

Presentation of the study on the status of implementation of the Chittagong Hill Tracts Accord of 1997
UNPFII - 10th session - May 25, 2011

Madam Chairman

Allow me first of all congratulate you on your election as chairperson of PFII. In this context I would like to recognize your personal experience and commitment in Nicaragua as an indigenous person that has worked for conflict-prevention, peace building and the implementation of peace agreements.

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At its 9th session in 2010, the Permanent Forum appointed me as Special Rapporteur to undertake a study on the status of implementation of the Chittagong Hill Tracts Accord of 1997.

This decision was informed by the many cases of serious human rights violations committed against the indigenous population in the Chittagong Hill Tracts brought to the attention of the Permanent Forum over the years. The decision was, however, also informed by the fact that the Chittagong Hill Tracts Accord is an important model for an agreement, which provides some form of indigenous autonomy and which aims at bringing long-standing peace in the region. Hence, it is an agreement that provides valuable lessons from which to learn.

In connection with the preparation of the study and my capacity as a member of the international Chittagong Hill Tracts Commission, I visited Bangladesh in September 2010 where I met with indigenous representatives as well as various Government officials, including the Minister for Foreign Affairs and the State Minister of the Ministry of Chittagong Hill Tracts Affairs. I want to sincerely thank the Government of Bangladesh for extending its support for the study.

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I also want to note that I, in my capacity as Rapporteur, communicated the draft study to the Permanent Mission of the People's Republic of Bangladesh to the United Nations as agreed. The Rapporteur did not, however, receive any response but hopes still that the study will be a useful contribution for strengthening the dialogue with the Government of Bangladesh and other stakeholders.

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The Chittagong Hill Tracts is situated in southeastern Bangladesh and is home to 11 indigenous peoples, numbering approximately 500,000 persons. In 1976, the Shanti Bahini which was the armed wing of the indigenous peoples' political party, Parbatya Chattagram Jana Samhati Samiti (PCJSS), initiated a low-intensity guerrilla war against the Government of Bangladesh in response to the erosion of their autonomy, the denial of constitutional recognition and their political, economic and social marginalization. In 1997, the Chittagong Hill Tracts Accord was signed between the Government of Bangladesh and PCJSS. The Accord

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recognizes the Chittagong Hill Tracts as a tribal inhabited region, acknowledges its traditional governance system and the role of its chiefs and provides building blocks for regional autonomy.

In my study I assess the progress in the implementation of the main provisions of the Chittagong Hill Tracts Accord since it was signed thirteen years ago. Among the provisions fully or at least partially implemented are:

- The establishment of the Chittagong Hill Tracts Regional Council with the office of the Chairperson and two thirds of its members reserved for indigenous people.
- The establishment of the Ministry of Chittagong Hill Tracts Affairs, headed by an indigenous person.
- The passing of a number of laws complying with the Accord, including the Chittagong Hill Tracts Regional Council Act of 1998 and the Hill District Council (amendment) Act of 1998.
- The constitution of an Accord Implementation Committee mandated to monitor the implementation process.
- Providing the three Hill District Councils with more authority and autonomy through an increase in the number of subjects transferred to their authority.
- The appointment of the Chairperson of the Land Commission mandated to settle the land disputes in the Chittagong Hill Tracts (It should however be mentioned that the current Chairperson has made a number of controversial, unilateral decisions which in effect have paralyzed the work of the Land Commission).
- The withdrawal of a number of temporary military camps: PCJSS estimates that around 75 out of more than 500 temporary military camps have so far been withdrawn while the number according to the Government is 200 camps. It should be noted that no list of the dismantled camps has been provided by the Government.
- The repatriation and rehabilitation of the nearly 70,000 indigenous peoples who fled to the Indian state of Tripura during the insurgency period has largely been carried out.

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Despite these important steps, the study clearly shows that many critical clauses of the Accord remain unimplemented or only partially addressed, particularly those aimed at activating and empowering the civil administration, including the indigenous majority councils and the traditional administration, resolving land disputes and restituting to the indigenous peoples their illegally occupied lands. Hence, there is still a long way to go before the intention of the Accord that is the establishment of a regional system of self-government and the preservation of the area as a "tribal inhabited region" is achieved.

One of the reasons highlighted in the study for the failure to fully implement the Accord is the lack of unanimous political support to the Accord, which gives the Awami League, who signed the Accord and who is currently in power, little incentive to push for the Accord's implementation. However, the study also points out that the reasons for non-implementation of the Accord reach beyond the political party running the Government. The region remains heavily militarized and there have been continued and consistent allegations that the army is not only interfering in civilian affairs in the region, but also carrying out, instigating or tolerating systematic gross violations of human rights against indigenous peoples, including burning of villages, torture and rape. It is in that regard, Madam, Chairperson, that I also wish to express my deep concern as Special Rapporteur over the practice of impunity that seems to have prevailed over many years in the CHT. It is indeed the responsibility of Bangladesh to protect the human rights of all, including those of the indigenous peoples, an obligation which includes bringing alleged culprits to justice. Moreover, given that Bangladesh has ratified the Statute of the International Criminal Court, Bangladesh, and all other States parties to the ICC, have to take responsibility regarding the international criminal aspects of gross violations of human rights in the CHT.

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In conclusion, this study attests to how challenging it is to satisfactorily implement peace agreements when political intent and goodwill is overridden by other interests and how delayed implementation has resulted in continued widespread human rights violations, violent conflicts and military control. The study thus concludes with providing recommendations to relevant stakeholders intended to immediately implement in full the spirit and provisions of the Chittagong Hill Tracts Accord. Among the recommendations are:

- To encourage the Government of Bangladesh to declare a timeline for implementation of all provisions of the Chittagong Hill Tracts Accord during the remaining period of its term, outlining modalities of implementation and persons and/or institutions responsible for implementation;
- To encourage the Government of Bangladesh to facilitate the expedient settlement of land disputes by the Land Commission through the immediate amendment of the Land Dispute Settlement Commission Act of 2001;
- To encourage the Government of Bangladesh to implement a phased withdrawal of temporary military camps in the region in accordance with the Accord;
- To encourage the Government of Bangladesh to transfer functions normally performed by civilian agencies but now undertaken by the military to the civil administration and to institutions set up under the Accord;
- For the Department of Peacekeeping Operations to develop a mechanism to strictly monitor and screen the human rights records of national army personnel from Bangladesh prior to allowing them to participate in peacekeeping operations under the auspices of the United Nations;
- For international donor agencies in Bangladesh to act on their commitments to support the implementation of the Chittagong Hill Tracts Accord; and

- For the Permanent Forum to dedicate a special agenda item of its 12th session in 2013, or a technical seminar, to peace building processes, the implementation of peace agreements and conflict-prevention initiatives in indigenous peoples' territories.