

Lessons from the Implementation of the Chittagong Hill Tracts Accord

With almost 24 years passed since the signing of the Chittagong Hill Tracts Accord, its lack of implementation has reached alarming levels and human rights violations persist. In addition to the ongoing deployment of military and paramilitary forces, land grabbing of Indigenous territories continues apace. Communities have no possibility of complaining about non-compliance because the agreement does not have the status of an international treaty.

Por Raja Devasish Roy - October 1st 2021

Located in south-eastern Bangladesh, the Chittagong Hill Tracts are home to 11 Indigenous Peoples known as Jumma. Between 1976 and 1997, the region was plagued by armed conflict between the government and the Indigenous Parbatya Chattagram Jana Samhati Samiti party (JSS). The confrontation began when the State violated Indigenous Peoples' autonomy and the party responded with guerrilla warfare, taking advantage of the topography of the area. The violence caused some 70,000 Indigenous people to seek refuge outside Bangladesh, while nearly 350,000 people were forcibly displaced internally.

The peace treaty that ended the conflict is known as the Chittagong Hill Tracts Treaty and provides for demilitarisation, the restitution of land and the devolution of powers to regional self-government. There were no international guarantors during the negotiation and the treaty's implementation has been ineffective. Human rights violations persist, and the military maintain its presence in the region, intervening in civilian affairs. There is no progress in resolving territorial conflicts, insufficient transfer of power, and no policies to help internally displaced persons.

No third-party intermediation, no implementation

Following the signing of the accord on 2 December 1997, 2,000 Indigenous guerrillas laid down their weapons. The media propaganda surrounding the ceasefire turned the event

into a showcase. Soon after, UNESCO presented an award to Bangladeshi Prime Minister Sheikh Hasina for resolving the conflict. And yet the failure to implement this agreement has now reached alarming levels.

The absence of a visible guarantor during the negotiation and planning of “implementation phases” was a serious flaw. Individuals were, however, called upon to act as mediators, in particular to organise security and logistics. This writer was secretly invited to give his opinion on the draft version of the treaty, being asked to respond within just a few hours.

As a result, the Chittagong Hill Tracts Treaty is an excellent example of how implementation can go wrong. The two parties to the agreement formed an Implementation Committee which, comprising only three members, appears to possess neither sufficient authority nor legitimacy. Successive errors have turned the document into a “discordant accord” with Bangladesh government and the JSS are competing in the media over the narrative of implementing the agreement.

Lack of post-conflict humanitarian care

While most of refugees are benefitting from humanitarian assistance, and many eventually return to their home countries, internally displaced Indigenous Peoples have virtually no access to relief or rehabilitation programmes. To date not one of the nearly 83,000 families displaced by the conflict has returned home. One possible reason for this lies in the provision of international compensation when refugees are received. In fact, the political agreement with the JSS was preceded by an agreement with the refugees, something that was not repeated with the internally displaced. To make matters worse, the body that oversees provision of humanitarian care of both groups plays a merely advisory role to the government.

In addition, the cessation of armed hostilities has resulted in the emergence of intra-community rivalries that are encouraged by government security forces. Before the ceasefire, the conflict was fairly straightforward: on the one hand, there were armed conflicts between the government and the Indigenous guerrillas; on the other, there were political and territorial conflicts between the pro-government Bengali settlers and the

Jumma people. Since the agreement, the balance of power has shifted towards the settlers due to the support provided by the army.

In contrast, there is no-one to protect the Indigenous Peoples as the guerrillas have handed in their weapons and returned to daily life. Alongside this, the proportion of Indigenous people holding elected office is declining and not one of the more than 20,000 registered land ownership disputes have been resolved. Despite the creation of a Land Commission to return expropriated territories, forced evictions continue to be the norm. This is partly due to the failure to allocate resources to this commission, whose regulations remain merely in draft form, attracting no attention.

