \ln y \ln w_j + \varepsilon$$

$$MC = \frac{TC}{y} \left( \alpha_1 + \alpha_2 \ln y + \sum_{j=1}^3 \gamma_j \ln w_j \right)$$

$$L = \frac{P - MC}{P}$$

### Measurement of Efficiency: the Distribution-Free Approach

The distribution-free approach (DFA) is used to provide evidence on the level of banking efficiency in the GCC. Using a fixed-effects model, inefficiency is estimated from the value of a bank-specific dummy variable. A translog cost function is estimated for all the banks in the sample.

The DFA approach is applied and it is assumed that the difference in the actual and predicted cost for a given cross-sectional period is a combination of persistent inefficiency component and a random component (Berger, 1993). It is possible to obtain the persistent inefficiency component by averaging out these differences over time. Following Hunter and Timme (1995), the error term bank  $i$  in time  $t$  can be expressed as:

$$\varepsilon_{it} = \ln(v_{it}) + \ln(u_i),$$

where  $\ln(v_{it})$  is a random error component that varies with time and is distributed with a zero mean over time, and  $\ln(u_i)$  is the core efficiency or average efficiency for each bank which is time-independent while random error tends to average out over time. In order to be consistent with this error term specification, the cost function can then be expressed with a residual in the multiplicative form:

$$Cost_{it} = C_t(Q_{it}, P_{it}) v_{it} u_i$$

where  $C_t$  is a cost function and  $Q_{it}$  and  $P_{it}$  are output and input prices, respectively. This cost function in logarithm is:

$$\ln Cost_{it} = \ln C_t(Q_{it}, P_{it}) + \ln(v_{it}) + \ln(u_i).$$

The term  $\ln(u_i)$  is assumed to be orthogonal to the regressors in the cost function. The error term  $\varepsilon_{it}$  can be estimated for each bank for each year. In this way the parameters in the cost function and the random error term  $\ln(v_{it})$  are allowed to change for each year while  $\ln(u_i)$  remains constant over time.

The next step is to average the estimated cost function, error term  $\varepsilon_{it}$  for each bank over  $n$  years in order to obtain an estimate of  $\ln(u_i)$ , that is  $\ln(u_i) = \sum_t \varepsilon_{it} / n$ . For each bank then the percentage efficiency measure can be expressed as:

$$EFF_i = \exp[\ln(u_{\min}) - \ln(u_i)],$$

where  $\ln(u_{\min})$  is the minimum value of  $\ln(u_i)$ . From this formulation an efficiency value of 1 corresponds to the most efficient bank while all other banks have values between 1 and 0.

## Causality between Competition and Efficiency: Granger Causality Test

The causality between competition (COMP) and efficiency (EFF) is tested by estimating the following two equations

$$COMP_t = \alpha_0 + \sum_{i=1}^m \alpha_i COMP_{t-i} + \sum_{j=1}^n \alpha_j EFF_{t-j} + u_t$$

$$EFF_t = \beta_0 + \sum_{i=1}^m \beta_i EFF_{t-i} + \sum_{j=1}^n \beta_j COMP_{t-j} + v_t$$

The Granger causality test is applied by following these three steps: (1) test whether the series are stationary or not; (2) examine the long-term relationship; and (3) examine the direction of relationship.

The Augmented Dickey Fuller Test (ADF) is used for testing stationarity of each data series. The ADF is a regress test using each series' own lagged terms with significant differences. If the ADF test statistic is greater than McKinnon's critical values, and the series is stationary at that level, then the data is stationary.

### Data

The sample consists of 58 GCC national banks listed in the respective stock exchanges during the period 2003-2011. All the required data are extracted from the annual reports of the national banks.

### Empirical findings

Table 4 (page 8) shows the median Lerner Index for the sampled banks in each country from 2003 to 2011. As indicated in the table, the competition among national banks in Bahrain and Oman increased during the period while the competition of national banks in Kuwait, Qatar, Saudi Arabia, and the UAE decreased during the period.

To explore the efficiency of the national banks, the panel data for all national banks that operated throughout the whole study period is used. The DFA approach is employed to calculate the efficiency scores of the banks. As shown in Table 5, (page 11) Masraf Al Rayan of Qatar had the highest efficiency score while Kuwait Finance House had the lowest efficiency score during the study period.

Table 6 (pages 12 - 13) presents the Lerner Index and efficiency score for all banks in the sample between 2003 and 2011. A negative relationship between competition (Lerner index is an inverse measure of competition) and efficiency appears to exist. According to Demsetz's

(1973) 'efficient structure hypothesis', the best managed firms have the lowest costs and consequently the largest market shares, which leads to a higher level of concentration. The negative link between banking competition and efficiency suggests that policies favoring banking competition should consider possible effects on financial stability.

To investigate the causal relationship between competition and efficiency, Granger causality test is employed. Table 7 (page 13) shows the pairwise test results. Based on the p-values, the hypothesis that efficiency does not Granger cause competition and the hypothesis that competition does not Granger cause efficiency cannot be rejected.

Table 8 (page 14) presents the rankings based on efficiency score and bank size. Spearman rank correlation was calculated between bank size (proxied by total loans) and efficiency score. The correlation coefficient was positive and significant at 10% level. Larger banks tend to be more efficient than smaller banks.

### Conclusion

In this study, we used a sample of 58 publicly listed GCC national banks to explore the competition and efficiency of the GCC banking sector between 2003 and 2011. The results indicate

that there was increased competition among Bahraini and Omani national banks during the study period. However, there was decreased competition among Kuwaiti, Qatari, Saudi Arabian, and UAE national banks. Masraf Al Rayan of Qatar was the most efficient bank while Kuwait Finance House was the least efficient bank. More efficient banks would benefit from lower costs and therefore have higher market shares. Competition increases cost efficiency. Bank managers respond to competitive pressure by keeping costs under control.

Granger Causality test results reveal that competition and efficiency do not Granger cause each other. Regarding the relationship between bank size and efficiency, it was found that larger banks tend to be more efficient than smaller banks.

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Bank	Rank
Masraf Al Rayan (Qatar)	1
Samba Financial Group (Saudi Arabia)	2
Qatar International Islamic Bank (Qatar)	3
Saudi British Bank (Saudi Arabia)	4
Qatar Islamic Bank (Qatar)	5
Emirates NBD (UAE)	6
Bank Muscat (Oman)	7
Mashreq (UAE)	8
Emirates Islamic Bank (UAE)	9
Abu Dhabi Commercial Bank (UAE)	10
Dubai Islamic Bank (UAE)	11
Arab National Bank (Saudi Arabia)	12
Riyad Bank (Saudi Arabia)	13
National Bank of Abu Dhabi (UAE)	14
National Bank of Kuwait (Kuwait)	15
Banque Saudi Fransi (Saudi Arabia)	16
Abu Dhabi Islamic Bank (UAE)	17
Qatar National Bank (Qatar)	18
Boubyan Bank (Kuwait)	19
Saudi Hollandi Bank (Saudi Arabia)	20
Ahli United Bank (Bahrain)	21
United Arab Bank (UAE)	22
Al Rajhi Bank (Saudi Arabia)	23
Union National Bank (UAE)	24
Al Khaliq Commercial Bank (Qatar)	25
National Bank of Umm Al Qaiwain (UAE)	26
National Bank of Oman (Oman)	27
Commercial Bank of Duabi (UAE)	28
Saudi Investment Bank (Saudi Arabia)	29
Bank Dhofar (Oman)	30
Bank of Sharjah (UAE)	31
Ahli Bank (Oman)	32
First Gulf Bank (UAE)	33
Gulf Bank (Kuwait)	34
Al Ahli Bank of Kuwait (Kuwait)	35
Commercial Bank of Kuwait (Kuwait)	36
Bank Aljazira (Saudi Arabia)	37
Doha Bank (Qatar)	38
Commercial Bank of Qatar (Qatar)	39
National Bank of Fujairah (UAE)	40
Oman International Bank (Oman)	41
Bahraini Saudi Bank (Bahrain)	42
Alinma Bank (Saudi Arabia)	43
BBK (Bahrain)	44
Invest Bank (UAE)	45
Bahrain Islamic Bank (Bahrain)	46
Burgan Bank Group (Kuwait)	47
Bank Albilad (Saudi Arabia)	48
Ahli United Bank (Kuwait)	49
National Bank of Ras Al Khaimah (UAE)	50
Bank Sohar (Oman)	51
Sharjah Islamic Bank (UAE)	52
Ahli Bank (Qatar)	53
Commercial Bank International (UAE)	54
Al Salam Bank (Bahrain)	55
NBB (Bahrain)	56
Kuwait International Bank (Kuwait)	57
Kuwait Finance House (Kuwait)	58

Table 5:  
Ranking of Banking Efficiency,  
2003-2011



Bank	Lerner Index	Efficiency Score
Ahli United Bank (Bahrain)	0.3367	0.6203
BBK (Bahrain)	0.1649	0.5045
Bahrain Islamic Bank (Bahrain)	0.2194	0.4874
Bahraini Saudi Bank (Bahrain)	0.2226	0.5233
NBB (Bahrain)	0.3274	0.3976
Al Salam Bank (Bahrain)	0.5181	0.4034
Al Ahli Bank of Kuwait (Kuwait)	0.2747	0.5609
Ahli United Bank (Kuwait)	0.2917	0.4741
Boubyan Bank (Kuwait)	0.4318	0.6360
Burgan Bank Group (Kuwait)	0.4110	0.4863
Commercial Bank of Kuwait (Kuwait)	0.3104	0.5577
Gulf Bank (Kuwait)	0.2308	0.5649
Kuwait Finance House (Kuwait)	0.2289	0.2445
Kuwait International Bank (Kuwait)	0.3462	0.2469
National Bank of Kuwait (Kuwait)	0.2713	0.6717
Ahli Bank (Oman)	0.3050	0.5814
Bank Dhofar (Oman)	0.2020	0.5821
Bank Muscat (Oman)	0.2569	0.7222
Bank Sohar (Oman)	0.0745	0.4671
National Bank of Oman (Oman)	0.0838	0.5978
Oman International Bank (Oman)	0.3597	0.5250
Ahli Bank (Qatar)	0.2034	0.4351
Commercial Bank of Qatar (Qatar)	0.2398	0.5439
Doha Bank (Qatar)	0.2906	0.5498
Al Khalij Commercial Bank (Qatar)	0.2020	0.6018
Masraf Al Rayan (Qatar)	0.6292	1.0000
Qatar Islamic Bank (Qatar)	0.4623	0.7740
Qatar International Islamic Bank (Qatar)	0.5956	0.7903
Qatar National Bank (Qatar)	0.2466	0.6422
Saudi Hollandi Bank (Saudi Arabia)	0.1905	0.6349
Bank Albilad (Saudi Arabia)	0.2312	0.4784
Alinma Bank (Saudi Arabia)	0.2900	0.5174
Arab National Bank (Saudi Arabia)	0.2694	0.6912
Bank Aljazira (Saudi Arabia)	0.0604	0.5555
Banque Saudi Fransi (Saudi Arabia)	0.1858	0.6582
Riyad Bank (Saudi Arabia)	0.2032	0.6739
Al Rajhi Bank (Saudi Arabia)	0.6464	0.6058
Saudi British Bank (Saudi Arabia)	0.2492	0.7778
Samba Financial Group (Saudi Arabia)	0.3503	0.7917
Saudi Investment Bank (Saudi Arabia)	0.2738	0.5887
Abu Dhabi Commercial Bank (UAE)	0.1790	0.6954
Abu Dhabi Islamic Bank (UAE)	0.2128	0.6460
Bank of Sharjah (UAE)	0.4467	0.5821
Commercial Bank of Duabi (UAE)	0.3174	0.5899
Commercial Bank International (UAE)	0.1239	0.4217

