



International Day of the World's Indigenous Peoples 2014
Discussion meeting entitled "Second International Decade of World's Indigenous Peoples and Situation of Indigenous Peoples in Bangladesh."

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Second International Decade of the World's Indigenous Peoples: Achievement and Situation of Indigenous Peoples in Bangladesh

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Introduction:

There are 400 million indigenous peoples in the world, belonging to 5,000 different groups in 90 countries. According to Bangladesh Population Census-2011, slightly more than 1.5 million of them live in Bangladesh. Yet, indigenous leaders claim, the actual size of indigenous population in Bangladesh is in fact 3 million. Indigenous peoples are the poorest of the poor in most countries. They consist 5% of the global population and 15% of the world's extreme poor. Nearly one-third of the world's 900 million rural poor are indigenous. Similarly, 62% of indigenous peoples live below the poverty line in Bangladesh while the national average is 40% (which is 58% for Bangladeshis in CHT). They are being evicted from their homesteads due to atrocious communal attack and land grabbing perpetrated by both state and non-state actors, and are being forced to culturally assimilate with them.

International Decade of the World's Indigenous Peoples and UN Agenda:

With the theme 'Indigenous Peoples: A New Partnership' the UN General Assembly proclaimed 1993 as the International Year of World's Indigenous People. On 21 December 1993, the General Assembly declared the first International Decade of the World's Indigenous Peoples (1995-2004). Through resolution 49/214 of 23 December 1994, it decided that the International Day of the World's Indigenous Peoples shall be observed on 9 August every year during the International Decade of the World's Indigenous Peoples. However, a number of important targets and objectives remained unfulfilled during first decade. Consequently, by resolution 59/174, the General Assembly proclaimed the second International Decade of the World's Indigenous Peoples (2005-2014), which is going to end this year. The theme of the second decade is 'Partnership for Action and Dignity'. The UN sets five objectives as agenda for the second decade. These are -

1. Promoting non-discrimination and inclusion of indigenous peoples in the design, implementation and evaluation of international, regional and national processes regarding laws, policies, resources, programmes and projects;
2. Promoting full and effective participation of indigenous peoples in decisions which directly or indirectly affect their lifestyles, traditional lands and territories, their cultural integrity as indigenous peoples with collective rights or any other aspect of their lives, considering the principle of free, prior and informed consent;
3. Redefining development policies that depart from a vision of equity and that are culturally appropriate, including respect for the cultural and linguistic diversity of indigenous peoples;
4. Adopting targeted policies, programmes, projects and budgets for the development of indigenous peoples, including concrete benchmarks, and particular emphasis on indigenous women, children and youth;

5. Developing strong monitoring mechanisms and enhancing accountability at the international, regional and particularly the national level, regarding the implementation of legal, policy and operational frameworks for the protection of indigenous peoples and the improvement of their lives.

During the first International Decade of the World's Indigenous Peoples, the UN achieved a number of objectives. Foremost of them are - (1) formation of the UN Permanent Forum on Indigenous Peoples; (2) appointment of a special rapporteur to observe human rights situation of indigenous peoples; (3) formation of Inter-Agency Support Groups; (4) annual celebration of International Day of the World's Indigenous Peoples; (5) launch of an Indigenous Fellowship Programme at the office of United Nations High Commission for Human Rights; and (6) formation of the United Nations Voluntary Fund for Indigenous Peoples.

Likewise, through resolution 60/142, the General Assembly prepared an agenda for the second decade as well. In order to promote the rights of indigenous peoples, it placed a set of recommendations for UN member states & organizations, international and inter-state agencies, indigenous groups and civil society organizations, and private organizations.

International Decade of World's Indigenous Peoples and Achievement in International level

Non-discrimination, inclusion and implementation of the rights of indigenous peoples in national, regional and international stage, and promotion of equity in national and inter-state process are the core objectives of the second decade. These are attached to the international human rights conventions according to fundamental human rights standard. Adoption of UN Declaration on the Rights of Indigenous Peoples by the General Assembly is one of the successful outcomes of the second decade. The Declaration, adopted by resolution 61/295, is a result of 20 years of efforts by world's indigenous peoples.

