

*Tenth Session of the UN Permanent Forum on Indigenous Issues
16-27 May 2011*

**Introductory remarks on the Special Rapporteur's Report on the Chittagong Hill Tracts
Dalee Sambo Dorough**

As the Forum member responsible for the portfolio of human rights I want to offer some general comments on this issues. At the outset, let me thank the government of Bangladesh for his statement and to acknowledge the concerns raised by the government and in particular, their interpretation of the relevant international human rights standards and norms surrounding this difficult issue. The views and perspectives of the government should be addressed with the same fervor that the concerns of the Indigneous peoples of the region are being represented within this Forum and elsewhere. It is my hope that, within the UNPF on Indigenous Issues, that we can come to a peaceful and final resolution of all of these issues. I would also like to thank the Special Rapporteur for his work and report on the topic.

I recall this issue as a matter of concern from my initial involvement in the work of the UN Working Group on Indigenous Peoples in 1985. The current conditions of human rights violations and in particular, the more recent escalation in conflicts, violence, and military abuse and control, and seemingly done with impunity are equally as alarming as those that triggered the first low-intensity guerilla conflict in the early 1970s. Despite the minimal initiatives to resolve these outstanding issues, it appears that the seeming lack of political will has only exacerbated the problems facing the indigenous peoples of this region. The military control, encroachment, displacement or forced removal, forced relocation, rape, sexual harassment, and other violence against women all require immediate action.

It seems that the notion of a social contract does not in any way exist in the context of the Jumma people and the government of Bangladesh. I understand theory of a social contract to pivot on an agreement among citizens that defines and limits the rights and duties of both a government and its peoples, including protection and security provided by the state in exchange for citizenship.

In regard to the conditions facing the Indigenous peoples of Bangladesh, such details were covered by my predecessor, friend and long time colleague, former Permanent Forum member from the Arctic, Lars Anders Baer as well as the Jumma peoples' representatives that we've heard from this morning. For myself, rather than emphasizing Article 7 on acts of violence and genocide, I want to emphasize Article 8 and the real opportunity for the Government of Bangladesh to provide the effective mechanisms for the prevention of and redress for actions that have the aim or effect of depriving the Jumma people of their integrity, cultural values and identities as distinct peoples as well as actions that have the aim or effect of dispossessing the Jumma peoples of their lands, territories and resources. In addition, I want to emphasize actions that the State can take to prevent forced population transfer that may have the

aim or effect of violating or undermining the collective rights of the Jumma people's as well as their cultural values or distinct Indigenous identity. I want to emphasize actions that the government of Bangladesh can take to ensure against forced assimilation or integration of the Jumma peoples into the Bengali or larger Bangladeshi identity.

I want to focus upon the UN Declaration as the contextual framework for moving forward. For the serious situation facing both parties, I sincerely believe that the UN Declaration provides a new point of departure.

As we all know, one of the key purposes and principles of the United Nations Charter is to “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.” In light of the escalating conflicts in the Chittagong Hill Tracts, what does “universal peace” mean? Recognizing the peoples of this region as proper objects and subjects of the UN Declaration on the Rights of Indigenous Peoples, there are a few articles that are worth highlighting in terms of advancing beyond the static condition of implementation of the Chittagong Hill Tracts Accord and the related issues.

The Declaration speaks of the integrity of Indigenous communities. Integrity means something whole, or in unimpaired condition, the quality or state of being complete or undivided. As an outside observer with extremely limited firsthand information, it seems that the conditions that the Jumma people face are far from integrity in its most common definition.

If I understand correctly, the Chittagong Hill Tracts Accord of December 2, 1997, as a contemporary constructive agreement, offers a way for both parties to move closer toward Articles 3 and 4 of the UN Declaration to allow for improved conditions for self-determination and self-government or autonomy for the Jumma indigenous peoples through the strengthening of the CHT regional council and the three district councils. It seems that such a movement would be far more desirable than being responsible for the denial of the rights of the Indigenous peoples concerned and furthermore, that the Accord actually provides a road map to arrive at a more satisfactory condition for both parties. What is preventing the Government from implementing these seemingly reasonable and previously agreed upon measures?

In regard to the Jumma peoples' rights to lands, territories and resources or essentially their ancestral lands, that the mechanisms established in the form of a Land Commission seems far more preferable of a path to follow than to allow for encroachment by others, which merely contributes to the problem of refugee status or internally displaced persons that may become the focus of the High Commissioner for Refugees. Such actions to implement these provisions would be more responsive to the rights and objectives of the articles within the UN Declaration concerning lands, territories, and resources.

In relation to militarization of the region, it seems that it would be much more preferable and cost effective for the Government of Bangladesh and much more preferable to the Jumma

peoples for full demilitarization of the Chittagong Hill Tracts. As the UN Declaration notes, demilitarization of the lands and territories of indigenous peoples actually contributes to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world. Why would this not be a desirable outcome?

The fracturing or erosion of Indigenous political institutions in the region cannot be good for anyone, including the Government of Bangladesh not to mention the Indigenous peoples concerned. Again, consistent with the right of self-determination of the Jumma peoples, the right to determine their own political status [Article 3], their right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions [Articles 5 and 20] combined with the provisions to the Accord to advance both the regional and hill district councils and the traditional institutions are seemingly good initial first steps toward resolving the unrest and political instability currently facing the region and these distinct Indigenous peoples.

Given the history of the region, it is difficult to understand why there has been a failure to implement the 1997 Accord, which appears to be a minimal, first step initiative to comprehensively address the basic human rights and fundamental freedoms of the Jumma peoples. If the argument centers on the notion of securing the rights of the unitary state of Bangladesh, the UN Declaration can also inform this dilemma through positive interpretation of the preambular language addressing the need to recognize “that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration” and furthermore the need for states to recognize right of all peoples to be different, to consider themselves different, and to be respected as such.

Finally, the sanctity of the unitary state can only be safeguarded if in fact the state claiming such sanctity is “conducting themselves in compliance with the principle of equal rights and self-determination of peoples.”

Thank you for your attention and let us hope that this matter can be addressed within the framework of the UN Declaration, in a collaborative, expeditious, calm, and peaceful fashion. Thank you.