

Recognising Indigenous People, The Bangladeshi Way: The United Nations Declaration, Transnational Activism And The Constitutional Amendment Affair Of 2011

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ABSTRACT

The UN Decades on the Rights of Indigenous People have led to increased support for and sympathy with indigenous people all over the world. Networks and groups have been formed and transnational connections created, with the aim of generating possible solutions to the problems of indigenous people in countries where marginalization reaches a long way back. Many activists welcomed the UN Declaration as a document of high moral value legitimizing them to exert pressure on the state in order to recognize indigenous people's rights.

Indigenous activists in Bangladesh and their allies anticipated the Declaration's global appreciation as a window of opportunity when the government initiated the amendment of the constitution in 2010. Backed by their transnational connections and partners inside and outside Bangladesh, the demands were geared towards the recognition of the notion of indigenous people in the constitution. It was hoped that the principles of the declaration would be endorsed in the constitution and lead to greater equality through affirmative action. Initial positive responses by the government however were revoked later on: The representatives argued that the concept of indigenous people as formulated in the declaration referred to "first nations" only, whereas in Bangladesh the majority are regarded as more indigenous to the land than the so-called ethnic minorities.

Despite the deep disappointment resulting from the disparaging position of the government, the declaration has had positive effects on the position of indigenous people in public discourse. Moreover, cross-ethnic alliances have been strengthened which enable indigenous activists to access more powerful segments of society and polity. Lastly, the international donor community has become more sensitive towards the plight of indigenous people, which has had an impact on cooperation with the government and civil society.

1. INTRODUCTION

The adoption of the United Nations Declaration on the Rights of Indigenous Peoples in September 2007 raised high expectations among indigenous peoples' movements all over the world. Many of them expected the newly emerged global discourse to have an enormous potential to improve their bargaining position vis-à-vis their governments, and they hoped that this would help them to articulate their demands more successfully. This situation could be observed in Bangladesh, where indigenous activism has gained new impetus since the late 1990s. Institutions and networks advocating indigenous

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claims and rights have been formed, and indigenous discourses have “taken root” (Bal 2010). But while some activists have enthusiastically promoted globalised notions of indigeneity and established networks to gain support for their political demands, the prevailing majoritarian politics endorsed by the state has continued to set more or less clearly defined limitations. After some initial achievements concerning the inclusion of indigenous claims in different political and societal domains, a decisive “window of opportunity” was provided by the Constitutional Amendment in 2011. The indigenous peoples’ movement advocated the constitutional recognition of indigenous people, a demand that was eventually turned down by the Government of Bangladesh. One of the main reasons for the adoption of this rather harsh standpoint was the increasing pressure on the Bangladeshi government “from the outside”. In May 2011, a few weeks before the Constitutional Amendment was approved in the Bangladeshi parliament, the prevalence of human rights violations in Bangladesh had been discussed in the United National Permanent Forum on Indigenous Peoples in New York leading to some insistent recommendations to the Government of Bangladesh.

The government’s opposition to the demands of the indigenous peoples’ movement was particularly unexpected for many as previous, positive signals from political leaders had seemed to give reason for optimism. But the strong opposition from the Government of Bangladesh was also surprising from a social scientist’s point of view, as the transnational activism paradigm, which has been intensively debated over the last couple of years, proposes the opposite. According to the so-called “boomerang pattern”, a mechanism in transnational activism that Margaret Keck and Kathryn Sikkink (1998) identified on the basis of empirical fieldwork on environmental and women’s rights movements, activists may enlarge their scope for taking action by transcending the local to the global. With the creation of transnational networks and the help of international allies, activists can articulate their grievances in the global sphere and pressure the state for change. With the formation of transnational networks (TAN) and the detection of “political opportunity structures”, they may be able to change the discursive positions, institutional procedures, policies and behaviour of states. Critics however, have argued that this approach implies a linear understanding of how liberal norms of democracy and human rights can be diffused (Chandler 2013: 19) and does not take changing global power constellations and balances into account. Moreover, it tends to emphasise international institutions and powerful western states without recognising the increasingly limited scope for influence these may have in an increasingly multi-polar world-order. Concentrating on the removal of narrow blockages, “freeing the local agency of civil society” (ibid.), they disregard the entanglements of local and national interests and social processes. In addition, it has been argued that the focus on networks not only neglects the internal hierarchies and power struggles that may result in divergent views and crises of representation, but also glosses over other influences characterising the global actor configuration (Stewart 2004; Ghosh 2006; Pfaff-Czamecka 2007). Inasmuch as these complexities located between the global, national, and local levels are neglected, the approach does not take the negotiations of political and social change at and between socio-spatial scales into account.² An analysis of transnational activist configurations thus requires a thorough analysis of the activists’ agency and interaction among

² I have applied the notion of translocality to my work on transnational activism to highlight social interaction transcending socio-spatial scales and different levels of institutionalization (Gerharz 2012). Elaborating this concept here would be beyond the scope of this paper as it does not provide additional value.

themselves and with other actors located at various levels of society, as well as their contribution to the structuration of society (Giddens 1984). Only then will we be able to assess the changes spurred by the UN Initiative as expressed in the Declaration.