Table 6: Lerner Index and Efficiency Score, 2003-2011 (Part A)

Dubai Islamic Bank (UAE)	0.1344	0.6926
Emirates Islamic Bank (UAE)	0.3062	0.7039
Emirates NBD (UAE)	0.3118	0.7559
First Gulf Bank (UAE)	0.2200	0.5727
Invest Bank (UAE)	0.3756	0.4988
Mashreq (UAE)	0.1781	0.7056
National Bank of Abu Dhabi (UAE)	0.1520	0.6739
National Bank of Fujairah (UAE)	0.1782	0.5409
National Bank of Umm Al Qaiwain (UAE)	0.4575	0.6013
National Bank of Ras Al Khaimah (UAE)	0.1411	0.4734
Sharjah Islamic Bank (UAE)	0.2723	0.4463
United Arab Bank (UAE)	0.3091	0.6140
Union National Bank (UAE)	0.2162	0.6022

Table 6: Lerner Index and Efficiency Score, 2003-2011 (Part B)

Null Hypothesis	F-Statistic	p-Value
Efficiency does not Granger cause competition	0.4646	0.7083
Competition does not Granger cause efficiency	0.3310	0.8029

Table 7: Pairwise Granger Causality Test Results, 2003-2011

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Bank	Efficiency Rank	Loan Rank, 2011
Ahli United Bank (Bahrain)	21	4
BBK (Bahrain)	44	38
Bahrain Islamic Bank (Bahrain)	46	55
Bahraini Saudi Bank (Bahrain)	42	57
NBB (Bahrain)	56	49
Al Salam Bank (Bahrain)	55	56
Al Ahli Bank of Kuwait (Kuwait)	35	28
Ahli United Bank (Kuwait)	49	33
Boubyan Bank (Kuwait)	19	39
Burgan Bank Group (Kuwait)	47	26
Commercial Bank of Kuwait (Kuwait)	36	27
Gulf Bank (Kuwait)	34	19
Kuwait Finance House (Kuwait)	58	10
Kuwait International Bank (Kuwait)	57	58
National Bank of Kuwait (Kuwait)	15	8
Ahli Bank (Oman)	32	34
Bank Dhofar (Oman)	30	37
Bank Muscat (Oman)	7	18
Bank Sohar (Oman)	51	48
National Bank of Oman (Oman)	27	36
Oman International Bank (Oman)	41	54
Ahli Bank (Qatar)	53	42
Commercial Bank of Qatar (Qatar)	39	20
Doha Bank (Qatar)	38	24
Al Khaliq Commercial Bank (Qatar)	25	44
Masraf Al Rayan (Qatar)	1	22
Qatar Islamic Bank (Qatar)	5	25
Qatar International Islamic Bank (Qatar)	3	45
Qatar National Bank (Qatar)	18	1
Saudi Hollandi Bank (Saudi Arabia)	20	21
Bank Albilad (Saudi Arabia)	48	40
Alinma Bank (Saudi Arabia)	43	31
Arab National Bank (Saudi Arabia)	12	14
Bank Aljazira (Saudi Arabia)	37	32
Banque Saudi Fransi (Saudi Arabia)	16	11
Riyad Bank (Saudi Arabia)	13	7
Al Rajhi Bank (Saudi Arabia)	23	5
Saudi British Bank (Saudi Arabia)	4	13
Samba Financial Group (Saudi Arabia)	2	12
Saudi Investment Bank (Saudi Arabia)	29	30
Abu Dhabi Commercial Bank (UAE)	10	6
Abu Dhabi Islamic Bank (UAE)	17	17
Bank of Sharjah (UAE)	31	43
Commercial Bank of Duabi (UAE)	28	29
Commercial Bank International (UAE)	54	50
Dubai Islamic Bank (UAE)	11	16
Emirates Islamic Bank (UAE)	9	41
Emirates NBD (UAE)	6	2
First Gulf Bank (UAE)	33	9
Invest Bank (UAE)	45	51
Mashreq (UAE)	8	23
National Bank of Abu Dhabi (UAE)	14	3
National Bank of Fujairah (UAE)	40	46
National Bank of Umm Al Qaiwain (UAE)	26	53
National Bank of Ras Al Khaimah (UAE)	50	35
Sharjah Islamic Bank (UAE)	52	47
United Arab Bank (UAE)	22	52
Union National Bank (UAE)	24	15

Table 8: Spearman Rank Correlation between Efficiency and Size



## Background

The deliberation on shareholder value versus stakeholder emphasis is more than ever an issue. Since 1990s Corporate Governance has grown into an intensely disputed issue in the management literature (Koen, 2005). It includes the tactic of organizing ownership, management, and control of a corporation (Cadbury, 2002; Keasey et al., 1997; Shleifer et al., 1997; Witt, 2000). The current corporate governance system impacts the corporation considering global strategy, i.e. the acknowledgment of stakeholder interests, the interest of shareholders, customers, banks, management, and employees. It is essential to balance the changing benefits between these rivalries involved and the prevailing asymmetries in information subsequently (Witt, 2000). Each country or region has different means of harmonizing these interests.

There are two distinctive models on corporate governance in the literature: 1) the shareholder value model, in which the boosting of shareholder value is the primary goal of the firm, and 2) the stakeholder model (Albert, 1993), in which a range of firm constituencies - including employees, suppliers, customers, etc. - have an opinion in the firm, and whose welfares are to be secured against each other in management decision-making.

As Calori and Wood put it "Europeans have certainly not totally embraced the basic approach of Milton Freeman, who asserted that the only social responsibility of business is to make money" (Calori et al., 1994). While American companies are largely alleged to leading the shareholder value movement, European and Japanese corporations are often related to the stakeholder approach (Hinterhuber et al., 2004).

The shareholder value model has been intensely condemned by leading scholars (Ghoshal, 2005; Mintzberg, 2000; Mintzberg et al., 2002; Porter, 1990) for its propensity to under-invest and emphasis on short-term results

# Shareholders Vs. Stakeholders the Battle Continues

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and for not considering ethical and social values. Hence, it is reasoned that it cannot be a firm foundation for society. Globalization may encourage the shareholder model over the stakeholder model of corporate governance (Koen, 2005). The global objective of a corporation in general is sustainability for its long-term progress and persistence (Matzler et al., 2005).

## Conflicting interests

The deliberation about the association between shareholders' interests and other stakeholders' or "other constituents'" interests is as deep-rooted as Corporations. The current debate about this contradiction goes back at least to the early years of 20th century and to the leading works of Berle, Dodd and others (FES, 2003). The contemporary two opposite theories of Corporate Governance are: shareholders theory (agency) and stakeholder's theory.

Milton Friedman introduced the stockholder theory that claims that the corporations' only responsibility was to its stockholders and that the latter are interested in profit maximization. Therefore the only one social obligation of business: is to use its resources to participate in activities planned to increase its profits so long as it works without cheating or deceit. Hence, leaders should act as agents for stockholders and center on their benefits.

On the other side is the stakeholder theory by R. Edward Freeman, that concentrates on who is being touched. In Freeman's "A Stakeholder Theory of the Modern Corporation," he proposes that leaders are indebted to all stakeholders: customers, suppliers, management, owners, employees, and the local community. We all have a moral responsibility regarding other human beings. It is the responsibility of corporations that make profits to contribute to the development of society financially and in other ways, e.g. recycling of products and contributing to laudable causes frequently, rather than waiting for a disaster to happen and then donating with a view to positive promotion.

## Shareholders theory

Shareholders' theorists of moral governance lean to respect Milton Friedman's statement that the social duty of business is to proliferate the business and ponder that shareholders interest in the surge in value of their shares is chief of Corporations goals (Gioia, 1999). Shareholders' theorists are positive in acknowledging shareholders rights over decisions on how their investment is used, and are apprehensive by the information irregularity between the principal and the agent (Graved, 1995). These lines of thought are habitually grounded on the notion of perfect and efficient markets (Hirsh, 1978) that can be entrenched in some of the foremost Utilitarian philosophers such as Bentham who

encouraged the undertaking of self-interest to boost convenience. Adam Smith's economic theory is seen as commanding a similar strategy for business. He contemplated that businesses operate in a self-interested mode, and that the market place would standardize their behavior and that its "invisible hand" would safeguard social profit. Shareholders' theories emphasize that Directors and Officers of Public and Private Companies are indebted with fiduciary liabilities only to shareholders, to whose profit they must manage the Corporations' business. Defense of other welfares is positioned beyond their duties, except in those circumstances where they are contractually obliged to do so. These theories admit the significance of investor's contribution into the company. Yet, taken in absolute terms, they can lead to exploitation of shareholders' rights and may lead to enduring volatility of companies.

### **Stockholders Are the Only True Stakeholders**

Stockholder theory presumes a fiduciary responsibility by a corporation and its managers to its stockholders. It entails a multi-fiduciary tactic that is incompatible with free markets, property rights, and the unique moral accountability of management to the stockholders. Managers are appointed by shareholders to achieve their interests; therefore they must be accountable to the stockholders. It ensues that managers have neither the duty nor justification to use the stockholders' money in means that have not been endorsed by the owners, regardless of the social helps that may ensue. This can be legitimate only when they have been explicitly authorized by the stockholders or when managers judiciously think they will ameliorate the firm's long-run lucrativeness.

Finally, to have a stake in a corporation you need to invest in it. Other so-called stakeholders, with the imaginable exclusion of employees, have no claim against a specific corporation as long as it is capable to achieve its liberally contracted responsibilities with such groups. Stockholders are the only true stakeholders.

### **Stakeholder Theory as a Management Strategy**

A marked innovation over the classical view is the stakeholder theory (Freeman 1984; Evan & Freeman 1988). It may well appear unsuitable to refer to the stakeholder position as neoclassical. Freeman contended that the manager's task was to guard and endorse the rights of the different corporate stakeholders. Freeman defined stakeholders as members of groups whose existence was necessary. From the strategic point of view stakeholder theory has value. Successful corporate managers give consideration to all groups that are fundamental to the persistence and success of the firm-shareholders, employees, suppliers, customers, the local community, and so on.

The manager must assume socially responsible actions when he expects results that will profit his firm, in the long run. Such an investment must have a straight business purpose and be projected to create adequate future net concrete benefits for the enterprise and its shareholders. The question is not whether an activity is in the interest of a firm, but whether it is enough in its interest to justify the expenditure. In our group practice we frequently offer free testing for various medical conditions including for example osteoporosis screening that though it costs us money yet it increases customer numbers and satisfaction and improves profitability of the business.

Accordingly, socially responsible actions must be connected to business goals, especially the company's demand to entice loyal customers, productive employees, and enthusiastic investors. In such an occasion, socially responsible activities concurrently help the interests of the business and the beneficiaries. Banks usually offer a lot of scholarships and grants for educational purposes that will help in building their corporate image.

### **Stakeholders and Ethics**

Stakeholder's theory from the ethical point of view is challenging. It mistakenly proposes that

corporations are assets and servants of greater society. Anthony Buono and Laurence Nichols defined the term stakeholder as any distinguishable group or individual who can influence or is touched by organizational performance in terms of its products, policies, and work processes. Advocates of stakeholder theory as an ethical theory try to build their dispute on Immanuel Kant's principle of respect for persons. According to William Evan and R. Edward Freeman, each stakeholder group has a right to be treated as an end in itself and not as a means to some other end, and therefore must participate in determining the future direction of the firm. This theory misinterprets Kant's principle. Recognizing the independence of stakeholders does not indicate that they are eligible to affect corporate resolutions or that the firm must be functioned in their benefits. It simply means liberally negotiating with them without the use of power or fraud.

The stakeholder's theory removes management decisions from their stress on ameliorating profit. It positions managers in the awkward situation of balancing competing claims from a wide variety of groups. They find themselves in the position of having to make principally political rather than business decisions.

