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**Agenda Item 4(a)  
Human Rights:  
Implementation of the UN Declaration on the Rights of Indigenous Peoples**

**Intervention by:  
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Grateful thanks for the presentations this morning, including by outgoing Special Rapporteur on Indigenous Peoples, James Anaya and the president of CERD, Jose Francisco Cali Tzay. It is also encouraging to see increased participation of governments at this session, including from Asia.

In this intervention, I would like to particularly draw attention to the intervention by the Government of Bangladesh, on Agenda Item 5, on 15 May, 2014.

We are indeed happy to hear from the Government and to learn of its commitment to implement the unimplemented provisions of the 1997 Accord on the Chittagong Hill Tracts region, which is my home.

The Chittagong Hill Tracts is a region bordering Myanmar and India, and the home of eleven indigenous peoples, who have lived there for centuries, including before the arrival of the Portuguese in the 16<sup>th</sup> century. One of our kings even had a treaty with the British Governor General in 1787, which accepted a tributary relationship but retained the self-determination of the peoples of the area, until the region's annexation to Bengal in 1860. A certain level of self-determination is still exercised by our peoples, including in the sphere of our personal laws, but this right has been reduced since, with limited self-government.

I am a little concerned about two matters that were mentioned in the Government of Bangladesh's aforesaid intervention. One is with regard to the amendment bill on the Chittagong Hill Tracts Land Commission, and the other is with regard to the identity of indigenous peoples of Bangladesh.

For the record, I had presented a study on the CHT Land Commission in

Bangladesh and the work of the National Commission on Indigenous Peoples of the Philippines a few days ago (E/C.19/2014/5). And I thank the Government of Bangladesh for its kind words about my study, which referred to the CHT Land Commission as a best practice model.

The Land Commission – acting on the basis of a law passed in 2001 (Act 53 of 2001) - has been dysfunctional since its inception, particularly on account of the inconsistency of certain provisions of the law with the provisions of the 1997 Accord on the CHT. The government has referred to the delays in the passage of the amendment law in order “to get all concerned parties on board” and that this delay is “a necessary evil”.

I do not think anyone would disagree with the need to be inclusive, but the matter has been delayed for almost one and half decades now. If the commission, headed by a Justice of the Supreme Court, could start its work, it would diffuse a lot of tension, including ethnic conflicts, and anchor the peace process to legal remedies and the rule of law.

The other concern I have is the Government of Bangladesh’s request to the Permanent Forum to use the legally recognized terminologies of the Government of Bangladesh in relation to groups in the country claiming indigenous status.

There is a plethora of laws that governments use, all over the world, to refer to their indigenous peoples. It is not practicable to expect that UN bodies, including this Forum, can cater to all these laws. Thus, a more pragmatic approach is to acknowledge that the term ‘indigenous peoples’ applies to different groups that are variously named in different national legal documents, such as is done by the World Bank and a number of regional development banks.

The representative of the Government of Bangladesh himself used the term “ethnic minorities” in his intervention, a term that does not occur in the national constitution. This is not surprising, as the constitution uses a number of terms, and it is quite clumsy to have to refer to all of them in one sentence.

The English terms “Indigenous” and “aboriginal and their Bengali equivalent, “Adibashi”, still occur in several Bangladeshi laws that are valid today (respectively, CHT Regulation, 1900, Act 28 of 1951, and Social Forestry Rules, 2004 and Act 23 of 2010). This includes a law passed by the ruling coalition government under Her Excellency, Prime Minister Sheikh Hasina, a few years

ago (Act 23 of 2010).

Bangladesh has ratified ILO Convention No. 107 on Indigenous and Tribal Populations, and the convention's provisions apply equally to both 'indigenous' and 'tribal' population groups, as in the case of ILO Convention No. 169 (which refers to 'indigenous and tribal peoples'). The distinction between 'indigenous' and 'tribal' groups is no longer relevant in the context of international human rights law, and the currently accepted terminology is 'indigenous peoples', as affirmed in the most recent global standard of indigenous peoples, the UN Declaration on the Rights of Indigenous Peoples.

Let me also refer to the *Study on Discrimination against Indigenous Populations*, by UN Special Rapporteur Jose Martine Cobo, which is regarded as a monumental study on indigenous peoples (E/CN.4/Sub.2/1982/2/Add-6, 20 June, 1982), which refers to Bangladesh in several paragraphs, including paragraph 16, wherein the Special Rapporteur states that the Government of Bangladesh communicated to him the information that there were indigenous peoples in Bangladesh.

I would like to encourage the Government of Bangladesh and other governments from Asia and elsewhere to continue to participate in the sessions of this Forum, and facilitate further dialogues between indigenous peoples, governments and UN institutions, including this Forum.

Thank you.