Many countries have taken initiatives to recognize the rights of indigenous peoples following the Declaration. Especially Latin American countries have taken the Declaration into consideration during constitutional reformation. Bolivia has recognized the Declaration as a national law. During its constitutional reformation in 2008, Ecuador incorporated two new articles into new constitution. Article-1 of the constitution recognizes Ecuador as a multicultural and plurinational state whereas Article-57 approves traditional indigenous administrative structure, their political participation, and representation of indigenous peoples both in local and national stage.

Moreover, since the Declaration was adopted, many countries around the world have recognized indigenous peoples, their cultures and rights to self-determination. In 2009, Japan recognized Ainu as an indigenous group of the country. Similarly, Greenland adopted a new Self-Government Act for its citizen in the same year in line with the rights of self-determination. Sweden, Norway and Finland are alike reforming their national laws in order to ensure participation of indigenous peoples in decision making process. On the other hand, in 2008, Australia and Canada have officially apologized to their indigenous citizen for human rights violation in the past. Russia too has taken initiatives to ensure representation of indigenous peoples in the regional governments and formed a congress for Sami indigenous people.

Realizing the importance of political participation of indigenous peoples, Inter-Parliamentary Union and UNDP are implementing a project to promote inclusive parliamentary system. In this regard, United Nations Fund for Women has sanctioned financial aid to support political inclusion of indigenous women in southern Bolivia. Since, political participation of

indigenous women is gradually increasing. As a high level forum, UNPFII (United Nations Permanent Forum on Indigenous Issues) is also playing a major role in raising awareness for inclusion of indigenous peoples in the implementation process of Millennium Development Goals. On the other hand, IFAD (International Fund for Agricultural Development) has adopted an indigenous policy which recognizes FPIC (Free, Prior and Informed Consent) and plans to form an indigenous consultant group. Furthermore, on 14 December 2007, United Nations Human Rights Council through resolution 6/36 established Expert Mechanism on the Rights of Indigenous Peoples (EMRIP).

Successes achieved during first International Decade of World's Indigenous Peoples were due to sporadic impact of United Nations' policies. Despite a number of fruitful outcomes like adoption of the UNDRIP, successes during second decade too remain limited to policy level. A huge gap still exists between adopted declaration and implementation of it. Therefore, indigenous groups in many countries especially indigenous women are deprived of political participation including other human rights. A number of examples are-

- 1) 70% of the world's indigenous peoples live in Asia and the Pacific. However, only few countries in this region have recognized the existence of indigenous peoples. Political participation and representation of indigenous peoples in the remaining countries are either very limited or fully absent. Most indigenous groups in Africa still remain unrecognized. As a result, their land rights and rights on natural resources are often denied.
- 2) Despite adoption of the UNDRIP in 2007, implementation of the Declaration in State level still remains a big challenge. Most countries have not taken any initiative yet to implement it. Lack of technical knowledge among policy makers in State level about the Declaration is a major barrier towards its implementation.
- 3) Though participation and inclusion of indigenous peoples in inter-governmental agencies has increased in programme level, there is significant lack of inclusion in international organizations, development programmes and other project related activities that directly affect them.
- 4) Although many countries in cooperation with different UN agencies especially ILO, UNDP, UNICEF and UNFPA are working for socio-economic development of indigenous peoples, their initiatives mostly remained policy oriented. These are yet to be converted to action-oriented programmes.
- 5) Lack of access to information in indigenous languages is a major barrier in ensuring participation of indigenous peoples in national policy making process and development programme. Though Scandinavian countries and few South American Countries recognized indigenous languages as state language and announced to introduce mother language education, most countries in the world still have not recognized indigenous languages.

Second International Decade of World's Indigenous Peoples and Bangladesh Government

Bangladesh does not recognize existence of indigenous peoples within its geographical boundary. The 15th amendment of Bangladesh constitution identifies them as 'tribal, race, ethnic sects and community' and 'ethnic minority'. In contrary, East Bengal State Acquisition and Tenancy Act 1950, Chittagong Hill Tracts Regulation 1900, Finance Act 1995, Small Ethnic Group Cultural Institute Act 2010, Chittagong Hill Tracts Regional Council Act 1998, and three Hill District Council Acts 1989 identify them as 'aboriginals', 'indigenous hillmen' and 'tribe'. Since the government refuses to recognize them as indigenous, it did not take any

initiative to implement targets and objectives of the Second Decade of World's Indigenous Peoples. The country has, however, made some efforts for socio-economic development of its indigenous citizens in consistent with the decade's first objective- 'promoting non-discrimination and inclusion of indigenous peoples in the design, implementation and evaluation of international, regional and national processes regarding laws, policies, resources, programmes and projects.'

