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Social and human rights questions:**Permanent Forum on Indigenous Issues**

Joint letter dated 15 July 2022 from the Permanent Representatives of Bangladesh, India and Indonesia to the United Nations addressed to the President of the Economic and Social Council

With reference to the Draft Decision III to be adopted by the Economic and Social Council during the its Management Segment meeting on 21st July 2022, which takes note of the report of the 21st Session of the United Nations Permanent Forum on Indigenous Issues, the delegations of Bangladesh, India and Indonesia would like to draw your kind attention to the following:

The report contains specific references pertaining to the situation of 'indigenous people' in Bangladesh, India and Indonesia. We wish to reiterate that those references are unfounded, factually incorrect and do not correspond to the stated position of the respective member States on the issue, and the Forum was made aware of this via official communications (enclosed). Furthermore, the concerned members States were denied of their fundamental right to express their views and positions during the adoption of the report by the Forum especially when the report made specific references to the concerned Member States.

As the observers of the Forum, the concerned member States engaged with the Forum constructively throughout the session; yet the Forum decided to include the references without providing them with an opportunity to present their positions. Some of the issues highlighted in the Report were also only raised in passing, and not in the context of the topic of the discussion. We are concerned that any such working method that precludes member states from stating their concerns and positions runs contrary to the most fundamental principle of multilateralism, where all member states are equal and are entitled to articulate their national positions.

The misuse of UN PFII by some individuals and organizations for their own agenda, is a matter of serious concern for us. There is an urgent need to put in place a transparent vetting process to verify credentials of the individuals or indigenous groups, claiming to be representing indigenous issues, prior to giving them access to the Forum meetings.

The delegations stress the importance of ensuring that the Forum is not misused by any individual or organization to undermine the fundamental principles of the UN Charter, in particular the principles of sovereignty, territorial integrity and political independence of the Member States.

The delegations of Bangladesh, India and Indonesia would therefore like to propose an amendment to the draft decision of the ECOSOC taking note of the said report in order to ensure that the communications of the concerned delegations are taken note of by the Council and reflect the actual situation.

We thank you for your kind attention.

Please accept, Excellency, our assurances of highest consideration.

(signed) **Rabab Fatima**

Permanent Representative of Bangladesh to the United Nations

(signed) **R. Ravindra**

Charge d'affaires, Permanent Mission of India to the United Nations

(signed) **Arrmanatha Christiawan Nasir**

Permanent Representative of the Republic of Indonesia to the United Nations

ANNEX I

A. Note verbale dated 5 May 2022 from the Permanent Mission of Bangladesh to the United Nations addressed to the Chair of the Permanent Forum on Indigenous Issues at its twenty-first session

The Permanent Mission of the People's Republic of Bangladesh to the United Nations, New York presents its compliments to the Chair of the Permanent Forum on Indigenous Issues (PFII) and has the honour to refer to the communications from the later regarding possible inclusion of the following recommendation in the report to be adopted by the Permanent Forum at its 21st session on Friday 6 May 2022, pertaining to Bangladesh:

“The Permanent Forum recalls the recommendation in paragraph 52 of the report of the eighteenth session, as well as the recommendations made by the Special Rapporteur in the study on the status of implementation of the Chittagong Hill Tracts Accord of 1997 (E/C.19/2011/6, sect. VIII), in particular the call to: (a) Set a time frame for the full implementation of the Accord, including devolution of authority to the Chittagong Hill Tracts Regional Council and the three Hill District Councils; (c) withdraw all temporary military camps.”

The Permanent Mission of Bangladesh wishes to inform the esteemed Forum that implementation of the CHT Peace Accord is a priority for the Government of Prime Minister Sheikh Hasina, under whose leadership the Accord was concluded in 1997 putting an end to the decades-long conflicts in the region. Information on the progress is provided below:

- The Government has fully implemented 48 clauses of the Accord, while 15 have been implemented partially. Remaining 09 are under implementation. An assessment of the implementation status of the Accord provisions along with the challenges in their execution is underway.
- As part of the implementation of the Accord, almost all administrative departments has been transferred to the three hill district councils in Rangamati, Khagrachhari and Bandarban. Transfer of remaining three departments is under process.
- For the resolution of disputes, Land Dispute Settlement Commission Act 2001 was been passed which solemnized the customary laws, rules and procedures related to land in the CHT. A high-powered Commission led by a Supreme Court Justice is currently functioning to resolve the complaints.
- The presence of military in CHT has been reduced substantially. 241 military camps out of 448 have been closed so far. However it may be noted that CHT is a region with international border where there are legitimate security concerns due to presence of cross-border criminal elements including drug trafficking and other organized crimes. The presence of security agencies is critical for protection of the civilian population in that area.
- Law enforcement is run by police through 26 police stations, 32 police camps, and community policing. Representation of ethnic minorities in police have increased gradually. The government has allocated 5% quota for the ethnic minorities in government service and public universities. The government ministry responsible for CHT Affairs is led by a minister representing ethnic minority community.

- The government is providing mother language-based primary education in CHT region with free text books in 5 tribal languages. The government has recently nationalized the teachers of 205 schools in CHT, bringing them under the government payroll including with arrears.
- Bangladesh government is working with the international community – the UN, and development partners including the EU to support peace and development in CHT areas. Currently several projects are undergoing in the area with technical assistance from UNDP and UNICEF. We are also working with ICRC to address livelihood and other challenges in the CHT region.
- All development projects and other engagements with UN agencies and the development partners in CHT region are undertaken with prior approval of CHT Regional Council and the respective hill district councils, which are constituted by the ethnic communities.
- The people of CHT has been part of the national COVID19 response and recovery plans. Nearly 70% of the CHT people have been brought under vaccine coverage. Food assistance was provided to nearly 100,000 households and seeds and other inputs were supplied to the 55600 farmers during the pandemic.

The Government of Bangladesh wishes to further state that the Peace Accord has substantially consolidated peace in the region, as reflected in a survey conducted by UNDP, where 65% of over 2,500 surveyed households reported that they confidently move everywhere outside their own village as compared to 34.5% prior to the Accord. It has also enabled significant political and economic integration of the ethnic minorities from the CHT region.

In view of the above, the permanent mission would Bangladesh would like to urge the Forum to reconsider its decision to include the proposed recommendation in its report as that might undermine the visible achievements made in the implementation of the Accord and create further division among the stakeholders. The Permanent Mission of Bangladesh wishes to reassure its readiness and availability for further engagement and exchange of information with the Forum.

The Permanent Mission of Bangladesh to the United Nations avails itself of the opportunity to renew to the Chair of the Permanent Forum on Indigenous Issues the assurances of its highest consideration.

B. Note verbale dated 6 May 2022 from the Permanent Mission of Bangladesh to the United Nations addressed to the Chair of the Permanent Forum on Indigenous Issues at its twenty-first session

The Permanent Mission of the People's Republic of Bangladesh to the United Nations, New York presents its compliments to the Chair of the Permanent Forum on Indigenous Issues (PFII) and has the honour to refer to the communications from the Secretariat dated 6 May 2022 informing the proposal of the Forum to include the a recommendation (paragraph 9) in the report to be adopted by the Permanent Forum at its 21st session on Friday 6 May 2022, pertaining to Bangladesh:

In this regard, the Permanent Mission wishes to inform that Government of Bangladesh deeply regrets the inclusion of the last line in the recommendation, which *calls upon the Government to continue to address all forms of violence, including enforced disappearances, and sexual violence against women in CHT committed by law enforcement agencies.*

The Permanent Mission of Bangladesh wishes to inform that, as a State we are bound to address all acts of violence irrespective of who commits them. Our law does not allow any impunity for anyone, including the law enforcement officials. The recommendation prejudices involvement of law enforcement officials without any substantiated data or evidence. The Permanent Mission would therefore request the Forum not to include this in the recommendation.

The Permanent Mission of Bangladesh would like to reaffirm its commitment to continue to remain constructively engaged with the Forum and count on its advisory support.

The Permanent Mission of Bangladesh to the United Nations avails itself of the opportunity to renew to the Chair of the Permanent Forum on Indigenous Issues the assurances of its highest consideration.