All companies, particularly large corporations, have several stakeholders. Employees and owners, may have explicit legal rights and prospects in regard to the organization's operations. Other stakeholders may not have precise rights conceded by law, but may recognize that they have moral rights connected to the organization's operations. Stakeholders can be divided into primary or secondary stakeholders. Primary stakeholders have some direct stake in the organization. Whereas secondary stakeholders, are public or special interest groups that do not have a direct stake in the organization but yet they are influenced by its operations.

An organization has legal and moral responsibilities to its owners. These obligations include, but are not limited

to, trying to safeguard that owners obtain a satisfactory return on their investment. Employees are also primary stakeholders who have both legal and moral claims on the organization. Organizations also have particular accountabilities to their customers in terms of producing and marketing goods and services that offer functionality, safety, and value. In addition companies have a direct duty to future generations and to the natural environment. Those supportive of taking into account interests other than those of shareholders in the Corporation's decision making process, encourage stakeholders other than shareholders an autonomous right to effect companies activities (Hummels, 1998).

The definition of "other constituents" or stakeholders is wide and there is not a general agreement on it. Some incorporate within it all those groups without whose support the organization would cease to exist. Others extend the limitations of the definition to include any individual or group that can affect or be affected by the accomplishment of the organization's objectives (Jensen, 1991; Kaplan & Norton, 1992).

### Conciliation of interests

The long-term sustainability of the Corporation necessitates a balance between the different groups of stakeholders (Kaplan & Norton, 1996). Stakeholder's drive encompasses a remedy for corporations to follow ends that go past the single interests of shareholders and means that Directors and Officers are to care for the welfare of others implicated in the company activity. In the process shareholders long-term welfares profits. Consumers increasingly favor products from companies they trust, suppliers are drawn to business partnerships with companies they can rely on; employees rather work for companies they respect; large investment funds favor socially responsible firms (Kinley & Tadaki, 2004); and most esteemed NGOs select to collaborate with companies reconciling their investment interests with Community goals (Muray, 2003). So the managers need to reunite stake-

holders and shareholders' needs and welfares though strategies gifted to foster both economic and social and environmental standards.

The interests of most stakeholders concur with those of shareholders and the company. Customers and clients are stakeholders whose contentment is a pronounced task of the corporation. A growing revenue base from customers is essential for all companies to be able to increase the wealth of their shareholders. Enlightened staff will help in augmenting value for shareholders. It is critical for companies to pay their employees well since this will put them in a better position to achieve long-term profitability. Whereas companies that pay their employees below market, or deal with their employees in ways which undercut their talents leads to wasting precious assets and are not maximizing wealth for shareholders.

### Customer as Stakeholders

Customers are key stakeholders that help establish the firm's reputation and identification. Understanding customer needs and wants and providing customers with high-quality products is the key to the company's success. A lot of companies resort to advertising to promote the image of the organization and here the question is raised whether advertising is ethical.

The buyer and seller both, we say, have a fundamental right to liberty. The exchange between the two must be voluntary. Neither has any antecedent duty to offer the item in question for sale, nor to buy it. It follows that the correct terms of sale are simply those agreed upon. There must be no compulsion and the consumer must have access to adequate and complete information (Narveson, 2011). In established markets the idea of normal performance will prevail. There is no natural price of anything however prices must be fair. There is a need sometimes for reinforcement when things go wrong. Here again this can be market related or authority related. When the buyer knows risk and he nevertheless buys, then the seller has

not deluded him. Does this mean that the seller is not at fault? It does indeed. But taking people to court is not necessarily the best way to secure rights. It's expensive and time-consuming, for one thing. Another idea is to form an association of consumers and business people. BBB (Better Business Bureau) route is an excellent one (Narveson, 2011).

### The Ethical Dimension of Advertisement

The Ethics of advertising have recently become an extremely hot topic. One of the main issues here is that ethical is such a subjective term - what is ethical to one person may not be to another. Moreover the notion of what is ethical is not fixed in stone - for example it used to be believed that it is ethical to advertise cigarettes but not condoms however, these days the situation has totally reversed.

Advertisement is the practice of communicating the maximum convincing selling message imaginable, to the right potential consumer at the right time and place, at least possible cost. Advertisement generates a psychic desire to consume more and more. Modern Advertisement has traversed all national and international boundaries. It has excessive impact in our daily life. The chief objection to advertising is the fact that advertising is deceptive-in whole or in part. In addition it weakens personal autonomy; that some kinds of advertising are immoral. Advertising plays on human desires for security, acceptance, and self-esteem to influence consumer choices. It promotes consumption as a way of life; it empties communication of its content, it is often tasteless and irritating, and lowers culture in general (Narveson, 2011).

There are claims that from the economical point of view it is a waste of resources and inefficient, largely a nonproductive activity that stifles ompetition. However advertising increases value of a product by creating buyers of the product, creates an expanding market, and actually has been shown to lower



prices. And there is no guarantee that dollars saved on advertising could be utilized more efficiently, especially in a surplus economy (Narvesson, 2011). False and deceptive advertising is increasingly a key issue in organizational communications. Abuses in advertising can range from, exaggerated claims and concealed facts to outright lying. The one criticism of advertising that is always relevant is that it defrauds, by painting a picture of what is sold that does not match the actual goods being sold. Here are four properties advertising might have that have been objected to.

**1) False.** The information in the ad might be false.

**2) Misleading.** This is when the material presented implies, without actually saying, something that is false in the above sense.

**3) Irrelevant.** This is where the material presented, though presented in order to stimulate interest in the product in question, does not in fact have anything to do with the merits of that product.

**4) In Bad Taste.** The ad might offend the listener or reader's standards of taste, in various respects. (Narvesson, 2011; Poff & Waluchow, 1990)

## Control of the Corporation

Corporate revisionists have worked to transform the corporation from private to public property. The corporations threatened in this historic property dispute are the private, publicly traded ones in which stockholders are owners (principals) and hired corporate officers are managers (agents). The Board of Directors supervise the agents. Directors and agents have a fiduciary duty of care to guard and increase the investment of owners. Directors have the further duty of devotion to stockholders. However, corporate law does stress that every employee of the firm has the same fiduciary responsibility to the corporation, as do the officers.

Managers and stockholders stood together rejecting stakeholder theory during the cultural revolution of the 1960 and 1970s, as control of the corporation disconnected from owner-

ship, the controlling managers found them conflicted. As legal agents, they were to increase profits for their stockholder principals; but, as individually rational agents, many were inclined to boost benefits to themselves. In time, they began to divert stockholder wealth to stakeholders through higher compensation packages, more expensive privileges, relaxed surroundings, and lavish charitable aids.

It is contended that if managers depart too far from operating in the interests of stockholders, the market for corporate control will intercede and overthrow them. The market for corporate control, as explained by law professor Henry Manne in his 1965 article "Mergers and the Market for Corporate Control," identifies stockholders' power to substitute underperforming managers with a team anticipated to increase wealth for the company. Endorsing the efficient market theory, Manne thinks that the average stock market price is the finest estimate of the value of a company.

Financial experts and economists analyzed Corporate America. Examining financial performance of corporations through thorough study of annual reports, financial statements, and corporate actions, analysts considered corporations with nonproductive spending, embracing excessively generous employee benefits, huge community donations, and many personal requirements together with low funding of useful goods and services, including R&D, advertising, and capital equipment.

Managers are unlikely to approve of hostile takeovers. They usually respond cautiously, indicating that enemies of the public corporation were executing a "financial rape" of the corporation's assets and an attack on professional managers. They contended that the take-over activists were short-term investors concerned only in fast profits and not in the long-term health of the target corporation. Managers conjoined to portray themselves as the genuine rescuers (Charron, 1985b). The United Shareholders Association (USA), a

nonprofit organization was established to organize advocacy for stockholder rights, (Whitworth, 1993).

## Role of the Manager

Managers are those who have substantial operational control over a business, and the direction and supervision of the work of others. The rights and duties of managers thus result from their relations in both directions. They are delegated with foremost power to shape the wellbeing or turn around the business as a whole. On the other hand they have the obligations of fairness and due care for employees. They are in a position to affect the success or the failure of a company. They may practice their controls unethically, thus violating the trust the company and its employees put in them. But the moral ban to abstain from taking advantage of one's position, to do the best one can for the firm, and so on, is based on the firm's legitimate interest in doing business, which is to maximize the profits of that firm. In so doing, the firm serves both itself and society (Narvesson, 2011).

Protected by entrenchment, managers became progressively forceful. Acting as their own best financial critics, they disciplined their corporations from within, eradicating unprofitable plants and divisions, using the benefits of new technology, pursuing more efficiency, insisting on higher performance from their executives, and so on. It is an understatement to call contemporary compensation packages impressive. But if rewards are entwined to stock performance, how can they be condemned? In too many cases, rewards are not tied to stock performance.

## Battle Outside the Corporation

The battle within the corporation provided outside revisionists a prospect to increase their control of the firm. Outside revisionists are social activists, academics, social science and humanities departments of many universities. These revisionists believe that corporate law mirrors an inappropriate view of the nature of the firm. To modify

the view, they employ theory, specifically, the theory of the firm. Adolf Berle and Gardiner Means's prevalent and prominent theory of the firm focused on governance. In *The Modern Corporation and Private Property*, Berle and Means pointed out that proprietorship and control were systematically alienated in the corporations of the 1930s. They anticipated that the separation would generate a "corporate oligarchy with the probability of an era of corporate plundering," with managers plunging into the corporate treasury. Such a possibility would mark "the explosion of the atom of private property" (Berle and Means, 1932).

The directors on behalf of the stockholders establish policy and vote on the material issues of the firm. As Berle and Means saw it, in yielding to managers "control and responsibility" for the corporation, stockholders have abandoned their ownership rights. In so doing, they "released the community from the obligation to protect them to the full scope inferred in the doctrine of strict property rights" (1932). But, for Berle and Means, out-with-the-stockholders did not mean in-with-the-managers. They anticipated a different result—the relinquishment of the corporation to the political domination of society at large (Berle and Means 1932).

The discrepancy of manager and stockholder interests called for clarification. Armen Alchian's 1965 article, "The Basis of Some Recent Advances in the Theory of Management of the Firm," answered with the utility theory explanation of corporate behavior. Utility theory appreciates each individual as a rational agent who is anticipated to work in a way to amplify his own well-being (Alchian 1965), all of which cost a bit more. The "bit more" comes out of stockholders' potential returns. In these cases, the interests (utilities) of managers and stockholder digress.

### Stakeholder Theory of the Firm

The stakeholder theory of the firm was advanced by corporate revisionists all over the world. The theory is now

in its third stage. During its first stage, from the 1960s through to early 1980s, corporate revisionists put forward the stakeholder theory plan. In this period stockholder ownership and the ideas of corporate profits was rejected, and the notion of the firm as a social institution evolved. They advanced theories of collective responsibility naming the corporation a moral agent and fit subject for punishment. (Charron 1985a). They claimed that corporations owe their protection to society and, therefore, should "serve public or social purposes." (Dahl, 1975; Bowie & Freeman, 1992).

In the second stage of stakeholder theory, from the late 1980s to 2000, two groups of allies joined including several influential theory-of-the-firm economists and self-protecting corporate managers who thought the time propitious to dethrone the stockholder. As stakeholder theorists and corporate managers hardened their friendship, they created a conjoint support society. Managers accepted stakeholders as the leading group and stockholders as only one set of stakeholders. In return, stakeholder theorists moderated their condemnation of management, quietened their charge that the goal of profits mirrors only greed, and masked their persistence that the corporation be changed into a social institution. They recognized wealth production as the main objective of the corporation. However, stakeholder theorists persisted to reject the stockholder as the owner of the firm with rights of control. For them, no stakeholder group is to accept privileged treatment (Alchian & Demsetz 1972; Fama 1980; Kaplan 1983).