The demands articulated by indigenous activists in relation to the Declaration for the Rights of Indigenous People have thus been subject to negotiations in a political space that has been simultaneously enabling as well as constraining. Strengthening transnational networks and seeking support from the global discursive and normative repertoire provided by the United Nations initiative, however, has not only encouraged Bangladeshi indigenous activists to explore their bargaining power within the realm of policy-making, but has also had far-reaching consequences at various levels of society. The aim of this article, thus, is two-fold. First, it traces the emergence of indigenous activism in Bangladesh and seeks to outline the social and political changes that have been taking place throughout the last couple of years and that largely went against the demands of the indigenous movement. Second, it analyses the political process leading to the rejection of the constitutional recognition demand by revealing not only activism at the national level but also its transnational dimensions. Moving beyond structuralist assumptions, it seeks to shed light on the complex ways in which the United Nations Declaration for the Rights of Indigenous People has been negotiated under the specific conditions of contemporary Bangladeshi politics and society. It further reveals the ambivalent outcomes of transnational activism, depending on the contexts' particular characteristics and complexities, power constellations, and differentials. The case exemplifies that the explanatory value of structuralist assumptions can be limited, when particular - sometimes unforeseeable - changes in power relations come to the fore. The paper thus concludes with some remarks on the changes that occur in the global landscape: Twentieth-century developmentalism had produced dependencies between those who provide and those who receive development aid, which, in turn, urged the latter to remain amendable to proposals for improving policies in line with so-called westernised values concerning governance and human rights, including minority and women's rights. However, it seems that global power changes and the recent emergence of new donors alter these established loyalties and give way to new forms of assertiveness among the formerly dependent "developing countries".

The paper is based on long-term empirical field research conducted in Bangladesh as well as within the field of transnational activism in Europe. In 1999 and 2000, I spent several months in Bangladesh, most of the time in the Chittagong Hill Tracts (CHT).³ During this time, I was mainly interested in understanding the construction of ethnicity (Gerharz 2000) and in the scope of development cooperation for making a contribution to peace-building (Gerharz 2002). The methods applied were genuinely ethnographic and comprised of participant observation along with numerous semi-structured interviews and informal conversations with stakeholders in various societal fields, ranging from politics and civil society activities to religious institutions, and with local people. Since 2003, I have been an active member of a Bangladesh-related network in Germany that specialises in lobby work and the distribution of information on Bangladesh to the European public. One of the network's main topics is human rights violations, including those committed against ethnic minorities. In addition to this long-term engagement as an "activist researcher" (Hale 2006), I have engaged in local fieldwork repeatedly

3 The Chittagong Hill Tracts are located in the south-eastern part of Bangladesh. They are home to the majority of indigenous people in Bangladesh.

again since 2008. During several shorter visits, I conducted interviews and held numerous informal conversations and discussions with activists working for the rights of indigenous people, local activists both nationally and locally, local NGO representatives, and members of the indigenous population. Having a sustained connection with Bangladesh over a relatively long period of time has enabled me to take a diachronic perspective, allowing me to trace social change over a considerable period of time. After providing a short overview of the recent history of indigenous people in Bangladesh, this article examines the changes that have occurred within and beyond Bangladesh during recent years. In particular, it will offer a discussion of new developments in indigenous activism with regard to institution-building and networking, as well as the rising significance of the language of indigeneity. The next step is a detailed analysis of the activists' move towards constitutional recognition of indigenous people in the course of the Amendment in 2011, with particular focus on the ways in which transnational activism has influenced the decision-making process in the Government of Bangladesh. The paper concludes with some thoughts on changing power relations at the global level and Bangladesh's struggle to locate itself within this new constellation.

2. THE DECLARATION FOR INDIGENOUS PEOPLES' RIGHTS AND THE CONFLICT IN THE CHITTAGONG HILL TRACTS

The United Nations Declaration for Indigenous Peoples' Rights was the result of a twenty-three-year long process in which indigenous activists successfully brought the issue onto the agenda of the United Nations (Oldham and Frank 2008). The first achievement was the formation of the Working Group on Indigenous Populations (WGIP) in 1982, leading to the announcement of the International Year for Indigenous People in 1992. Two consecutive International Decades on the World's Indigenous People (1995-2004, 2005-2015) were marked by a broad variety of activities, including institutionalisation at the global level with the Permanent Forum on Indigenous Issues and numerous activities in various local contexts. The Declaration, which was adopted at the beginning of the second Decade, can be regarded as part of the move to provide a universal system for protecting indigenous rights. Its intention is to provide a set of "minimum standards for the survival, dignity and well-being of the indigenous people" (Oldham and Frank 2008: 5) to be pursued in cooperation between states and indigenous people. Although not binding, it is an "internationally sanctioned legal instrument that aims to advance the codification of indigenous rights in national constitutions and legal systems" (Shah 2007: 1806). Thereby, it may form a pre-cursor to a legally binding convention and has already been invoked in national and regional cases (Oldham and Frank 2008: 5).

Preceding the adoption of the Declaration were highly controversial discussions about how to define "indigenous people". Some activists argued that the term should be reserved for people inhabiting territories since immemorial times who have been subject to organised colonisation by European powers (Karlsson 2003: 411).⁴ But this view excludes people in Africa and Asia who claim to be indigenous, and is therefore strongly opposed by activists from these parts of the world. In addition, academics have contributed to the controversy by highlighting that the movement for the rights of indigenous people entails not only the danger of essentialising "the primitive" or "the native", but relies

⁴ Karlsson refers to the report by the UN Special Rapporteur Miquel Alfonso Matínez that was discussed in the late 1990s in the WGIP.

upon racist criteria and thereby follows the European tradition of defining citizenship as a matter of ties of blood and soil (Kuper 2003: 395, see also Vandekerckhove 2009). By refraining from using the particular criteria for defining membership, however, the indigenous representatives involved in drafting the Declaration sought to avoid such an essentialising tone. Rather, they highlighted the universality of human rights and their validity for indigenous peoples as people under international law, with the corresponding right to self-determination (Oldham and Frank 2008: 6; see also Muehlebach 2001; 2003). Seen from this perspective, the notion of indigeneity has become accepted as part of a universal global discourse and can therefore be regarded as a powerful instrument that has been applied by an increasing number of activists to raise not only the rightfulness of their claims to a particular territory, as it is the case in the debates about autochthony or the “sons of the soil” discourse (Vandekerckhove 2009), but also as a means to attract attention to their marginalization within the nation-state.