In addition, the core objective of the decade was to 'enhance international cooperation for promoting education, healthcare, human rights and socio-economic development of indigenous peoples through action oriented programmes, targeted projects, and use of modern technology'. In order to translate the objectives into action, the UN has prepared a workplan. Similarly, Bangladesh too has taken initiatives according to the work plan of the second decade. A brief analysis of the initiatives is given below -

- a) **Culture:** During 15th amendment of Bangladesh Constitution, a new article (23 KA) was inserted which reads- 'The culture of tribes, minor races, ethnic sects and communities: The state shall take steps to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities.' This is the first provision in the Constitution that specifically mentions about indigenous peoples in Bangladesh.

However, indigenous peoples denied to be identified as 'tribal, minor race, ethnic sect and community' imposed by government, instead demanded to be recognized as 'indigenous'. Besides, the article only concerns about preservation of their culture and tradition and ignores their right to land and self-determination, political participation and participation in decision making process. Unfortunately, without ensuring aforementioned rights, it is not possible to preserve their culture and tradition. Therefore, indigenous peoples have been demanding for political, economic, and land rights for a long time.

Another important initiative the government has taken for them is adoption of Small Ethnic Group Cultural Institute Act 2010. Yet, the Act only recognizes 27 out of over 54 indigenous groups in the country. As a result, another 27 indigenous groups remain out of the list. Excluded groups are often deprived of their rights due to lack of recognition. Members of these groups were also excluded from Population Census 2011. Though, recently Ministry of Cultural Affairs has planned to identify the excluded indigenous groups.

Moreover, the UN workplan for the second decade recommends to consult and conduct Free, Prior and Informed Consent with IPs prior to implement activities that are relevant to cultures and traditions of indigenous peoples. Nevertheless, the government completely bypassed their opinions during formulating important national laws and policies. For instance, during constitutional amendment in 2011, the Special Committee on Amendment of the Constitution did not consult with indigenous peoples. Even during preparation of Small Ethnic Group Cultural Institute Act in 2010, the relevant authority ignored their recommendations. Though, Ministry of Cultural Affairs is receiving indigenous expert opinions in identifying indigenous groups.

Furthermore, the UN workplan stipulates that states should take initiatives to eliminate existing misconceptions about indigenous peoples. Media needs to play an important role in this regard. Though, government has already taken a number of steps to eliminate offensive information about IPs from textbooks; but they are yet to be implemented. Electronic media has alike stepped forward and played an admirable role in replacing misleading concepts with more precise information. Yet, despite significant progress, several mass media are still

presenting fabricated news about Adivasis. Therefore, misconceptions still exist among greater part of mainstream population.

- b) **Education:** The UN work plan recommends to initiate multi-lingual and inter-cultural education for indigenous children and include their culture, tradition, beliefs and history into curriculum. In this regard, Bangladesh has taken the recommendation into consideration which reflects in National Education Policy adopted in 2010.

Article 18 of the Policy states 'Measures will be taken to ensure the availability of teachers from ethnic groups and to prepare textbooks in their own languages so that ethnic children can learn their own indigenous languages. In these initiatives, especially in preparing textbooks the inclusion of respective indigenous communities will be ensured.'

Article 19 reads, 'Special assistance will be provided to the marginalized indigenous children.' and

Article 20 articulates the following- 'In the areas where no primary school exists, government will take initiative to set up schools with adequate materials both in hilly or plain lands. In some areas where there is a thin ethnic population, opportunities will be created for enrolment and residential facilities for both the children and the teachers.'

These articles of the Education Policy imply positive intention of government about schooling facilities of indigenous children. However, to date they remained to policy stage and yet to be implemented. ILO Convention 107 ratified by Bangladesh in 1972, and Chittagong Hill Tracts Accord 1997 recognize the right to education of indigenous peoples in their own mother tongues. Nonetheless, despite of recognition, indigenous children are deprived of education in mother language. Likewise, even though 5% quota is reserved for indigenous students in tertiary institutions, there is no specific written quota policy identifiable. As a result, sometime eligible indigenous candidates need to rely on informal persuasion for admission.