In stakeholder literature, stockholders are typically introduced as investors. When mentioned as a distinct group, they are said to be owed the firm's "residual" earnings, that is, earnings "net of payments to other inputs" (Alchian and Demsetz 1972).

### Redefining the Corporation

Corporate revisionists wanted to ascertain the rights of stakeholders between

1995 and 2000. The major vehicle was the international conference, "Redefining the Corporation," funded by the Alfred P. Sloan Foundation. The meeting gathered more than 100 scholars, representing 15 countries, to center on "The Corporation and Its Stakeholders." The participants convoked "to increase the amount and improve the quality of scholarly and managerial attention devoted to consideration and analysis of the nature, purpose, and governance of corporations" (Clarkson 2002).

The conference's "Consensus Statement" stresses that the aim of business is to generate wealth. All participants, "intentionally or consequentially," help in the wealth formation by accepting liabilities and taking risks. Hence, all participants are stakeholders and must acquire a "balanced share" of the riches produced by the mutual venture (Clarkson, 2002). The report sustains seven principles, known as the "Clarkson Principles" (Jonge 2006), for directing management in its corporate governance. The principles, dictate that managers "should" do the following:

- Observe and answer to worries and interests of all legitimate stakeholders.
- Connect with stakeholders about their concerns, offerings, and threats.
- Act with sensitivity to each stakeholder group.
- Try to attain a just distribution of benefits and burdens.
- Assure that risks are curtailed and harms are compensated.
- Never jeopardize "inalienable human rights" or deceive concerning risks.
- Deal with the conflicts of its self-interest and the interest of stakeholders through public institutions, public reports, incentive systems, and third-party review.

The stakeholder theory added substantial approval by the end of its second stage. Revisionists joined around a mission, an idea, and a choice of action. In the current third stage of

stakeholder theory, corporate revisionists are hurling a movement to bring the law of the land, the mind of the university, and the spirit of society nearer to their line of thinking.

### Criticism of Stakeholder Theory

One of the criticisms is the fact that the theory lacks the accuracy and lucidity expected of a good theory. The fundamental notion, is unspecified. Its definition as anyone who "intentionally or consequentially" participates in the corporation by experiencing effects of corporate activity makes all current and future humans participants. Obliging managers to answer concurrently to the worries of members of such an extensive population undertakes managers have knowledge, control, and power beyond what can be anticipated or claimed.

It is known that moral values often clash; and when they do, it is not clear where moral responsibility lies. The stockholder model is dealing with the technical issues of financial and economic value, how to succeed in business and the marketplace, consistent with ethical principles. The stakeholder model is dealing with moral issues, as they understand them. The battle that exists between the stockholder and stakeholder viewpoints is a conflict between advocates of individual responsibility and proponents of socialized responsibility.

Stakeholder theory from the scientific side is lacking pragmatic basis. It is usually portrayed as a thorough description of the nature and operation of the firm on a par with the theories of Coase, Berle and Means, and Alchian. However, the theory cannot justify how capital, creativity, and energy come together to bring forth new firms. Firms are not formed by stakeholders; entrepreneurs do. Yet entrepreneurs are not acknowledged among the stakeholders of the firm, nor are alternatives suggested.

The theory also fails to explain what is needed for the persistence of a firm. Stakeholder theory depends on managers to deliver the well-adjusted

distribution by arbitrating "among maximizing agents with diverse and conflicting objectives." Such an arrangement governing expanding agents with contradictory objectives is intrinsically unpredictable. It is burdened with power fights and massive rent seeking (Olson 1986).

Corporate revisionists, deliberately or accidentally, claim theoretical advantage to help a campaign to endorse the extensive implementation of the stakeholder agenda for the firm. The battle for control of the corporation is not one of concept but one of practical magnitudes. The question is whether a firm controlled by stakeholders exceeds an alternative in creating greater gains for most, while not ravaging the basic rights of each? Stakeholder theorists say "yes" and deliver inadequate evidence. Stockholder theorists say "no" and offer persuasive evidence. Converting the ownership of the firm from stockholders to all the stakeholders would move the firm from the territory of private property to that of common property. With this model, stakeholders, as well as stockholders, would stand to lose markedly. The logics of private and common properties show why.

### Conclusion

Stakeholder theory destroys the publicly traded, private corporation, and it provokes activism for radical revision. The media welcomes stakeholder message. In the university, the business school curriculum and the business ethics center agenda the stakeholder theory leads. Business organizations such as the Conference Board and the Business Roundtable support the stakeholder side. Many corporations fund business ethics centers of the stakeholder persuasion. As of now, the stakeholder versus stockholder debate is one-sided, with stakeholder theory commanding the discussion.

Stakeholder theory has not yet met with sufficient analysis. In conformity with Rappaport, VBM consultants proclaim "perfect harmony with respect to the numerous stakeholder groups. There is a consensus that the interests of all stakeholder groups are best

served when putting the shareholder first" (Ameels, Bruggeman, & Scheipers 2002). In challenging stakeholder theory intellectually, corporate supporters need to address its inadequate theoretical foundations, rent-seeking motives, and ultimately destructive consequences. They ought to reveal stakeholder theory as a campaign of moral politics to increase control of the corporation. In addition they ought to educate corporate directors in the essentials of the theory to protect them from its moralistic claims.

It should be clear that refusing stakeholder theory will not lead to deprive stakeholders of their rights. Morality is a worldwide restraint on the behavior of individuals without and within all organizations, including the corporation. As human beings and as leaders of corporations, stockholders, directors, and corporate officers are indebted to sustain moral principles and to forbid force or fraud in their decision-making. The stakeholder rights are being handled daily by corporate leaders in treating employees well, producing quality goods in different price ranges, paying bills, being good corporate citizens by providing jobs, paying taxes, and overseeing their corporations in ways to increase its operating capital and free cash flows.

The welfare of stakeholders merits plays some role in corporate deliberations. The exact form and level of this concern will vary with context and cannot be laid down in advance; still less can law authorize it. Nonetheless the fact that a certain course of action would deleteriously impact stakeholder interests is always pertinent as a criticism of corporate policy. Therefore the current version of stakeholder theory has gained wide acceptance in the World. Yet the conciliation of the two camps, the stockholders and the stakeholders is crucial for better future of the corporation.



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## Abstract

The aim of this article is to discuss the socio-economic conditions of the indigenous people living in the Chittagong Hill Tracts (CHT) of Bangladesh. The article first identifies the several socio-economic problems faced by different indigenous people in different parts of the world. Then it describes the conditions of the indigenous people living in the CHT area of Bangladesh and tries to give some solutions to the problems they face. The descriptions and analyses of this article are fully based on available published literature on this topic.

### 1. Introduction

The socio-economic and political situation of indigenous people have become one of the most researched topics among the sociologists and the anthropologists of recent times. This article also focuses on these issues. This study focuses on the socio-economic condition of the indigenous people living in the Chittagong Hill Tracts (CHT) area of Bangladesh. Bangladesh is a land of more than 45 tribal groups. These indigenous people are living in both plain lands and the hilly areas. Over several years, 'the lives and the rights' of these indigenous people has remained one of the most talked about issues among researchers, journalists, activists, politicians and the general public as well. That is why an enormous amount of both academic and professional literature has been produced on this issue. The socio-economic situation of the indigenous people of the Chittagong Hill Tracts area of Bangladesh has been analyzed based on the available literature. As mentioned earlier, there is an enormous amount of published literature on this issue; a total survey of all this literature is both daunting and somewhat impossible, also much is not readily available.

## Socio-economic Situation of the Indigenous People in the Chittagong Hill Tracts (CHT) of Bangladesh

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### 2.0. Indigenous People, their Characteristics and their Problems

According to Macmillan English Dictionary for Advanced Learners (2007, 770): "Indigenous people lived in a place for a very long time before other people came to live there". United Nations Development Group (2008) commented that there is no hard and fast definition of indigenous people and many agencies have tried to give definitions of indigenous people in their own ways and these definitions are similar. The World Bank (1991; 1) defines 'indigenous people' as:

*"The terms "indigenous peoples," "indigenous ethnic minorities," "tribal groups," and "scheduled tribes" describe social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process."*

International Labor Office (2007; 3) identifies the following characteristics of indigenous people:

*"ILO Convention No. 169 underlines that these peoples include those who:*

- *Are descended from populations which inhabited the country or region at the time of conquest, colonization or establishment of state boundaries*

- *Retain some or all of their own social, economic, cultural and political institutions*

*In addition, most indigenous peoples:*

- *Have strong links to their lands and territories*
- *Have distinct languages, knowledge systems and beliefs*
- *Form non-dominant sectors of society. Furthermore, self-identification is a fundamental criterion."*

AIPP, IWGIA & Forum-Asia (2010) identified the following characteristics of indigenous people:

1. They have their own separate language, culture, customary laws, and social and political institutions that are highly distinct from those of the main ethno-linguistic groups in the country.
2. They have self-identification. They are the real 'aboriginals' or 'natives' in the country and the other people came and settled in the country after them.
3. They are not the dominant people so they do not have the economic and political powers of the country.
4. They are generally small in number.

According to the International Fund for Agricultural Development (IFAD) (2011):

*"Indigenous peoples have rich and ancient cultures and view their social,*

*economic, environmental and spiritual systems as independent”.*

According to The World Bank (1991; 1):

*“Indigenous peoples can be identified in particular geographical areas by the presence in varying degrees of the following characteristics:*

- (a) a close attachment to ancestral territories and to the natural resources in these areas;*
- (b) self-identification and identification by others as members of a distinct cultural group;*
- (c) an indigenous language, often different from the national language;*
- (d) presence of customary social and political institutions; and*
- (e) primarily subsistence-oriented production.”*

From these definitions it can be identified that though these indigenous people all over the world have their own uniqueness, they are in a disadvantageous position in many respects. Firstly, they are less in number. As a result, their voices regarding their rights and problems are not that strong. Secondly, their uniqueness makes them dissimilar to the mainstream society. This puts them in a disadvantageous position in the society. They remain deprived of the general facilities that the mainstream society enjoys. Thirdly, their subsistence-oriented, primitive-natured production system prohibits their development.

According to The European Commission (2003), indigenous people face several kinds of disadvantages that create barriers in their development. These disadvantages can be generated from social and individual, geographic, cultural, economic, political and structural barriers.

In terms of **social and individual barriers** it can be said that these people lack basic needs like food, clothing and shelter. The literacy rate is generally low, as a result, they lack skills to become self sufficient. In some cases they face

some ‘psycho-social’ problems like drug and alcohol abuse. In many cases, the mainstream society in a country is also not affectionate to them.

**Geographical disadvantages** also act as impediments in their development. In most cases, these people live in remote and inaccessible geographic areas that are isolated from the mainstream locality of the country.

A third kind of obstruction in the way of the development of indigenous people is **Cultural disadvantage**. Language is acting as one of the main hurdles. In many cases, these people are also becoming victims of ethnic racism.

The fourth kind of obstacle in the path of their development is **Economic disadvantage**. The European Commission (2003) found that these people are the victims of a poverty trap and their societies suffer from a high degree of unemployment.

The fifth kind of hindrance that is faced by the indigenous people is **Political and Structural disadvantages**. In a way, the welfare and the development activities of the state remain highly focused on the mainstream locality. As a result, the welfare of the indigenous people remains ignored in many cases. That is why their infrastructure, education, health care and other needs remain unfulfilled.

IFAD (2011) identified indigenous people as the most ‘vulnerable, marginalized and disadvantaged’ groups in the world. There are more than 370 million indigenous people living in 70 different countries of the world and 70% of them live in the Asia and Pacific region (IFAD, 2011).