Bangladesh is one of the nation-states where the indigenous population has experienced exclusion from political and economic processes since colonialism. With the country’s independence from Pakistan in 1971, the emphasis on the linguistic, economic, and political autonomy of the Bengali-speaking population further aggravated the marginalisation of minorities. This process led to manifest and unequal majority-minority relations, as two different kinds of nationalism (based on language and religion) continued to dominate the political discourse and further alienated ethnic minorities. This resulted in a protracted conflict in the Chittagong Hill Tracts, where a large portion of indigenous people are concentrated (see Mohsin 1997). The Declaration and the preceding Decade for the Rights of Indigenous People coincided with a sequence of decisive moments in the country’s history. With the signing of a peace accord in the Chittagong Hill Tracts (CHT) in 1997, the armed conflict between the Bangladeshi military and indigenous insurgents was brought to a halt. The CHT, the hilly region in the southeastern part of Bangladesh, is the home of several groups that distinguish themselves from the Bengali-speaking Muslim majority population. Shortly after independence, they had demanded recognition of their distinct ethnic identity and regional autonomy. When the Government of Bangladesh rejected the demands, the Parbatya Chattagram Jana Sanghati Samiti (PCJSS - United People's Party of the Chittagong Hill Tracts) was formed. Promoting so-called Jumma nationalism,⁵ this political party sought to represent the interests of the indigenous population in the hills (see van Schendel 1992; Mohsin 2003). Parallel to the articulation of the hill people’s demands by political means, local youths made an attempt to protect their rights with the help of weapons left over from the liberation war (Mohsin 1996). In the context of increasing polarisation, these local militant forces, who called themselves Shanti Bahini, were incorporated into the PCJSS as its military wing. The Bangladeshi state tended to regard the CHT mainly as a security problem and challenged the insurgency movement with massive militarisation and re-settlements of landless Bengalis from the plain-land. This led to large-scale eviction of indigenous people from the communally-owned land. More than twenty-five years of armed conflict resulted in severe human rights violations, including “massacres, torture, rape, illegal detention, looting, arson, forced labour, forced marriages and forced

⁵ The notion of Jumma derives from jhum, the local agricultural practice of slash and burn cultivation.

conversion to Islam” (Arens 1997: 1817). In addition, more than 70,000 hill people fled to India; many more were internally displaced.

To some extent, the Peace Accord was the result of the increasing desire to negotiate a settlement, spurred by the war-weariness of the local population. The final breakthrough, however, was initiated by the government formed by the Awami League,⁶ elected in 1996. The Awami League had included its aim to resolve the CHT problem in its election manifesto. In addition, it gained strong support from India for negotiations as the high numbers of people from the CHT entering into India as refugees complicated cross-border entanglements with its own insurgent movements. Carrying out infrastructure projects, which depended on stability in the region, was also high on the agenda (Mohsin 2003: 41). The increasing global attention to intra-state conflicts between states and minorities and the situation of indigenous populations has had an enormous impact on developments in Bangladesh. The Peace Accord was warmly welcomed by the so-called international donor community and several country representations, as well as development agencies that showed their commitment to the peace process (Gerharz 2002). On the one hand, this encouragement was based on the growing concern about the development-hindering effects of armed conflict, which has led to new approaches to conflict management in development since the late 1990s. On the other hand, the debates resulting from the UN initiative for the rights of indigenous people had sensitised Bangladesh’s partners in the “western world” to the significance of minority issues in the context of democratisation and governance.

3. FROM MILITANT ACTIVISM TO CIVILIAN ACTIVISM

Both of these timely events, the Peace Accord and the International Decade, encouraged indigenous people from the CHT to enter into civilian activism. Their organisations demanded the implementation of the CHT Peace Accord together with the recognition of the rights of indigenous peoples endorsed by the UN Declaration in Bangladesh. A crucial point is access to land and other resources. Gaining special protection as indigenous people would enable a small but particularly marginalised section of society to claim land titles on the basis of collective land rights. Therefore, a central demand is to provide appropriate legal instruments to protect them against land-grabbing by members of the majority Bengali society. Several legal scholars have repeatedly argued that the traditional customary land rights systems could serve as an appropriate tool to protect indigenous people’s land rights and ensure their access to land (Roy 2009).⁷ But with the high population density and scarcity of cultivable land, which poses a massive challenge to the majority of the population, this demand remains particularly delicate. Throughout the country’s recent history, the appropriation of indigenous people’s land has been a prevalent practice, quite often protected by the state and its institutions. Ultimately, the land question is also one of the major reasons why the CHT Peace Accord has never been fully implemented.⁸ Instead, the CHT have seen repeated eruptions of violence, mainly in the form of so-called inter-communal clashes accompanied by intensifying militarisation. A positive sign was the re-

⁶ The Awami League is one of the two major parties in Bangladesh and has repeatedly been in power since independence.

⁷ Raja Devasish Roy, the traditional chief of the Chakma circle in the Chittagong Hill Tracts, advocate and member of the UNPFII, has published extensively on the land rights system in the CHT and the plain-land.

⁸ As part of the Accord, five land commissions were formed to solve the land problems in the CHT. None of them has produced any viable results. In May 2013, the government announced that a sixth land commission is to be formed soon. See: www.theindependentbd.com (accessed 27 May 2013).

election of the Awami League in 2008, as the party had promised to implement the CHT Peace Accord in its election manifesto once again. As we will see later, this has given rise to fundamental criticisms within and beyond Bangladesh.