- c) **Healthcare:** UN work plan states that adequate community based and culturally appropriate healthcare need to be ensured for indigenous peoples without discrimination. Highest priority will be given to women and children. However, no concern is given about indigenous peoples in National Health Policy adopted in 2011.

Generally, indigenous peoples live in remote hills for which their women receive very little healthcare facilities. Research reports of different international organizations reveal that children in the CHT are born underweight. Malnutrition is a major reason of this problem. Similarly, child mortality rate in CHT too is far higher than national average which is even worse among rest of the indigenous groups in the plains of Bangladesh.

- d) **Human rights:** UN workplan urges governments to eliminate discriminatory provisions from national legislations through engaging and ensuring participation of indigenous peoples. It also urges to integrate indigenous traditional legislative system with national legislative framework in line with international conventions and other human rights standards.

The strategic plan of Bangladesh National Human Rights Commission (NHRC) adopted in 2010 states about socio-economic development and human rights of indigenous peoples. The work plan emphasises on ratification of ILO Convention 169, ratification of UNDRIP, constitutional recognition of indigenous peoples and other relevant issues. The chairperson of

NHRC is an active supporter of indigenous rights. However, initiatives need to be taken to strengthen and make the commission more effective.

Bangladesh has adopted a number of sector wise policies during Second International Decade of World's Indigenous Peoples. Foremost of them are Social Welfare Policy 2005, Food Policy 2006, Renewable Energy Policy 2009, National Education Policy 2010, National Women Development Policy 2011, National Children Policy 2011 and National Labour Policy 2012. Of the aforementioned policies, only Education Policy and Women Development policy mention particularly about indigenous peoples. The remaining policies completely ignore them. Besides, even though there are some excellent provisions in the Women Policy, human rights violations against women continue to increase. This is since very little effort is visible to stop such violence.

Moreover, government has adopted several legislations directly or indirectly affecting indigenous peoples during the second decade. These are- Small Ethnic Group Cultural Institute Act in 2010, and the Wildlife Protection Act 2012. Although, these acts directly affect indigenous peoples, government did not consult with CHT Regional Council, Hill Districts Councils, indigenous organizations and representatives prior to formulation. Similarly, government did not consult with Regional Council during amendment and enactment of Public Representation Ordinance 2008 (Amendment), Local Government Ordinance 2008 (Upazila Parishad), Local Government Act 2009 (Municipal), Local Government Act 2009 (Union Parishad) which is a clear violation of ILO Convention 107, UNDRIP and CHT Accord 1997. In 2009, Mr. M Showkat Ali, the then advisor of Caretaker Government, proposed to reserve seats for indigenous women in local government bodies. The proposal remained unimplemented finally. This is also a violation of aforementioned national and international laws.

In the same year, the Awami-League led 14 party alliance, in its election manifesto, promised to take initiative for constitutional recognition of indigenous peoples including implementation of land rights, formation of an independent land commission, reformation of racially discriminatory laws, and implementation of the CHT Peace Accord 1997. However, after being elected, the alliance has taken a complete different position.

f) **Socio-economic development:** The 6th Five Year Plan of Bangladesh government mentions about development and promotion of human rights of indigenous peoples. However, the provisions that concerns about them still remained at policy stage. Even though there is a Special Affairs Division (SAD) for IPs in the plains the Prime Minister's Office, participation of indigenous peoples is completely absent in it. They even do not have any involvement in budgeting and preparing development plan. To implement development projects at upazilla level, a 20-member committee led by UNO takes care of development projects allocated by SAD. There is an indigenous representative in the committee. Yet, s/he is selected by the DC rather than being elected by indigenous peoples themselves. As a result, UNO controls the funds allocated for IPs by the special affairs division. In this regard, even though indigenous peoples have been raising their voices to form an advisory committee, the government has always ignored their demand, which clearly reflects discrimination against IPs.

Furthermore, although 5% quota is allocated for indigenous candidates in government jobs, the provision is not being implemented properly. For instance, from 24th to 33rd BCS, only 275 out of 2,051 indigenous candidates, the allocated 5% for indigenous candidates under 'tribal quota', have been appointed. This can be considered as a violation of the right to

employment of indigenous peoples enshrined in ILO convention 107. However, it cannot be denied that appointment of indigenous candidates in BCS has been increased over last few years. It can be said as acceleration of the goal of the Second Decade in relation to participation and development of life standard of indigenous peoples.