The United Nations (2007) in ‘United Nations Declaration on the Rights of Indigenous Peoples’ identified several rights of indigenous people living in different parts of the world. This declaration tries to give a universal framework for the survival and well being of the indigenous people worldwide (IFAD, 2011). According to this

declaration, indigenous people should enjoy all human rights and fundamental freedoms. They are free and equal to all other people and should not be the victims of any discrimination. They have the right for self determination, i.e., they are free to determine their political status and are free to chase their economic, social and cultural development. In terms of local affairs, they must be given autonomy and they should have the right to maintain and support their unique political, legal, economic, social and cultural institutions. Every indigenous individual has the right to a nationality. They should be allowed to revitalize and practice their cultural traditions and customs.

Though many of these International Organizations are taking steps and preparing guidelines in order to ensure the welfare of indigenous people, in many cases, these are not maintained. As a result, these people are suffering socially, economically and politically worldwide. Bangladesh is not an exception. The next section of the article introduces the indigenous people living in Bangladesh.

### 3.0. Indigenous People in Bangladesh

In Bangladesh, the main terms that are used to indicate indigenous people are: ‘Upojati’ (means ‘sub-nation’ and indicates the tribal people) and ‘Adibashi’ (equivalent to the words ‘indigenous’ or ‘aboriginals’) (Roy, 2010). As mentioned earlier, at present, forty five different indigenous groups are living both in the plain lands and on the hills. The highest number of indigenous people live in the southeastern border region of Chittagong Hill Tracts (CHT). Indigenous people live in other areas also. In the plain lands of Bangladesh, indigenous people live in the north-west (Rajshahi-Dinajpur), the north (Mymensing-Tangail), the northeast (Greater Sylhet), the south and the southeast (Chittagong, Cox’s Bazar and Barisal) (Dhamai, 2006). Dhamai (2006) mentions that the social, political, cultural and economic situations of those indigenous people living on the hills, is much different from the situations of the people living in plain



lands and on the hills. The highest number of indigenous people live in the southeastern border region of Chittagong Hill Tracts (CHT). Indigenous people live in other areas also. In the plain lands of Bangladesh, indigenous people live in the northwest (Rajshahi-Dinajpur), the north (Mymensing-Tangail), the northeast (Greater Sylhet), the south and the southeast (Chittagong, Cox's Bazar and Barisal) (Dhamai, 2006). Dhamai (2006) mentions that the social, political, cultural and economic situations of those indigenous people living on the hills, is much different from the situations of the people living in plain lands. According to Asian Indigenous Peoples Pact (2007; 7):

"According to the 2001 (provisional) Census Report, the total number of indigenous (officially 'tribal') people in Bangladesh is about 1,772,788, which is 1.28 percent of the total population of the country. However, indigenous peoples claim that the population of indigenous peoples all over the country is about 3 million"

The indigenous groups that live in the plain land are the Santal (30% of the indigenous people living in the plains), the Garo, the Hajong, the Koch, the Manipuri, the Khasi, the Rakhain and some others (Asian Indigenous Peoples Pact, 2007). Chittagong Hill Tracts (CHT) has eleven indigenous ethnic groups and they are the Chakma, The Marma, the Tripura, the Tanchangya, the Mro, the Lushai, the Khumi, the Chak, the Khyang, the Bawm and the Pankhua. These people are collectively known as the 'Jumma' people. These people have been living in these highlands for centuries. These 'Jumma' people settled in this land before the 16th century. Later in the 19th century, the Bengali people (the dominant ethnic group of Bangladesh) started settling in these highlands. Over the years, the number of Bengali settlers increased in this area. The population census of 2001 shows that the number of Bengali settlers and the number of 'Jumma' population, have become almost equal (Figure 1 - opposite page).

#### 4.0. A Short Description of Chittagong Hill Tracts (CHT) Area

The Chittagong Hill Tracts (CHT), situated in the southeastern part of Bangladesh is the single extensive hill region in the country. This area has its own uniqueness because of its ethnic cultural diversity and picturesque landscape. This area covers approximately 13,184 sq km, which is around one-tenth of the total area of the country<sup>(1)</sup>. The area covers three hilly districts namely Rangamati, Bandarban and Khagrachari. The Chittagong Hill Tracts share the borders with Myanmar in its southeast, Tripura (an Indian state) in the north, Mizoram in its east and the Chittagong district in the west. According to the Ministry of Cabinet Affairs (1975; 1), the Chittagong Hill Tracts is: "A tangled mass of hill, ravine and cliff covered with dense trees, bush and creeper jungle". According to Dutta (2000; 5):

*"Historically, the land of CHT has been inhabited by more than a dozen tribes of Mongoloid race mostly of Arakanese origin. From the later part of the 19th century, Bangalees from the plains of Chittagong started settling on the lower parts of the hills at the invitation of tribal 'Rajas' for introducing plough-cultivation since plough-cultivation was not indigenous to CHT. .... From then onwards, 'plainsmen' and 'hillmen' started living together in CHT, although the latter always formed the overwhelming majority."*

Over the years, the indigenous people living in this particular region of Bangladesh have suffered from a lot of political, economic and social problems. In order to fulfill the main objective of this article, the next section of this article introduces the socio-economic situation of the people of the Chittagong Hill Tracts of Bangladesh.

#### 5.0. Socio-economic Situation of Indigenous People in Bangladesh:

Barkat et al (2009) characterized the Chittagong Hill Tracts of Bangladesh as 'one of the most vulnerable' because of its income and employment opportunities, poverty, housing, health,

water, sanitation, education and inter-community confidence. Dhamai (2006) commented that the main problems of the indigenous people are land dispossession (through development and forestry projects), limited access to education and other social services and discrimination from the part of the non-indigenous people. The following subsections discuss the various aspects of social and economic problems of these indigenous people.

#### 5.1. Economic Problems of the Indigenous People in the CHT

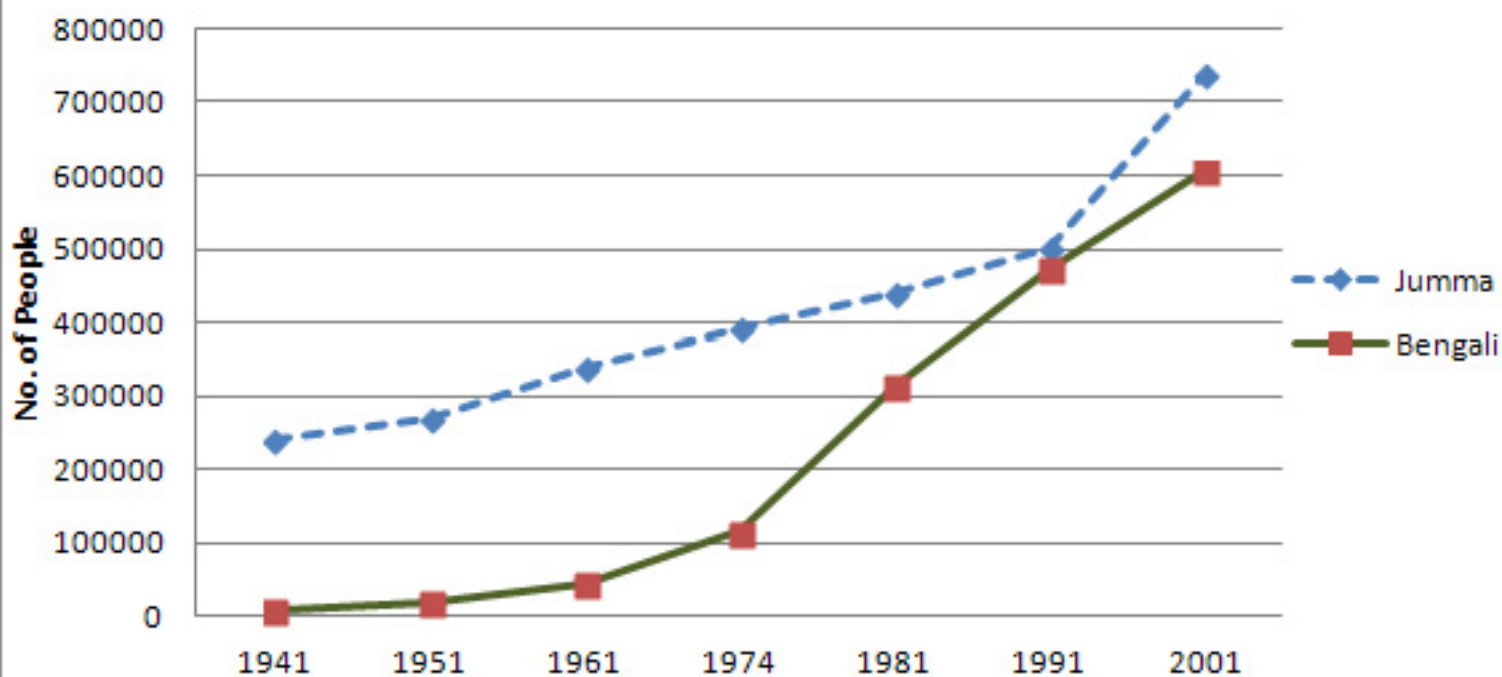
As the CHT is a hilly area, the opportunities for diverse kinds of occupation are very limited. The scope of cultivation and agriculture is also dependent mainly on the primitive techniques and technologies. A survey of 400 households in the CHT area, Dutta (2000; 34) identified the following as the main occupations of the households of the indigenous people in CHT:

- i. Agriculture;
- ii. Business;
- iii. Service/professional;
- iv. Agricultural labor;
- v. Tenant farmers;
- vi. Fishing.

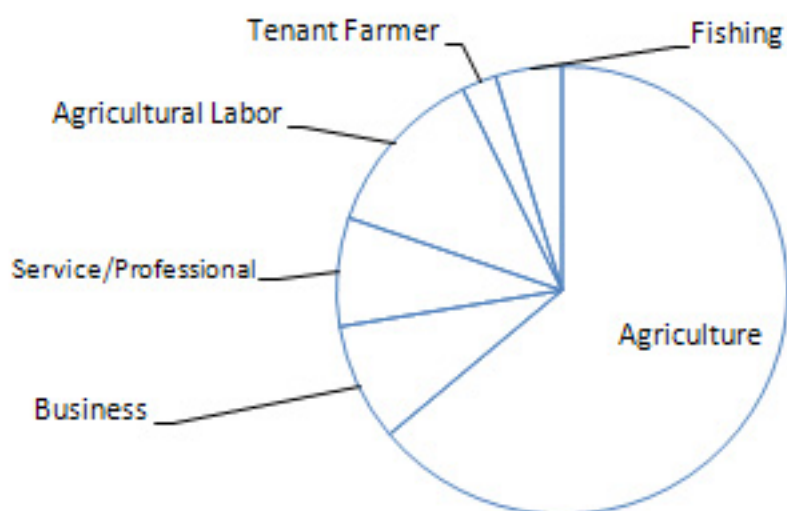
The main occupation of these households is agriculture (64%). This is followed by agricultural labor (12.5%). After that comes business (8.5%), service/professional (7.8%), fishing (4.8%) and tenant farmer (2.5%) (Figure 2 - opposite page).

From this figure it can be identified that the main attribute of the indigenous economy in the CHT is agriculture. The main form of cultivation is the Swidden/Slash and Burn cultivation. In local indigenous language this cultivation is called 'Jum'. This special form of cultivation is common in several hilly areas of different parts of the world. The hill dwellers cut a good amount of trees and burn them to clear the land for cultivation. They produce several kinds of crop on that land. The main crops that are cultivated include

**Figure 1: Trend of Increase in the Population of the 'Jumma' People and the Bengalis in CHT (prepared from Asian Indigenous Peoples Pact, 2007)**



**Figure 2: Distribution of different kinds of occupations in the survey of Dutta (2000)**



rice, maize, millet, sesame, cotton, ginger, cucumber, pumpkin, melon and some others (Karim and Mansor, 2011). This is a thousand year old cultivation tradition and is the main source of sustenance for these indigenous people. But these days it has been found that because of the burning of the trees, this hill area is facing huge environmental damage. Ecology is at risk. Moreover, the lands are becoming

infertile. Because of this burning process, the land becomes incapable of producing crops after this has been done a few times. As a result, new land must be found for cultivation. Again, trees of new areas are destroyed. It results in greater environmental damage. Cultivation on the hills results in landslips that increase the siltation of the nearby lakes and cause floods. Because of the growth of population and

infertility of land these people are shifting their occupations.