Initially, the Bangladeshi indigenous movement was encouraged by the UN Declaration as it provided an instrument to take the national claims to an international level and to make use of the reverse effect. They hoped that once the UN Declaration was adopted, they would have a morally binding document along with a significant number of international sympathisers, which should have provided them bargaining power. Indeed, the Declaration has had a variety of effects on the position of indigenous people in Bangladeshi society. These range from increased visibility in national public discourses, accompanied by rising sympathy among the general public, to cross-ethnic alliances inside and outside Bangladesh that have enabled indigenous activists to access more powerful segments of society and polity. Moreover, the incentives provided by the UN bodies, along with intensified transnational activism, have encouraged the international donor community to be more sensitive regarding the plight of indigenous people. The allocation of developmental resources for specific initiatives, along with increased sensitivity within a large portion of developmental activities, has had an impact on cooperation with the Government of Bangladesh, the so-called civil society and the wider public.

The insurgency in the Chittagong Hill Tracts has attracted a lot of international attention, and since the 1980s, human rights organisations such as Human Rights Watch and Amnesty International, the Society for Threatened Peoples and the International Working Group on Indigenous Peoples Affairs (IWGIA) have not only expressed their solidarity but lobbied against human rights violations in the CHT. This international attention, however, reduced the perspective on indigenous people to the CHT, leaving the equally numerous so-called “adivasi” living in the plain-land largely ignored. In contrast to the indigenous population of the CHT, these groups live more or less scattered, sometimes amidst Bengali majority settlements, with concentrations in the northern borderlands.

With the Peace Accord and the support provided by the UN initiatives, networks between the indigenous people living in the CHT and the plain land were created. Among others, one very visible example is a network called Bangladesh Indigenous Peoples Forum (BIPF), which seeks to provide a platform for the indigenous population. BIPF was formed in 2000 by a group of indigenous activists from different parts of Bangladesh. One of their objectives was to reinforce cooperation between the CHT and the plain-land. Therefore, the leadership comprises of prominent figures from the CHT as well as the plains, with the JSS leader and Regional Council Chairman from the CHT and a Garo from the North of Bangladesh, as the General Secretaries. BIPF has taken a very active stand in representing the claims of indigenous people within, as well as outside, the country. It has been repeatedly argued by activists that while the CHT had gained considerable attention due to the militarised struggle and international support, the problems of the vast majority of indigenous people living rather scattered in different parts of the plain-land have remained largely unrecognised (Bal 2007). By bringing together the two fractions, BIPF attempted to increase the visibility of the plain-land adivasi. This, however, had positive effects for the CHT people as well, as their demands, which had been regarded as confined to the territory of the CHT itself, were now related to issues of democracy and governance within the nation-state in general. Moreover, the Forum helped to rid at least a portion of CHT activists of their image as militants and paved the way into the realm of civilian activism. BIPF however, has also been

subject to critique from within Bangladesh. Several of my interviewees belonging to the activist scene⁹ argued that they hardly feel represented by its leadership; others said that the Forum had scarcely any impact on the situation of indigenous people, except for increasing their visibility amongst the national public.

BIPF is the main organiser of the annual celebrations of the World's Indigenous People's Day in August. During my fieldwork in 2008 and 2010, I witnessed that the festivities drew more and more public attention each year. Smaller groups gather in the district headquarters and rural centers in different parts of the country. The Forum attracts not only indigenous people from the rural parts of Bangladesh, but also representatives of society and politics to take part in the rallies and cultural events in Dhaka. BIPF also convinces government representatives as well as individual members of the donor community to participate and deliver speeches expressing their commitment and solidarity during the celebrations.¹⁰ The events have been closely observed by the national media, as I witnessed when attending the celebrations in 2008 and 2010, and in the daily newspapers and TV programmes. The movement also receives substantial support from Bengali human rights activists (see Gerharz 2013). In addition, indigenous issues have gained prominence as a research topic in national research institutions and universities. There are a considerable number of scholars in social sciences, law, and related disciplines investigating various related themes; the students too have shown considerable interest.¹¹ During the last fifteen years or so, the indigenous movement has entered the national arena. Attempts have been made to institutionalise the country-wide cooperation in order to increase its visibility and bargaining power.

4. TRANSNATIONAL CONNECTIONS AND THE LANGUAGE OF INDIGENEITY

The activists also stretched their contacts to other groups beyond Bangladesh. The meetings, which have taken place all over the world, and also the regional context, have contributed to the transnationalisation of the movement. Among the activists I interviewed during fieldwork between 2008 and 2012, Nepal was referred to as a model case.¹² Other successful cases in South (-East) Asia have inspired the Bangladeshi activists to provide incentives for a more intensive discussion on the recognition of indigenous rights. Personal contacts with successful activists all over the world, some of which were established by supporting development organisations,¹³ helped the members of the Bangladeshi movement to become professionalised. An important connection, for example, was

9 Like other social movements, the Bangladeshi indigenous activist scene is not at all unified but divided into various fractions, which makes it difficult to design an institution that is supported by all movement members.

10 In 2008, for example, the Foreign Minister who was the central figure opposing the Constitutional Amendment in 2011 participated and publicly announced her solidarity and support.

11 This observation stems from my personal experiences and exchange with academics at the national universities in Dhaka and Chittagong, as well as the Jahangir Nagar University.

12 In the process of designing a democratic state after the fall of the monarch in Nepal, the question of how to accommodate the interests of indigenous people has been discussed rather extensively. The National Federation of Indigenous Nationalities (NEFIN) has gained broad acceptance in politics and the wider public.

