

Our indigenous people: Have their rights been ensured?

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THE International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which are ratified by Bangladesh affirm civil and political rights of all peoples to participate in political, social and economic spaces. The United Nations Declaration on the Rights of Indigenous Peoples has several principles for civil and political rights of indigenous peoples. These include the rights of indigenous peoples to self-determination, participation, free, prior and informed consent and the duty of state to consult and cooperate with indigenous peoples.

Autonomy and self-rule government may be the principal means through which the right of self-determination is exercised by indigenous peoples. Self-determination as it relates to autonomy is not necessarily the right to secede from the State. It means the right to freely determine their political status and freely pursue their economic, social and cultural development inside the country in which indigenous peoples live.

Generally the participation of indigenous peoples in political system of the country is still not very remarkable. Though indigenous peoples have been participating in all the democratic movements of the country including the 1971 liberation movement, however, their power-sharing and political participation to the State has never been recognised. The Constitution of Bangladesh did not acknowledge the political arrangement for indigenous peoples. Following the signing of the Chittagong Hill Tracts (CHT) Accord in 1997, a special administrative arrangement with formation of the CHT Regional Council and three Hill District Councils was introduced in CHT. However, special political arrangement for indigenous peoples in plain lands still remains unaddressed. In addition, there are no reserved seats for indigenous peoples including women to the Parliament and local government bodies, which contributes to political deprivation of indigenous peoples in Bangladesh.

During the framing of the first Constitution of Bangladesh in 1972, Manabendra Narayan Larma, a member of then Constituent Assembly, demanded regional autonomy for the CHT. The then government rejected it, and accordingly the Constitution did not recognise the presence of and political arrangement for indigenous peoples in the country.

During the 15th Amendment to the Constitution in 2011, indigenous peoples and secular and progressive political parties demanded for constitutional recognition of national entities, languages and cultures of indigenous peoples; special governance arrangement of CHT region for the protection of political,

economic, cultural and religious rights in the CHT; seat reservation for indigenous peoples including women in the Parliament and local government councils; the rights to land, territory and natural resources. However, the government rejected the demands.

The newly introduced CHT Regional Council and the somewhat older Hill District Councils are also unique to the CHT. The majority of the seats (two-third) in these councils, including the positions of chairs, are reserved for indigenous peoples and one-third seats for permanent Bengali residents. Besides, the CHT has a traditional structure based on the customs of the local indigenous groups with Circle Chiefs or Rajas at circle levels, and Headmen at mouza and Karbaries at village levels. These traditional institutions have been integrated into the democratic institutions mentioned above.

However, the powers and functions of the CHTRC and three HDCs are yet to be executed. The election of the HDCs is yet to be held since the signing of the Accord.



For the election of the HDCs, a voter list only with permanent residents of CHT is yet to be prepared. The HDCs are currently running with 5 members including chairman who are nominated by the ruling party. Instead of holding elections for constitution of 34-member full-fledged councils, in November government amended the HDC Acts aiming at increasing the size of three interim HDCs from 5 to 15 members including the chairman which leads to more political deprivation of CHT people. After signing the Accord, the few offices/functions of previously transferred departments have been transferred to the HDCs, but the main subjects, for examples, law and order, police (local), land and land management etc. are yet to be transferred. Further, though the CHT Accord authorises CHTRC to coordinate and supervise all development activities in CHT including the three HDCs, the CHT Development Board, local bodies and NGOs, but this provision is yet to be executed in practice. Hence, substantial progress with regard to special adminis-

trative arrangement is yet to be achieved due to the non-implementation of the core provisions of the Accord.

Realization of civil and political rights of indigenous peoples is involved with the rights to free, prior and informed consent which authorizes them to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures. As far as rights to participation and decision-making are concerned, indigenous peoples, particularly in the plain land, have had little or no voice in decision-making. As a result of the administrative devolution in the CHT in accordance with CHT Accord of 1997, Jumma people are now some extend in control of deciding their development priorities, but even here, major decision-making powers and financial authority are retained by the ministries based in the capital.

The CHT Accord also stipulates that in making any law in connection with the CHT, the government shall enact such law

in consultation with and as per the advice of the CHTRC. But this legislative prerogative of the CHTRC largely remains untested especially in matters of such laws that are exclusively meant to deal with CHT issues. The CHTRC is not being consulted in making any new law that affects CHT in any measure. Even its recommendations are not being taken into account. In addition to these, the government is not taking any effective step to amend any such law detrimental to the development and to the welfare of the indigenous peoples.

The CHT Accord calls for the demilitarization of the region through the full activation and devolution of powers to the CHT institutions of the special governance system, as well as the removal of all temporary military camps. Ironically, there has been a further strengthening of military control of the region. This includes the retention of "Operation Uttoron", which is an executive order conferring rights on the military to intervene in civil matters beyond their normal jurisdiction.

The most indigenous communities in the plains form small pockets or enclaves in an otherwise Bengali-populated area. This means, among others, that these peoples' electoral strength does not usually allow them to elect an indigenous representative to local government bodies, let alone to parliament, with some very limited exceptions (Roy, 2009). This obviously impinges upon their opportunities of 'participation in elective institutions' as mentioned in the ILO Convention No. 107. The 2011 census figures for the plains indigenous peoples are also believed to be obvious underestimates. The aforesaid demographic changes have had far-reaching, and largely negative, consequences on their political, social and economic integrity, and their cultural identity.

The application of the East Bengal State Acquisition and Tenancy Act 1950 that regulates and forbids transfer of lands owned by aboriginals to non-aboriginals in the plains without the consent of the government's district officer is not uniform across the plains and is not even executed properly. There are widespread reports of non-implementation of this Act, leading to illegal encroachment by the mainstream population and also by the government in the name of development.

As a duty bearer, the reluctance and failure of state authority to bear its obligation to respect, protect and fulfill of human rights of indigenous peoples is facilitating perpetrators to commit human rights violations with impunity. There are cases where perpetrators are allowed to go scot-free even after the confession of their felony. Besides, life and safety of the witnesses and the advocates involved in the prosecution process are often threatened when court verdicts are not favorable to perpetrators. Today the discrimination and violence against indigenous peoples, including women and girls continue to be a serious issue.

The issues of civil and political rights of indigenous peoples are political problems. It has to be resolved through a political way. Solution of political problem in ensuring political participation of indigenous peoples is linked with advancement of democratic movement of the country. However, the democratic, secular and progressive political parties and the civil societies, even though are much vocal for the rights of indigenous peoples, have not yet come up with own programme towards realization of civil and political rights of indigenous peoples. Proactive involvement of mainstream society along the indigenous peoples is a must in realization of civil and political rights of indigenous peoples and in advancement of democratic movement of the country as well.