The status of entrepreneurship among the indigenous people of CHT is poor. Though there are many industries that are contributing to the economy of CHT, the control of these industries is completely in the hands of the non-indigenous

people (Asian Indigenous Peoples Pact, 2007). In research conducted by the Asian Development Bank (2001) it was found that:

*"...indigenous people face huge barriers in entering non-agricultural trades, which are largely controlled by a few family based cartels (water transport, bamboo/timber trades, trucks). Only in traditional textiles and bamboo crafts are there indigenous entrepreneurs, who are slowly entering construction industries. But all large contracts (roads) go to outsiders, including the employment generated. Public licensing for trade and transport largely favors outsiders and public servants, not local people"*

These are the reasons for which it is commonly said that the most horrible poverty conditions prevail among the indigenous people and most of these people can be classified either under the poor or the extreme poor (Asian Indigenous Peoples Pact, 2007). According to Mullah, Parveen and Ahsanullah (2007; 53):

*"As a poor country Bangladesh has a low level of monthly income. Most of her people live under the poverty line. The tribal( population) undergoes a worse case."*

## 5.2. Problems Arising from Land Dispossession and Migration

Land dispossession is one of the main problems of the indigenous people in Bangladesh. In most of cases, lands of these people are taken away without their consent. In many cases, this dispossession is done in the name of development. In 1960, the then Pakistan government built the Kaptai hydroelectric project on the river Karnafuli and as a result the lands of indigenous people were flooded and they had to migrate to other places including Myanmar and India (Dhamai, 2006). Later, and many times, the government has taken land from the indigenous people in the name of creating reserve forests and protected areas, building national parks and eco parks and even for the establishment of military bases (Asian Indigenous Peoples Pact, 2007).

Bangladesh obtained her independence in the year 1971. The constitution of Bangladesh published in 1972, disregarded the 'multi-ethnic make-up' of the country and mentioned only 'Bengali nation' and as a result, it failed to recognize the ethnic minorities in the country (Mohsin, 2003; 23). In response to this ignorance, in 1972, the tribal people of the CHT established the People's Solidarity Association and later, in 1973, they established their armed wing with the support of India (Mohsin, 2003; 24 and IDMC, 2009). According to the Amnesty International Report of 2000, this conflict resulted in the death of more than 8,500 people including civilians (IDMC, 2009).

In 1979, the Government of Bangladesh started to settle the Bengalese from the plain lands to the CHT area. These settlers forcefully occupied the lands of the indigenous people in CHT (Dhamai, 2006). According to Dhamai (2006):

*"A horrible legacy of violence, rape, loot, murder, arson, abduction and forcible conversion, sacrilege of religion and forcible occupation of Jumma's land and property as well as gross violation of human rights for more than two decades. Thousands of Jumma people were ousted from their own hearth and home. Of them about 70 thousand Jumma took shelter in India as refugees and hundreds of thousands in the deep forest of remote areas within the country"*

Though in 1997, the Government of Bangladesh signed a Peace Accord, even then human rights violations and land-grabbing have remained a common practice (IDMC, 2009). As mentioned earlier the Bangladesh Government has set up the training institute of the army in the CHT; the Bangladesh Army is working there to control conflicts. But the armed conflicts between army and indigenous people remained a common phenomenon. It is believed that the Bangladesh Army, over and again, carried out armed attacks and forced relocation of indigenous people by blaming them for helping the People's Solidarity Association (IMDC, 2009). The grievance of the indigenous people remained unchanged as shown recently in a report of Asian Indigenous & Tribal

peoples Network (2008) which gave the following comment:

*"Whether in mainland and the Chit-tagong Hill Tracts (CHTs), the government irrespective of the political color follows the dictum: we want lands but not the indigenous peoples"*

## 5.3. Problem of Education Facilities

The situation of education is also vulnerable in the CHT region of Bangladesh. As these indigenous people mainly live in relatively remote areas of the country, they lack the basic infrastructure needed and in many cases, they are neglected from the mainstream support of the government (Asian Indigenous Peoples Pact, 2007). The main problem with commenting on the educational situation is that there is lack of information. According to Mullah, Parveen and Ahsanullah (2007; 51):

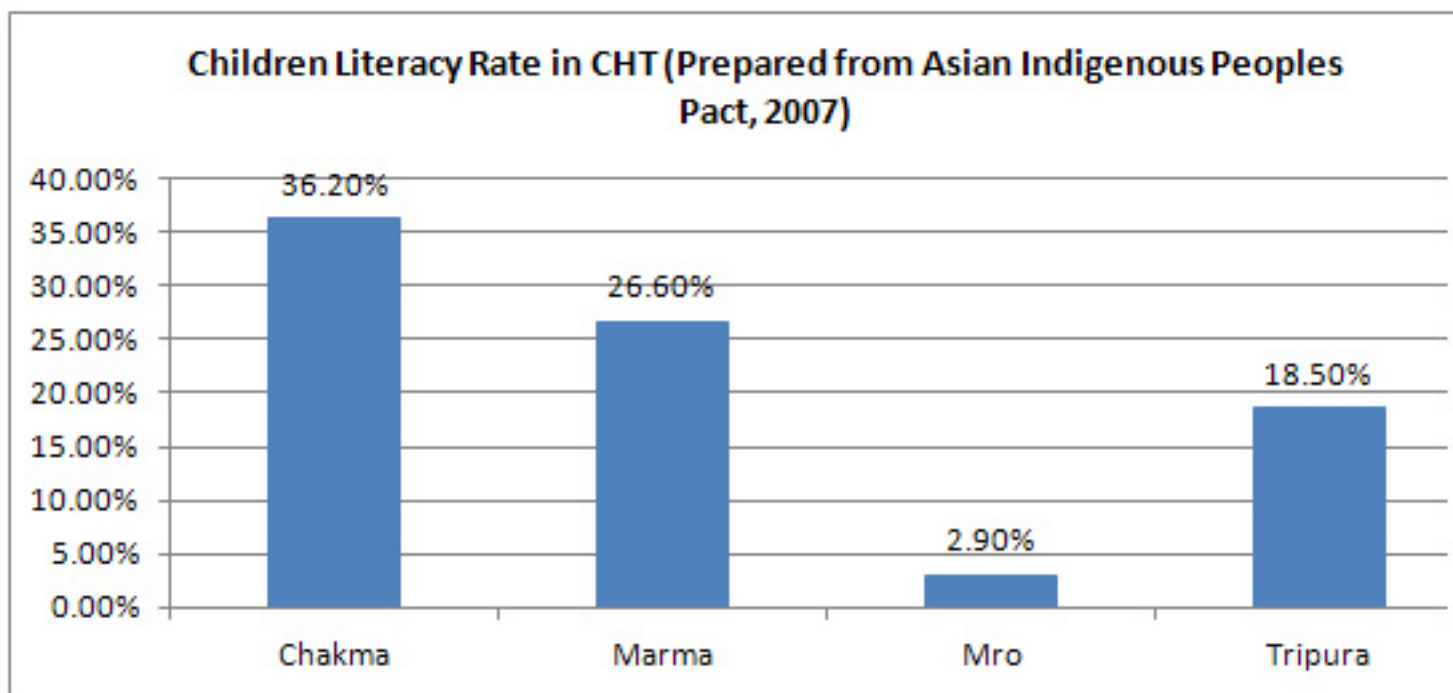
*"Despite considerable improvement in the spread of education in Bangladesh, level of educational attainment is still very low amongst the Tribal people, with a strong differential persisting between males and females."*

It was found that the literacy rate in CHT is lower than the national literacy rate and seven out of every ten women in CHT are illiterate (Asian Indigenous Peoples Pact, 2007). The children's literacy rate of four indigenous groups is depicted in Figure 3 (opposite page):

According to Mullah, Parveen and Ahsanullah (2007; 53):

*"Although the number of primary schools is adequate, they are not well managed. They really suffer from lack of number of teachers, let alone good teachers. The school facilities are shanty and the communications to the schools are not good. The presence of teachers in their respective schools depends upon their willingness since they may draw their salaries without being there. For the schools are often far from their homes, teachers usually do not go to school"*





**Figure 3**

*except for the day when they have to draw their salaries."*

Another problem of education is the language. According to Dhamai (2006), the most important limitation of the education system is that these indigenous children have to study in Bengali (the national language) which is not their mother tongue. In many cases, the indigenous children face learning difficulties and thus get dropped out (Dhamai, 2006 and Asian Indigenous Peoples Pact, 2007). Barakat (2009; 119) commented that the indigenous children in CHT are in a disadvantageous position as they have to start school with a different language and that is why, it has now become important to introduce their local language as a medium of instruction. For many years, because of armed conflicts, the education of children was hampered. In their research, Barakat et al (2009) found that:

*"As reported by the respondents, the other reasons for discontinuation are the following: children are not welcome at school, medium of instruction not understandable, helping parents, insecurity, and lack of interest of child."*

Chowdhury and Hossain (2010) found that conflict had a negative impact on the schooling of the household

members. After the signing of the peace accord, the situation improved a bit (Dutta, 2000). The extension of formal and informal education programs from the part of the government, non-government organizations (NGOs) and international agencies also helped in this development of educational conditions of the people in the CHT.

This dissatisfactory situation can also be identified in case of higher education. Though the Government of Bangladesh ensures some quota for the indigenous people in the admission systems of the higher level educational institutions, most of the indigenous students fail to secure the minimum pass marks of the admission tests and thus cannot enjoy the benefits of the quota system (Asian Indigenous Peoples Pact, 2007).

#### 5.4. Problem of Health Facilities

Though in Bangladesh, many health and welfare services are provided by both governmental agencies and the NGOs, in hill areas, these services are not that much available like those in the plain areas. Barakat et al (2009; 122) comment that:

*"In many areas they don't avail the service due to lack of knowledge of it. And, in many other areas, service providers don't visit their houses, or*

*they can't approach service providers due to geographical obstacles in spite of having sufficient knowledge of it. In other areas, service providers and services are not available."*

Sultana (2011) identified the following main health problems prevailing in the CHT:

- a. The poor health status is an underlying factor for its very low participation in economic development.
- b. There are government health care centers and private clinics but in many cases these are inaccessible as the transports are irregular and costly. That is why, in many cases, these people depend on the traditional healers.
- c. The most common diseases are malaria, diarrhoea, acute respiratory tracts infections, malnutrition and poor pregnancy.
- d. Infant mortality is higher than the national figure. In 2007, the child mortality rate for the nation was 52 in every 1000, whereas in the CHT this was 61 in every 1000. The main reason for this is the lack of knowledge.
- e. Waterborne diseases, basic sanitation and hygiene remain as the most common problems in the CHT.

In their research Barakat et al (2009) found that the main causes for not taking help of the health service providers are they 'don't know where to go' and 'facility/provider is too far'.

### 5.5. Problem of Discrimination and Violation of Human Rights

Indigenous people face discrimination in different aspects of their lives. They are not given a chance to get involved in the many development decisions even those are related to them (Dhamai, 2006). This discrimination is mainly practiced by the Bengalis who are the ethnic majority in Bangladesh. It is seen that as these indigenous people can rarely participate in the national decisions that affect them, they are slowly and steadily losing their language, culture, customs and music (Asian Indigenous Peoples Pact, 2007). In many cases, the cultures of the indigenous people are considered as second-rate.