13 This was raised in a personal conversation with a representative of a German development organisation that has been actively involved in supporting the indigenous movement in Bangladesh.

Victoria Tauli-Corpuz from Tebtebba-Foundation in the Philippines, who is now the chairperson of the United Nations Permanent Forum on Indigenous Issues. Again, as has been suggested by some “activist elites”, the transnationalisation of indigenous activism has antagonised others. There is criticism of leaders who distance themselves from the rural population by adopting a cosmopolitan lifestyle. The fact that this is a phenomenon common to many indigenous movements (Ghosh 2006; Shah 2007; Kradolfer 2011) does not justify it happening. However, the professionalisation of indigenous activism has contributed greatly to the visibility and prominence of indigenous issues, although the international and media attention toward the professional, transnationalised organisations renders the local grass-roots oriented initiatives largely invisible.¹⁴ At the same time, the new media have opened new vistas for activist work. As a long-term observer of discussions on Facebook and other online forums, I have witnessed the increasing participation of young indigenous people, mainly from the CHT, who inform and exchange information about recent events, controversies and contemporary local and national debates.

Activism has benefitted from support provided by sympathisers in Europe and other western countries. One initiative is the International Chittagong Hill Tracts Commission, which seeks to ...promote respect for human rights, democracy, and restoration of civil and political rights, participatory development and land rights in the Chittagong Hill Tracts in Bangladesh, including examination of the implementation of the CHT Peace Accord of 1997. The CHT Commission will build on the work undertaken by the original CHT Commission between 1990 and 2001.¹⁵

The first CHT Commission was formed in 1990, when the armed conflict in the CHT was in full swing. Throughout the 1980s, the CHT had remained closed off to foreigners, a situation that gave reason to assume that amidst intensifying militarisation, human rights violations would become more frequent. Initiated by the Amsterdam-based Organising Committee CHT Campaign (OCCHTC) and the International Working Group for Indigenous Peoples (IWGIA) in Copenhagen, the CHT Commission consisted of five members and included renowned activists for indigenous people’s rights from different parts of the world, but mainly Europe. The Commission carried out a number of field investigations on the basis of which it produced reports¹⁶ documenting the human rights violations of the indigenous people in the CHT. Following a largely inactive period of about eight years, the Commission was reformed, albeit in light of the changing conditions after the Peace Agreement, as well as an increased awareness of the situation in the CHT in Bangladesh and internationally, with the mandate mentioned above. As of 2012, the CHT Commission includes four Bangladeshi members - who are all are respected activists and two of whom are very well-known and respected lawyers - and four non-Bangladeshi members. Apart from the CHT Commission, other groups have been formed by migrants from the CHT residing in India, Korea, Japan, Australia, Europe, or North America.

14 Exceptions occur when human rights violations target local activists. Ranglai Mru, for example, a local headman and environmental activist from Bandarban, the southern district of the Chittagong Hill Tracts, became subject to public debate when he was arrested in 2007 by the police on the basis of false cases. Like the murder of Cholesh Ritchil from Modhupur in 2007, this case attracted much international attention both in activist circles as well as among the foreign missions in Bangladesh (Wessendorf 2008).

15 See <http://www.chtcommission.org/description-of-the-cht-commission/mandate/> (accessed 15 May 2013).

16 The first report “Life is not Ours” was published in 1991 with updates in 1992, 1994, 1997 and 2000. They are available online: http://www.iwgia.org/publications/search-pubs?publication_id=129 (accessed: 18 March 2013).

Moreover, transnational civil society actors have provided assistance to the indigenous movement in Bangladesh. These actors comprise both organisations concentrating on indigenous people's issues worldwide as well as those working on human rights and developmental issues in Bangladesh. The local use of particular arguments and idioms that are based on allegedly universal repertoires are an important feature of political communication in a globalised world. In this process, Pfaff-Czarnecka (2012) has argued that the language of ethnicity provides not only a useful ground for individual and collective positioning, but can also be understood as a resource when the social order is negotiated. This applies for the language of indigeneity as well: thanks to the initiatives taken within the United Nations to find a universal concept of indigenous people, which culminated in the Declaration, the activist movement in Bangladesh has been enabled to draw on a specific communicative repertoire, with legitimising power (Pfaff-Czarnecka/Büschges 2007). The application of the concept, as well as the idioms related to this standardised rhetoric, can be regarded as a result of the intensified transnational exchange and participation in global meetings since the 1990s. Roy (2009: 47) argues that the English term "indigenous" or the Bengali translation "adivasi" has been increasingly used since 1992, which was the International Year of Indigenous People. During the period in which I conducted fieldwork, starting in 1999, I witnessed this change as well. Whereas in 1999 the term "tribal,"¹⁷ which had belonged to the common repertoire to signify the indigenous population during colonialism and Pakistani rule (1947-1971), had been prevalent in many conversations, my experiences in the late 2000s were entirely different. Many interviewees used terminologies like "indigenous people" or "IPs"; others preferred to speak of "pahari" or "adivasi".¹⁸ There was a lively discussion about indigenous people's rights and their recognition and a couple of activists who, as a consequence of living in metropolitan Dhaka and frequent travel to conferences and meetings in different parts of the world, had adopted a cosmopolitan lifestyle. Many activists had become used to the globalised vocabulary promoted in the United Nations Declaration and the Permanent Forum and have introduced it into the local and national context of Bangladesh. In addition, international organisations have supported the emerging local awareness of these communicative and legal instruments. The field of indigenous activism in Bangladesh has thus undergone tremendous changes during the last few years. The new dynamism can, in the first place, be traced back to the Peace Agreement in the CHT. This enabled indigenous activists to reorganise beyond the military agenda and to occupy a civilian and political space in the CHT,¹⁹ but also beyond. Important incentives have been provided by numerous initiatives to create activist networks at the national level, from which indigenous people both in the CHT and the plain-land have benefitted. The BIPF is just one example. This structural

17 In Bengali, the notion of "upajati" (subnation) resembles the English term "tribal" (Roy 2009: 48). Uddin argues that this notion was invented by the Bangladeshi state to undermine and degrade the hill people as lower-ranked people (Uddin 2010: 290).