Finally, prior to the agreement, there was only one regional political party: the JSS. Since the negotiations, the opposition has fragmented and there are now four more. The two largest, the JSS and the United People's Democratic Front (UPDF), have formed an alliance. Both parties are in conflict with the other three, which are supported by the security forces, carry illegal weapons, extort money from businesses and harass Indigenous people. Perhaps because of this dispute, JSS and UPDF supporters are persecuted and falsely accused of committing crimes.

Land usurpation, corruption of leaders and a lack of justice

Although the Chittagong Hill Tracts Commission has been in existence since the late '90 and has done its best, the situation is deteriorating and people are continuing to suffer. Land occupations were previously restricted to urban and peri-urban areas. Now that there is no "war", government-supported settlers can occupy Indigenous lands all the more easily, while the security forces take over territories for tourism and road construction. Corruption has also jumped from the large urban centres to rural areas: crass, greedy politicians - including some Indigenous authorities - exploit poor farmers and small traders.

Although Indigenous activists have participated in various United Nations bodies (such as the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the Human Rights Council), they have seen no improvements in their daily lives. Recently, the Bangladesh Army occupied an area of land to build a luxury

hotel, without the free, prior and informed consent of the indigenous community concerned, and despite three UN Special Rapporteurs sending messages to the Government of Bangladesh, calling for a reversal of the situation, the occupation and construction work continues unabated.

In order to obtain improvements for their communities, some Indigenous authorities have changed strategy and joined national political parties, including the ruling party and major coalitions in Bangladesh. Far from improving the situation of Indigenous Peoples, however, the only consequence has been an accumulation of power and money in the hands of a few unscrupulous and self-seeking indigenous individuals. This is clearly not in the collective interest.

Occasionally, Indigenous people turn to the courts to seek justice although this is not a particularly fruitful avenue. The judges are not independent of either the politicians or the security forces. Those who defy the government have been forced to resign or even go into exile abroad. Human rights defenders, for their part, are murdered, arbitrarily imprisoned and tortured. As if this were not enough, the National Human Rights Commission has gone from being a staunch ally of Indigenous people to comprising cowardly bureaucrats who dare not raise their voices against human rights violations.

Lessons learned from the Bangladesh experience

In the absence of solutions, where should Indigenous Peoples turn to demand compliance with the Chittagong Hill Tracts Treaty? Unfortunately, there is no clear answer. The problem with implementing UN instruments known as Treaties, Agreements and Other Constructive Arrangements is that they do not have the status of international treaties. In such cases, neither the national courts nor the International Court of Justice have jurisdiction.

At a conference organised by Kreddha, an NGO specialising in sustainable conflict resolution, an international group of lawyers concluded that there is no international body competent to respond to non-compliance with agreements. As the organisation states in the preface to [“Implementing negotiated agreements: the real challenge to intrastate peace”](#): “[An] international climate [must be] created in which State governments as well as non-State

parties [are] expected and required to fully implement agreements just as they are required to comply with international treaties and other (enforceable and legally binding) commitments.”

With almost 24 years passed since the signing of the Accord, the entire process needs to be reviewed in order to learn lessons for the future, both with regard to the Chittagong Hill Tracts and other similar conflicts. With an eye to the future, the experience must help resolve the land problems of Indigenous Peoples and enforce their rights. For the time being, there are lessons that the international community can learn from the Bangladesh case.

1. Negotiate and implement simultaneously: groups negotiating with the State should not enter into agreements the fulfilment of which depends exclusively on the Executive. The negotiation and implementation process should be broken down into stages, where gradual progress will be made through fulfilment of partial agreements overseen by third party agencies with adequate authority.
2. Agree on arbitration mechanisms with decision-making power: arbitration clauses in agreements should be carefully drafted to ensure the participation of independent third parties with the necessary power to enforce compliance by the State.
3. Include implementation mechanisms in constitutional clauses or inter-State treaties: the experience of South Tyrol (Italy) and of Mizoram (India) show that inclusion of the agreed points in an inter-state treaty or national constitution acts as a protective mechanism to facilitate compliance.

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