Implementation of Chittagong Hill Tracts Accord:

Awami League has been in state power for more than five years since 29 December 2008. However, it did not take initiatives to implement important provisions of the Accord during this period; rather took steps that are detrimental to the Accord. For example, government did not consult with CHT Regional Council prior to take initiative for amendment of three Hill District Council Acts and enactment of CHT Development Board Act. It also completely ignored opinions of local indigenous peoples to take initiatives to set up a university and a medical college in CHT which violates the CHT Accord. Besides, government is misleading its citizens propagating distorted information about implementation status of the Accord. It claims that government has implemented 48 out of 72 provisions of the Accord, and handed over 23 out of 33 department to District Councils which are not correct.

After 17 years of signing the Accord, government has failed to implement its important provisions especially: preservation of the status of CHT as tribal inhabited region; rehabilitation of internally displaced peoples and indigenous refugees returned from India; resolution of land disputes; withdrawal of all temporary military camps (including Operation Uttaran) from CHT; cancelation of leased land to non-locals; prioritizing indigenous candidate for employment in three hill districts; and rehabilitation of settlers outside of CHT.

Moreover, despite being tabled in the parliament, the CHT Land Dispute Resolution Commission Act (Amendment) bill was sent to limbo at the final moment. The status of the bill remains unknown since then. Government also discontinued gradual handover of remaining departments to Hill District Councils in line with the Accord.

Second International Decade and the Civil Society in Bangladesh

During Second International Decade of World's Indigenous Peoples, relationship between indigenous peoples and progressive and democratic forces of the society has been strengthened. Political leaders, intellectuals, and cultural activists have joined indigenous peoples to protest human rights violations against indigenous peoples. With their support, a Parliamentary Caucus on Indigenous Affairs, a parliamentary body that represents IPs in the parliament, has been formed. The Caucus later played a major role to draft Bangladesh Indigenous Peoples Rights Act. Unfortunately, there is still uncertainties about the bill since Secretary of the Ministry of Foreign Affairs through a meeting held on 28 July 2013 requested Speaker of the National Parliament to reject proposed BIPRA.

Though currently, progressive and democratic parties and civil society have been vocal for the rights of IPs, they have not undertaken any programme for indigenous peoples. Their activities remained merely limited to conveying solidarity in the programmes organised by indigenous peoples.

Conclusion

The global theme for International Day of the World's Indigenous Peoples of 2014 is entitled as 'Bridging the gap: implementing the rights of indigenous peoples'. The main objective of this theme is to highlights the significance of implementing the rights of indigenous peoples through policies and programmes adopted by government, the United Nations agencies, indigenous peoples, and other relevant stakeholders.

Bangladesh has not implemented many provisions recognized in different international conventions and laws. The minimum standards of the rights of indigenous peoples are enshrined in ILO convention No. 107, but Bangladesh have shown almost no interest implementing these conventions and declarations despite the Second International Decade of the World's Indigenous Peoples (2005 to 2014) has come into end this year.

Signatories of international human rights laws (conventions) are obliged to integrate internationally recognized provisions with different existing national legislations or formulate new laws if required. However, Bangladesh has failed to integrate ILO convention No. 107 with its national constitution and different national laws. Therefore, it needs to take affirmative action to pass the proposed 'Bangladesh Indigenous Peoples Rights Act' bill in the parliament as soon as possible in order to fill the gap.

To recognize and implement the rights of the indigenous peoples, Bangladesh needs to: recognize more than 54 indigenous groups and their cultures, and languages; recognize CHT as indigenous inhabited region in order to ensure political, social, economic, cultural, and religious rights of the indigenous peoples in the region; reserve seats for indigenous peoples both in the national parliament and local governments; provide constitutional guarantee that government would not change or cancel the legal safeguards without prior consent of indigenous peoples; recognize land right and right to natural resources of indigenous peoples; and to implement the CHT Accord.

On 22-23 September 2014, a high level plenary session of UN General Assembly will be held which is named as World Conference on Indigenous Issues. The purpose of the conference is to promote the objectives of the second decade. It is expected that an action oriented future workplan on indigenous peoples would be prepared through the high level plenary meeting. Indigenous peoples hope that Bangladesh will play a positive role in this regard.

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