18 The Bengali term "pahari", which literally means hill people, is regarded as the most neutral and politically correct term for denominating the indigenous population of the CHT, as many use it to refer to themselves. For others, however, it has a negative connotation because it is a Bengali term. "Adivasi" has become a common phrase for denominating the indigenous people living in the plains, but is sometimes used as an encompassing category equivalent with "indigenous people".

19 The indigenous people living in the CHT had been represented in UN working groups well before the peace process. This, however, was only possible because the militants had maintained contact with CHT inhabitants who had migrated to India and who had acquired citizenship there. The Indian passport enabled them to travel to the UN meetings.

novelty at the national level is related first to international allies and the subsequent emergence of transnational activism and, second, to the increasing significance of the UN initiative in strengthening indigenous people's rights. Whereas the UN Decades have already had a recognisable effect on the situation of indigenous people in Bangladesh (see in particular ICIMOD 2007), the UN Declaration, which was adopted in 2007, constitutes an even stronger mechanism for exerting pressure on UN member states. This could be observed in Bangladesh's recent past, but with an outcome that is quite different from the activists' expectations.

5. THE CONSTITUTIONAL AMENDMENT IN 2011

In 2010, an indigenous caucus was formed within the National Parliament. Equipped with the confidence that the established networks and legitimising power of the language of indigeneity had consolidated the movement's bargaining power not only in the general public sphere but also in the policy-making process, the main aim was to work towards the inclusion of the term "indigenous people" in the constitution in the course of the ongoing process of amendment. The working group comprised a couple of parliamentarians belonging to both the indigenous and non-indigenous sections of society. In particular, they lobbied for the inclusion of the term "indigenous people" in Article 23, which defines the obligation to protect and develop minorities. It was hoped that this would open new vistas to develop affirmative action mechanisms for indigenous people on the basis of altering their historical discrimination.²⁰ The official adoption of the terminology had also helped the activists to lobby for the recognition of the Declaration. This recognition would mean that the special relationship to land, as it is expressed in indigenous people's collective land rights (as opposed to the individual land rights system among the Bangladesh population) could be officially recognised and protected.

The international support network, especially the CHT Commission and some other pressure groups, constituted so-called transnational advocacy networks, which had the potential to exert pressure on the Government of Bangladesh. The activists' optimism relied upon this structuralist logic and, indeed, several developments conveyed the rising significance of Bangladesh's indigenous people's issues: when Raja Devasish Roy, the chief of the Chakma circle in the CHT and a renowned lawyer, was elected by Economic and Social Council (ECOSOC) to the UN Permanent Forum on Indigenous Peoples Issues (UNPFII) 2011-2013 in June 2010, the issue gained more recognition globally. In 2009, the UNPFII had appointed Lars-Anders Baer, a member of the Permanent Forum as well as the CHT Commission, as Special Rapporteur to undertake a study of the implementation status of the CHT Peace Accord,²¹ which highlights the attention paid to Bangladesh in the United National system. At the same time, the Government of Bangladesh had sent out positive signals: The prime minister and other government officials had repeatedly made use of the terms "adivasi" or "indigenous people". The terminology not only appeared in a couple of official documents and policies, such as the education policy, but politicians also raised indigenous concerns in public several times.²² The activist scene, the

20 This was the term used by one activist supporting the initiative during my fieldwork in 2010.

21 http://www.iwgia.org/news/search-news?news_id=307 (accessed 20 March 2013).

22 There is an opinion in Bangladesh that the politicians representing the major political parties were basically motivated to step up to the indigenous population because they would help them to secure their votebanks. This, however, has not yet been verified and remains subject to controversial debate, given the small number of indigenous people compared to the majority population.

media and the concerned public discussed the potential success of the constitutional amendment intensively. During the gatherings on the World's Indigenous People's Day in August 2010, the constitutional amendment was the main demand. In their speeches, the government officials who had been invited raised the issue and assured their solidarity. The political discourse was supplemented with a performative component when a group of musicians sang a "traditional song" into which they had included the sentence "We want constitutional recognition" (in English) as a refrain. Overall, most activists and participants were quite optimistic about the potential success, and everyone was in a good mood.

In March 2011, when the committee which had been formed to coordinate the Constitutional Amendment announced that the term "small ethnic minorities" (khudra nrigoshti) would be included in the Constitution instead, there was considerable indignation and frustration. Despite protests by national activists as well as their international partners, particularly the CHT Commission, the National Parliament endorsed the Amendment with Article 23A reading as follows:

The culture of tribes, small ethnic groups, ethnic sects and communities – The State shall take steps to protect and develop the unique local culture and tradition of the tribes [upajati], minor races [khudro jatishaotta], ethnic sects and communities [nrigoshti o shomprodai].