Though the Government of Bangladesh has a policy to maintain a quota system in case of the employment of the indigenous people in governmental jobs and admission into government institutions, this is not operated properly. Discrimination is also practiced in giving them business licenses. As a result, the economic condition of these people always remains vulnerable.

As mentioned earlier, there is no constitutional recognition of the indigenous people in Bangladesh; these people get a lower status (Asian Indigenous & Tribal Peoples Network, 2008).

The report of Asian Indigenous & Tribal Peoples Network (2008; 2) mentions:

*"The government itself grabs the lands and also remains a mute witness to land grabbing by mainstream Bengali populations who use different methods, including forging documents and forcibly ousting indigenous people from the lands".*

According to many, the Peace Accord of 1997 failed to ensure the rights of the indigenous people. The Accord included several provisions like demilitarization of the CHT area, giving the lands of the original indigenous owners back and rehabilitation of the Jumma refugees (Asian Indigenous & Tribal Peoples Network, 2008). These promises were not kept.

Civilian and army attacks on the indigenous people are still a very common phenomenon. The recent example of this is the Sajek attack on 20th April 2008 in Rangamati district. According to news reports, at least 500 houses were burnt down and several people were wounded (Asian Indigenous & Tribal Peoples Network, 2008). On the 19th to 20th February 2010, the Bangladesh Army attacked the Sajek area of Rangamati. Fourteen villages were attacked, eight indigenous people were killed and twenty five were injured in Army firing (Asian Centre for Human Rights, 2010). It is said that at least 1500 people were displaced in this planned attack of the Bangladesh army in order to help the illegal plain settlers to take hold of the lands of indigenous people (Asian Centre for Human Rights, 2010). Extra-judicial killing, arbitrary arrest, detention and torture are common phenomena (Asian Indigenous & Tribal Peoples Network, 2008).

According to a report of Asian Indigenous Peoples Pact (2007), human rights violation are a common matter in the case of treatment towards women. In many cases, women are abducted, forcibly married and converted to Islam. A similar situation prevails in the case of the children. They are deprived of education, health care, nutrition and other basic needs. They become the victims of double discrimination - as children and as ethnic minorities. The number of drug addicted children is large. Drug smugglers are selling them these drugs. These children become the victims of torture, rape and other sexual abuses by the security forces and the settlers from the plain lands.

### 6.0. Where is the Solution?

These days, the issue of ensuring the rights of the indigenous people has become one of the most talked about issues worldwide. In most parts of the globe, these people are considered as the most vulnerable group. Many international organizations and institutes are working for the betterment of their existing helpless situation. From the descriptions presented in this article it can be easily understood that the indigenous people in Bangladesh are also living a very underprivileged and pitiable life. Though many NGOs and International Organizations are working very hard to get these people out of this vulnerable condition, improvement is very slow. It is the duty of the Government of Bangladesh to work hard on this issue. Though the government has a separate Ministry of Chittagong Hill Tracts Affairs, its activities are not visible in that way. It has failed to solve various problems of the people living there. As a result, the people remain deprived and are getting agitated. They are protesting against the government for ensuring their human rights.

Sufficient arrangements should be out in place to ensure the preservation of the cultures of these tribal people. Their language, music and other cultural customs and heritages should be preserved. The Ministry of Education along with the Ministry of Chittagong Hill Tracts Affairs should take necessary steps in order to ensure the education of the indigenous children in their own language. Textbooks should be developed in order to ensure this. The International Mother Language Institute of Dhaka, Bangladesh can also assist here.

The quota system applied in getting governmental jobs and getting admission into governmental educational institutions should be reformed in order to ensure that these quotas are fully occupied by the indigenous candidates. The indigenous students should be encouraged to take those disciplines that have practical implications in the development of the indigenous society. Administrative positions in the CHT should be filled

with the indigenous people because; these people will better understand the needs of these areas.

The constitution of Bangladesh also needs amendment by recognizing the indigenous people. For many years this drawback of the constitution remained a matter of great grievance among these people.

The provisions of the Peace Accord of 1997 should be implemented. As many years have passed after the signing of this accord, now, it is the duty of the Government to implement it in a proper manner. The issue of demilitarizing, giving back the dispossessed lands and bringing back the displaced people are important issues that need to be solved. It is only the government who can solve these issues.

Ensuring the economic sustenance of these people is also a big challenge. Discrimination should not be practiced in the case of giving business licenses to the indigenous people. As mentioned earlier the main source of sustenance for these indigenous people is Jum cultivation which at this moment is being questioned because of the huge environmental damage created by it. Moreover, because of the infertility of the lands, the production of Jum has reduced a lot. Over last few years, the productivity of Jum has decreased up to 50% even after using fertilizers and pesticides and the nutrient status of the soil has also reduced substantially (Karim and Mansor, 2011 and Mantel et al, 2006). As a result, there is a shortage of food and the Jum cultivators are engaging in other alternative occupations like wage labor, animal husbandry, cultivation of annual mono crops and extraction of and selling forest products (Karim and Mansor, 2011). Jum cultivation needs hill cutting and it is resulting in landslides which is becoming responsible for floods because of siltation in the nearby lakes (Karim and Mansor, 2011). Karim and Mansor (2011) gave the following recommendations for the sustenance of Jum cultivators:

1. The tribal people could be provided with arable lands for performing agriculture and they can also be settled there.
2. Agro-forestry projects should be introduced to these people for their sustenance.
3. There should be cooperative efforts for forest based activities like basket making, cane furniture making, honey collection etc.
4. Marketing facilities should be ensured in order to make the agro-forest businesses viable.
5. Village forest communities should be created in order to protect and develop the degraded forests.
6. Equitable distribution of wastelands among the tribal people is needed.
7. Finding out alternative land uses for sustainable hill farming.
8. A proper literacy campaign is needed.

Environmental awareness should be created among the hill dwellers. They should be given enough agricultural education. They should also be provided with information about proper land management. Scientific communities should be encouraged to come up with research that can ensure greater productivity of Jum with less environmental damage. It is to be kept in mind that Jum cannot be stopped without making proper arrangements for alternative occupations for these people.

Issues of health and education should be an important concern for the government. Several NGOs and other international development institutions are already working in the CHT for the development of the health and education situation. Governments may join in a partnership with them in order to improve the situation. Either the transportation systems should be improved or the health and education facilities should be established in the remote areas so that people can avail these facilities. More doctors and teachers should be created from indigenous people so that they can work for their survival.

## 7.0. Conclusion

The main objective of this article was to discuss the socio-economic conditions of the indigenous people living in the Chittagong Hill Tracts (CHT) of Bangladesh. This study is not an empirical research. It is fully based on the descriptions and findings of some other researchers. The issue of the socio-economic situation of the tribal people has remained a burning question for many years in Bangladesh. Indigenous tribal societies are often considered as the storehouses of culture and knowledge. Their colorful culture, agricultural and medicinal knowledge have remained as the popular issues of research for many years. But the findings of this study suggest that in terms of social and economic difficulties, these indigenous people can be considered as the most vulnerable groups in the country. Proper government initiatives are needed to solve these problems.

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## Abstract

Extremely sick patients and victims of road traffic accidents, train accidents, bomb blasts, fire incidents, sudden disasters like floods, heavy rains, earthquakes, building and bridge collapses and other unexpected emergencies need immediate and urgent help. Organized emergency first response in Rawalpindi district is mainly provided by Edhi Welfare Centers and Punjab Emergency Services. The former is a non-profit organization and the latter is a government institution. Both provide free of cost services in emergencies, road traffic accidents and national disasters.

This article describes the efforts of the author as an Individual for improvement of safety and quality in Emergency First Response in district Rawalpindi, Punjab, Pakistan. Pakistan has highly motivated and dedicated organizations that are busy day and night in providing immediate help and assistance to the suffering people. These volunteers provide on the spot help and shift the victims to hospitals and medical aid centers in attempts to save the valuable lives.

There is an immense need to ensure safety and quality in this rescue work by imparting knowledge and skills to the first responders regarding CPR, AED usage, spinal and bone fracture immobilization through continued training. The author has selected an Emergency First Response center named 17miles-Rescue 1122 station to initiate the efforts to educate and train them in advanced first aid and wherever possible in cases of emergency childbirth. He intends to help this response center to emerge as a Role Model for all other units of this emergency system and to strive for evolving a pilot project of safe birth at this and other stations immediately associated with it.

## Improving safety and quality in Emergency First Response in Rawalpindi district, Punjab, Pakistan

**Manzoor Butt**

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### **Background**

The Punjab Emergency service is famously known as Rescue 1122. It is the largest academic based emergency humanitarian service of Pakistan with infrastructure in all 36 districts of Punjab. The first pilot project of Rescue 1122 was launched in Lahore in 2004.

The 17miles-Rescue 1122 station is a unit of Punjab emergency services.

### **Introduction:**

The 17miles-Rescue 1122 station is situated at the start of Murree hills at 17-miles place on Murree high way. It is just 2 kilometers from Bharakau town. It was established on 21/04/2008.

The rescue team here consists of a station coordinator, 04-EMTs, 05-Fire rescuers and 07-Rescue drivers. The station has three ambulances, out of which one is 4 x 4 wheels, capable of moving in snow and odd areas. It also has a fire engine.

17-mile team caters for the needs of sufferers from Bharakau to Salgran on Murree highway; and from Bharakau to Sambli on Islamabad-Murree expressway. The team remains busy on these two main high ways and in a number of villages and difficult to reach areas around these highways. The patients and sufferers from these areas are shifted to Pakistan Institute of

Medical Sciences and Polyclinic Hospital in Islamabad and Benazir Hospital and Holy Family Hospital in Rawalpindi.

The contact person, Mr. Asjad Abbasi is working as Station Coordinator since 01/04/2011. He is a local resident. He is well educated, trained and versed with Information technology. He has lots of enthusiasm and ambitions for improving safety and quality in emergency first response.

### **Method:**

The author intends to impart the latest knowledge and skills to selected rescue workers at this station regarding safety and quality in emergency first response through series of workshops. The first workshop was conducted at this station on 03-02-2013.

### **Object of first workshop:**

The main object of the first workshop was to:

- create awareness about the urgent need of improving safety and quality of EFR by improving skills and knowledge regarding CPR, AED usage, spinal and bone fracture immobilization.
- briefly discuss vital aspects of EESC with emphasis on basic principles of sterilization and first care
- discuss on spot stabilization of the sufferers and their safe transfer to hospitals

- discuss how to utilize medical health technologies to improve safety and quality of work
- discuss future training of EMTs for improving safety and quality in their work.
- discuss efforts to make this station a role model for other rescue 1122 stations.
- use this station and others associated with it to initiate a pilot project of life support for safe births in obstetric emergencies.

#### **Who attended this Workshop:**

From Bharakau to Murree, there are four Rescue 1122 stations, namely; 17-mile station, Chara Pani station, Khajjut station and Murree station. This workshop was attended by:

- Mr. Asjad Abbasi, station coordinator of 17miles-Rescue1122 station,
- Mr. Mohammad Hanif, Rescue safety officer from Charra Pani
- 20- Emergency Medical Technicians from above mentioned stations
- 05-Fire rescuers
- 08-Rescue drivers

#### **What are the present urgent problems:**

- They have surgical kits but these have limited or no use because of lack of sterilization facilities.
- They occasionally transport women in labor or in obstetric emergencies but do not have any training regarding helping these women.
- The 17mile-Rescue 1122 station does not have any female EMT for rescue activities. Main Rescue 1122 stations do have female EMTs but they are not sent for rescue activities rather they remain restricted to operation wings and control rooms.

#### **What is the solution:**

- There is need for training these rescuers about sterilization and use of these surgical kits

- There is need for involving rescue teams in safe childbirth so that they are enabled to put their share for emergency life support in obstetric emergencies.
- There is a need in future to train them in use of mobile phone technology (eMobile technology) for better response.