The denial of constitutional recognition went together with some other governmental initiatives that have been interpreted as directed against indigenous activism. This became particularly clear in 2011, when the Ministry of Home Affairs released a circular that imposed restrictions on the Indigenous People's Day celebrations. The circular states that

a) necessary instructions may be sent to the concerned persons so that (on Indigenous day) government high officials do not give speech/comments that are conflicting/contradictory to the policies of the government undertaken at different times. b) It might be monitored so that no government patronization/support is provided during the World Indigenous Day. c) Steps might be taken to publicize/broadcast (by providing related information) in the print and electronic media that there are no Indigenous people in Bangladesh. d) The month of August is recognized nationally as the month of Mourning. Hence, such unnecessary amusement programmes in the name of Indigenous Day in this month should be avoided.²³

On the one hand, this strong opposition against the indigenous peoples' movement can be explained as being congruent with Bengali nationalism, which has been promoted by the ruling party Awami League since independence. On the other hand, the involvement of transnational allies and the institutional backing of the UN system did not lead to the desired result but provoked governmental resistance. The juxtaposition of these two dynamics can be seen as underlying the government's decision to refrain from strengthening the position of indigenous people in the constitution. The argument provided by Bengali nationalism has been exploited by a couple of political protagonists in opposition to the indigenous people's claim, including the military, which seeks to maintain its powerful basis in the CHT. As it has been promoted during and immediately after independence, culture has provided the ground for maintaining national unity on the basis of cultural homogeneity. The fact that the current

23 <http://de.scribd.com/doc/102343718/English-Version-Not-to-Celebrate-Ip-Day> (accessed 18 March 2013). The Government has declared August as a month of mourning because in August 1975, Sheikh Mujibur Rahman and his family were killed in a massacre, except his daughter Hasina who is prime minister at present.

Prime Minister, Sheikh Hasina, is the daughter of the Sheikh Mujibur Rahman, the great Awami League leader and the “Father of the Nation”, has made it easy to convince her that national unity can prevail only if cultural homogeneity is maintained. In that sense, the following sentence was added to Article 6(2) of the Constitution:

The people of Bangladesh shall be known as Bengalees as a nation and the citizens of Bangladesh shall be known as Bangladeshis.

At the same time, the Government suspended the idea of secularism, which had been one of the pillars of Bengali nationalism, and put more emphasis on Islam, relating to a national discourse that accuses western foreigners of belonging to Christian missionaries. Instead, the Phrase “Bismillah-ar-Rahman-ar-Rahim” - which had been added in 1979 by General Ziaur Rahman, who had promoted an alternative nationalism based on Islam - remained in the Preamble of the Constitution. Moreover, Article 2A, which General Mohammad Ershad had added in the 1980s to declare Islam as the state religion, was likewise maintained. According to the logic of Bengali nationalism and the significance of Islam as a constitutive aspect of Bengali culture, religious and linguistic minorities put the congruence of the nation and culture at risk²⁴

The national debate on authenticity and originality was deeply entrenched in the events that took place at the level of transnational activism. The Special Rapporteur of the UNPFII, Lars-Andres Baer, who is also a member of the international CHT Commission, submitted his “Study on the Status of Implementation of the Chittagong Hill Tracts Accord of 1997” in May 2011, which was quite timely. In this report he takes a rather critical stance as he highlights the ongoing militarisation in the CHT and points at severe shortcomings with respect to governance. The UNPFII accepted several of the recommendations to the Government of Bangladesh, such as the full and timely implementation of the Peace Accord of 1997, the prevention of Bangladeshi military personnel involved in human rights violations of indigenous people in the CHT from participating in the UN peacekeeping missions,²⁵ and the establishment of independent and impartial commissions of enquiry to address human rights violations against indigenous people in the CHT.

The Government of Bangladesh reacted with strong opposition. The First Secretary of the Bangladeshi Mission to the UN submitted a statement to the Permanent Forum saying that there were no indigenous people in Bangladesh and that the Peace Accord had nothing to do with indigenous issues. Therefore, the government claimed that the UNPFII, with its mandate to deal with indigenous issues, would not have “any locus standi” in discussing issues relating to the CHT Peace Accord.²⁶

After the quest to include the notion of indigenous people in the constitution was turned down, government representatives repeatedly highlighted that the concept itself could not be applied to the Bangladeshi context. The Foreign Minister, Dipu Moni, stated at the Economic and Social Council that the people living in the CHT were not indigenous in the sense of the definition provided by the United Nations, but came as asylum seekers and economic migrants.²⁷ Moreover, the Ambassador and Permanent Representative of Bangladesh to the United Nations questioned the way in which the study

24 A good explanation for this mechanism that is well known from other countries is provided by Appadurai’s argument in his “Fear of Small Numbers” (2006).

25 The Bangladeshi Army has become one of the main providers of staff for the UN peacekeeping missions worldwide.

26 See press statement of the Chittagong Hill Tracts Commission, 5 June 2011

27 Statement by Chakma Raja Devasish Roy, 27 July 2011 on www.bdnews24.com (accessed 24 May 2013).

was conducted and discredited the Special Rapporteur as being the member of “a partisan CHT-based NGO”.²⁸ In addition, the Government apparently requested ECOSOC, as the parent body of the UNFPII, to refrain from adopting Lars-Anders Baer’s report in the report of the UNFPII session.²⁹ While on the international stage government representatives rushed to deny the existence of indigenous people in Bangladesh, there was once again strong opposition at the national level. In public discourses there was a tendency to interpret the notion of indigenous people as an international concept that foreigners, including potential Christian missions, sought to transplant into Bangladesh. The attempt to support the national movement at the level of transnational activism by increasing pressure on the Bangladeshi government thus failed. Whereas the Special Rapporteur, highly committed to the indigenous peoples’ struggle within Bangladesh, tried to seize the window of opportunity provided by the open atmosphere during the discussion about the constitutional amendment, his attempt resulted in a backlash. This episode thus shows the limited scope for transnational activism and reveals that the potential for success is highly dependent on context. In Bangladesh, granting indigenous rights would imply far-ranging concessions that are crucial to the national interest with regards to the ideal of a culturally homogeneous nation.

Another dimension, which can be referred to only briefly here, is economic interests. These interests are directly linked to the demilitarisation of the CHT as demanded in Baers’ report. Conversations with experts in Bangladesh reveal that the military depends on the CHT as a “training ground” for the soldiers to be deployed in the UN peacekeeping missions. As these missions constitute an important source of income for the Bangladeshi army, the withdrawal from the CHT would diminish the soldiers’ exposure to practical training, which is a requirement for taking part in the UN missions. The second issue is access to land, which has been one of the core arguments throughout the armed conflict and remains highly topical in densely populated Bangladesh. A recent study by Adnan and Dastidar (2011) reveals that the security forces as well as state institutions continue to be involved in the redistribution of land in the CHT through acquisition and land-grabbing.

6. AMBIVALENT ACHIEVEMENTS: CHANGING POWER RELATIONS AND LIMITATIONS TO CONDITIONALITY

The aim of this chapter was not to provide a comprehensive explanation of why the pressure exerted by transnational activists on the Bangladeshi state had adverse effects. Rather, it sought to highlight the dynamic and sometimes unforeseeable ways in which social actions at different socio-spatial levels are related to each other. The complexity of the interrelation between nationalism and resistance against outside interferences is shown by the restrictions that have been introduced in 2011. Following the Special Rapporteur’s report to ECOSOC, the Government decided to place more restrictions on access for foreigners to the CHT. While earlier it was sufficient to inform the District Commissioner’s office of the intended stay and to register at the checkpoint on arrival, foreigners now need the District Commissioner’s permission in advance. In addition, news has spread that foreigners are not allowed to

²⁸ He referred to the international CHT Commission of which Lars-Anders Baer is a member as well.

²⁹ See Wasfia Nazreen article “I ain’t indigenous – reflection of a Bengali” on bdnews24: <http://opinion.bdnews24.com/2011/07/28/%E2%80%9Ci-ain%E2%80%99t-indigenous%E2%80%9D-%E2%80%93-reflection-of-a-bengali/> (accessed 23 May 2013).

hold meetings with civil society representatives without the presence of a government official.³⁰ Even though the potential of transnational activism has convinced many of Bangladesh's partners in development cooperation to raise the issue of indigenous people's rights again and again,³¹ these initiatives have not proved to be successful because of the hard stance of the government on these issues. According to the assumptions of transnational activism, this is rather astonishing, as one would expect the Government of Bangladesh to comply with the demands, since, being a classic case of a developing country, Bangladesh remains dependent on international aid. But the indignation with which government officials rejected the Special Rapporteur's report on the CHT Peace Accord implementation reveals that global power hierarchies are not as simply structured as one might assume. This kind of resistance against UN institutions and their moral arguments is not unique to Bangladesh. Another recent example was Sri Lanka, where the reprimands of the UN and other international actors to respect human rights during the final war against the Liberation Tigers of Tamil Eelam (LTTE) in 2009 were ignored even though this became an explicit conditionality in aid allocation (Gerharz, forthcoming). More prominent than the Sri Lankan case has been the rising significance of the so-called "new donors" in several African countries. Much public debate has been centered on fears that the efforts made by the traditional donors to introduce codes and standards to safeguard environmental and human rights standards may be weakened by the rising significance of emerging donors. Although Woods comes to the conclusion that the "hysteria surrounding the emerging donors is overplayed" (Woods 2008: 1212), she admits that a "silent revolution" is going on. By offering alternatives to aid-receiving countries, emerging donors weaken "the bargaining position of western donors in respect of [the] aid-receiving country" (Woods 2008: 1221). This may be symptomatic of what Jan Nederveen Pieterse has described as a major change in twenty-first-century globalisation, namely that it "brings much of the developing world outside the grasp of western institutions" (Nederveen Pieterse 2010: 203). There is a growing awareness of plural development strategies and approaches and that each societal context may need to generate its own ways of governing.

Therefore, approaches that are based on a liberal, linear way of thinking entail increasingly limited potential for explaining transnational relations between so-called developed and developing states. With the so-called "emerging donors" there is a pluralisation of developmental resources taking place in the contemporary world which reduces the scope for conditionality. As much as south-south trade relations gain increasing significance, alternative development partners enter the scene and this convinces many southern governments to no longer comply with "western-dominated" development ideals. In the context of Bangladesh this certainly relates to land and national resources (see Adnan and Dastidar 2011). There is a growing interest in Bangladesh, and particularly the CHT, with regard to resource extraction, a business in which India and China play an increasingly important role. At the same time, labour migration from Bangladesh has led to strong relationships with countries in South-East Asia and the Middle East. Accompanying agreements have opened new channels for the transnational banking sector, for example, and the transmission of alternative models of governance and democracy. In general, western-dominated models and ideas are increasingly questioned in public debates, and there is a growing awareness of the limitations of (post-) colonial power relations. These

30 See Report of CHT Commission 30 November 2011

31 See also Letter to Ban Ki Moon, CHT Commission 11 November 2011.

observations lead to an array of concerns addressing very basic questions of how governance and democracy will be dealt with in future. Apart from questioning the potential universality of UN-based decisions and Declarations, in the case of the Rights of Indigenous People, we need to ask what the failing mechanisms of transnational activism and the decisively anti-UN position of Bangladesh's government tells us with regard to its perspectives on the future society. Does democracy as a framework for accommodating minority rights and participation still play a role in future aspirations? If not, what are the alternatives? What role will western models of governance play in future? There is still a lot of scope for future research.

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