#### **Abbreviations:**

**RTAs:** Road Traffic Accidents

**EFR :** Emergency First Response

**EMT:** Emergency Medical Technician

**CPR:** Cardiopulmonary Resuscitation

**AED:** Automated External Defibrillator

**EESC:** Emergency & Essential Surgical Care





## Training session (1)



## Training session (2)





Dr Butt with Mr. Asjad Abbasi, station coordinator



The team and trainers

## Abstract

Generally, bills of rights set out the rights of individuals and the responsibilities of governments and government agencies. Bills of rights are concerned with striking a balance between an individual's rights and the responsibilities of those in government to provide a safe and social security. This article discusses whether an Australian Bill of Rights would enhance the maintenance and enforcement of human rights in Australia. This debate involves the questions of change to the Australian Constitution if a Bill of Rights is to be included in the Constitution. This article identifies the lack of interest of the citizens of Australia through surveys as well as by politicians. Whereas it (Bill of Rights) needs to be included into the constitution to enhance human rights.

### Keywords

Bill of Rights, human rights, fundamental rights, Federal human rights laws, Western democratic, freezing, Commonwealth, Common law

## Methodology

The research incorporates literature reviews, case studies from other countries, journals, and research articles, and online, news, which are secondary sources. Research based on secondary data often runs the risk of being journalistic with the potential of being superficial and can be difficult to analyse. However the research attempts to clarify the issues through discussion.

## Introduction

A Bill of Rights is a list of the most important rights of the citizens of a country. The term "Bill of Rights" originates from England and referred to the Bill of Rights 1628. Later on it was introduced by James Madison to the First United States Congress in 1789 and came into

# Does Australia need a constitutional Bill of Rights?

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effect on December 15th 1791. In the US the Bill of Rights exists because the anti-Federalists were strongly opposed to the Constitution as they feared the President could quickly become a king ruling over a disenfranchised people. The purpose of these bills is to protect those rights against infringement (Evan Ling, 1996).

"Bill of Rights" is defined broadly; it could be argued that a Bill of Rights already exists in Australia as the sum total of the Racial Discrimination Act 1975, the Sex Discrimination Act 1984, the Crimes and Torture Act 1988, the Privacy Act 1988, the Disability Discrimination Act 1994, and the Racial Hatred Act 1995. These laws have not been made with any intention to provide a full treatment of human rights. They merely attempt to protect individuals and society from discrimination, and provide a minimal level of rights in a few areas. Also, as Acts of Parliament, they can be amended or repealed suddenly and at any time (Legal and Constitutional Committee, 1986: p. 10).

Rights belong to an individual as a consequence of being a human. The term came into world-wide use after World War II, replacing the earlier phrase natural rights, which had been associated with the Greco-Roman concept of natural law since the end of the middle ages (Glendon, 2001). International human rights standards as set out in declarations and treaties embody

civil and political freedoms, sometimes referred to as 'first generation' rights. These include the rights to life, liberty and due process; the right to be free from torture and other inhuman or degrading treatment; freedom from slavery and forced labour; the right to a fair trial; freedom of thought, conscience, religion, expression, association and movement; rights to privacy and respect for family life; the rights to vote and to participate in the political process; the rights of members of minorities to use their language and to take part in other communal activities; and the rights to equality and non-discrimination (Glendon, 2001; Munro, 2010). The Universal Declaration of Human Rights 1948, is based on a belief in the inherent (natural) rights, equality, and freedom of human beings, and sets out in 28 articles the fundamental freedoms, civil, political, and economic to be promoted. Since the adoption of the Universal Declaration of Human Rights, many treaties and agreements for the protection of human rights have been agreed upon and several regional systems of human rights law have been established (Ahamed F., 2011).

Australia has played a leading role in the development and adoption of international human rights treaties approved by the United Nations. Australia is a founding member of the United Nations. Australia is a signatory to all five international treaties that make up the International Bill of Human



Rights, but, none of these treaties is legally binding in Australia, and, there is not a Bill of Rights in the Australian Constitution (Munro, 2010). This means that the fundamental rights and freedoms of everyone living in Australia are not protected by law. Federal human rights laws must reflect international covenants in order to be valid under the Australian Constitution. Sections 51 and 52, listing the powers of the federal government, do not list human rights. As the states have residual powers, human rights are largely a state responsibility (Legal and Constitutional Committee, 1986: p. 10).

Australia is the only Western democratic country with neither a constitutional nor legislative bill of rights, although there is ongoing debate in many of Australia's states. Victoria and the Australian Capital Territory (ACT) are the only states and territories to have a human rights bill. In fact the Australian Constitution was drafted in the 1890s before being enacted by the British Parliament and coming into force in 1901, at the time of Federation. However, it was not written as a people's document, but as a compact between the six colonies that came together as the states that formed the new Australian nation. The framers of the Constitution, who are often referred to as the founding fathers, considered whether a bill of rights should be included in the new Constitution. There was a proposal for an Australian bill of rights which was adopted from the American Bill of Rights. The founding fathers decided against a bill of rights and against providing for individual's rights in the Constitution (RS French AC, 2012). Therefore, the Australian Constitution does not include a specific section detailing the rights of the individual, although it has existed for over a century. The Constitution deals with issues of trade and commerce as well as the relations between the states and the federal government. It divides power between them and also establishes the High Court as the arbiter of disputes.

## Arguments for and against a Bill of Rights

### For

- Australian law does not protect fundamental freedoms
- A Bill of Rights would give power of action to Australians who are otherwise powerless
- A Bill of Rights would bring Australia into line with the rest of the world
- A Bill of Rights would enhance Australian democracy by protecting the rights of minorities
- A Bill of Rights would put rights above politics and arbitrary governmental action
- A Bill of Rights would improve government policy making and administrative decision making
- A Bill of Rights would serve an important educative function
- A Bill of Rights would promote tolerance and understanding in the community

### Against

- Rights are already well protected in Australia
- The High Court is already protecting rights through its interpretation of the Constitution and the common law
- Rights listed in the Constitution or Acts actually make little or no difference in protecting rights
- The political system itself is the best protection of rights in Australia
- A Bill of Rights would actually restrict rights, that is, to define a right is to limit it
- A Bill of Rights would be undemocratic by giving unelected judges the power to override the judgment of Parliament
- A Bill of Rights would politicise the judiciary
- A Bill of Rights would be very expensive given the amount of litigation it would generate
- A Bill of Rights would be alien to our tradition of Parliamentary sovereignty
- A Bill of Rights would protect rights (e.g. the right to bear arms) which

might not be so important to future generations

According to the argument, the current Australian political system provides the best guarantee for human rights, through traditions such as responsible parliamentary government, separation of powers, free and regular elections, federalism and an independent judiciary.

Indeed, the adoption of a Bill of Rights is itself inconsistent with the principle of parliamentary sovereignty, by transferring power from elected parliamentarians to unelected judges, and giving an unrepresentative judiciary the ability to invalidate legislation adopted by the people's own parliamentary representatives (George Williams (2000).

Other arguments frequently espoused against a Bill of Rights include the question of whether it would make any practical difference to the actual protection of rights; that it could actually restrict rights by "freezing" them and leaving them unable over time to adapt to reflect changing community standards; that it would frustrate government business and the ability of government to respond to pressing problems; and that it would encourage an increasingly litigious environment (M H McHugh, 2005).

In Australia the rule of law and human rights are regarded as synonymous or at least mutually supportive. They are supported by:

- our democratic system of responsible government
- the separation of powers between the Parliament, Executive Government and the Judiciary
- a professional judiciary whose independence is constitutionally protected and who hold all accountable for upholding the law
- an independent media
- an accountable, apolitical public service, and

- a comprehensive administrative law system.

Rule of Law cannot exist without a transparent legal system, the main components of which are a clear set of laws that are freely and easily accessible to all, strong enforcement structures, and an independent judiciary to protect citizens against the arbitrary use of power by the state, individuals or any other organization (Theuns Viljoen (2013).

Australian society values respect for the freedom and dignity of the individual, freedom of religion, commitment to the rule of law, Parliamentary democracy, equality of men and women and a spirit of egalitarianism that embraces mutual respect, tolerance, fair play and compassion for those in need and pursuit of the public good. Australian society values equality of opportunity for individuals, regardless of their race, religion or ethnic background and the national language (English), is an important unifying element of Australian society. on the otherhand, Australian citizenship is a shared identity, a common bond which unites all Australians while respecting their diversity. Australian citizenship involves reciprocal rights and responsibilities. The responsibilities of Australian Citizenship include obeying Australian laws, including those relating to voting at elections and serving on a jury.

Although Australia is a practicing democracy but government structure is imitated by socialism. Socialists do not recognize individual Rights. They consider each person a piece of a great socially engineered machine to be managed by politicians and bureaucrats. Therefore Australian people have never felt that they need to protect their rights.

A survey conducted in 1997 showed that 54% of respondents did not feel that rights were well protected in this country and that 72% supported the introduction of some type of Australian Bill of Rights (M H McHugh, 2005). A majority of Australians do

seem, therefore, to believe in the need to improve the protection of human rights and freedoms within Australia and are sympathetic to the notion of a Bill of Rights. There is clearly a need within Australia for an increased focus on human rights.

Many Australians think that they have a wide range of rights that are protected by constitutional entrenchment in the same way that such rights are protected in countries like the US and UK. However, the rights that are found in the Australian Constitution are actually quite limited. There is a limited right to freedom of religion, a limited fight to trial by jury, a contingent right to be compensated on just terms for any property taken by the Commonwealth, limited right to vote, and an implied (but limited) right to freedom of communication on political issues (Evan Ling, 1996). In addition, there is also unequal access to the Courts due to the high cost of legal representation (Evan Ling, 1996).

The problem with this argument against a constitutional Bill of Rights is that it applies equally to the other law-based methods of expressing human rights. Common law, which is law made by judges; legislature, made by politicians; and international conventions, made by politicians and their diplomats, all provide unequal access to decision-makers and their decisions (Keith Kendall, 2012). The constitutional Bill of Rights would involve a referendum, which would at least allow greater public discussion and some level of democratic choice. The Australian electorate is exceedingly careful about constitutional change, and it is unlikely that even a very limited Bill of Rights could be added to the Constitution case (Evan Ling, 1996). Once added, it would be largely up to the Cabinet to draft more bills to enforce these rights, the Parliament to pass more Acts, and the judiciary to whimsically interpret the Constitutional changes and the new laws. Countries such as France and the United States of America have seen fit to implement a 'Bill of Rights' into their constitution, which guarantees the liberties and freedoms of the individual, and

reinforces the basic rights of all human beings, where they are compromised.

## Conclusion

A constitutionally entrenched Bill would certainly give more power to judges than they have. It would enable the judges to override Parliament. A Bill of Rights in this form can be changed by Parliament. Parliament also has the capacity, by specific and clear language at any time, to override or qualify statutory rights. But if Parliament takes this course, it must confront the impact of its proposed law on the rights protected by the Bill and deal with that impact specifically. It can't simply sweep the question under the carpet or exclude or qualify the rights by vague and general words (Keith Kendall, 2012).

The United Kingdom's experience with the Human Rights Act 1998 does not suggest that it has resulted in any significant increase in litigation. New Zealand's experience may be different.

The experience in other countries also confirms the lesson of history - that the rights of individuals are better protected by judges than by politicians. Politicians and administrators are primarily concerned with the exercise of government power and policy. Judges are primarily concerned with the rights of individuals. That is what court cases are all about (Keith Kendall, 2012).

Finally, a Bill of Rights should be confined to selected basic civil and political rights, such as freedom of expression, as New Zealand has done (Mark McKenna, 1997). It should not extend to social and economic rights, which are extremely controversial and essentially matters suited to political rather than judicial judgment.

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