ANNEX II**A. Note verbale dated 5 May 2022 from the Permanent Mission of India to the United Nations addressed to the Chair of the Permanent Forum on Indigenous Issues at its twenty-first session**

The Permanent Mission of India to the United Nations presents its compliments to the Chair of the 21st session of the UN Permanent Forum on Indigenous Issues (UN PFII) and has the honour to refer to the email message dated 4 May 2022 received from the Indigenous Peoples and Development Branch, Division for Inclusive Social Development, Department of Economic and Social Affairs of the UN.

The Permanent Mission of India has the honour to convey its strong objection to the inclusion of the mentioned paragraph in the report to be adopted by the Permanent Forum at its closing session on 6 May 2022. The assertions made in the paragraph are baseless and motivated. In this regard, Permanent Mission of India request the Chair to note the following points:

- The issue of indigenous rights pertains to peoples in countries who are regarded as indigenous or account of their descent from the populations which inhabited the country; or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. This is precisely the definition used in ILO Convention No. 169 of 1989.
- Consistent with this definition, the entire population of India at the time of independence, and their successors, to be indigenous. Therefore, the concept of "indigenous peoples" is not applicable in India's context. This has been reiterated in India's statements, at relevant forums including at the UN PFII Permanent on 28 April 2022 under Agenda 6.
- The continuous misuse of UN PFII by some individuals and organisations, for their own individual and selfish agenda, is serious concern and regret.

Through this Note Verbale, the Chair is requested to display objectivity, impartiality and neutrality to ensure that the Forum is not misused by motivated individuals to disrespect the fundamental principles of the UN Charter, in particular the principles of sovereignty, territorial integrity and political independence of Member States.

India is strong supporter of the promotion and protection of the rights of indigenous peoples. India had supported the adoption of the UN Declaration on the Rights of the Indigenous Peoples (UNDRIP) in 2007.

The Permanent Mission of India to the United Nations avails itself of this opportunity to renew to the Chair of the 21st session of the UN Permanent Forum on Indigenous Issues the assurances of its highest consideration.

B. Note verbale dated 1 July 2022 from the Permanent Mission of India to the United Nations addressed to the President of the Economic and Social Council

The Permanent Mission of India to the United Nations presents its compliments to the President of the United Nations Economic and Social Council and has the honour to refer to the report on the twenty-first session of the Permanent Forum on Indigenous Issues (PFII) (E/2022/43-E/C.19/2022/11).

2. The Permanent Mission of India has the honour to convey its strong objection to the unfounded references made to India in the report. In this regard, the Permanent Mission of India requests the President to kindly note the following points:

- The issue of indigenous rights pertains to peoples in countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. This is precisely the definition used in ILO Convention No. 169 of 1989.
- Consistent with this definition, the entire population of India at the time of independence, and their successors, to be indigenous. Therefore, the concept of 'indigenous peoples' is not applicable in India's context. This has been reiterated in India's statements, at relevant forums including at 21st session of the UN Permanent Forum on Indigenous Issues on 28 April 2022.
- The concept of indigenous peoples relates to the specific situations where people suffered from historic injustices as a result of their colonization and dispossession of their lands, territories and resources. This complex concept cannot be expanded to create artificial divides by including societies where diverse ethnic groups have lived together for thousand years.
- In the report of the 21st session of PFII, the term 'scheduled tribes' has been used in bracket with 'indigenous peoples' in the Indian context, especially in paragraph 52. There is clear distinction between the two terminologies and the same has been stated by India at various international fora including, at the UN General Assembly. Therefore, the UN, including ECOSOC and its various Specialised Agencies and Funds and Programmes should ensure that it use the correct terminologies in all its public documents and reports.
- At the adoption of the report by the PFII, India was denied the opportunity to present its views I deliver statement even when the report made specific reference to India. This constitutes a violation of Member State's right to express its views especially when the report contains references pertaining to the concerned Member State.
- The continuous misuse of UN PFII by some individuals and organisations, for their own individual and selfish agenda, is serious concern and regret.
- There is an urgent need for a transparent process of scrutiny of the NGOs or indigenous groups, who claim to be representing indigenous issues, prior to giving them accreditation for the Forum meeting, in accordance to ECOSOC resolution 1996/31.

The Permanent Mission of India has the honour to request the President of ECOSOC to record the strong objection made by the Permanent Mission of India on the mentioned report and to include this Note Verbale as an annexure to the report of the 21st session of PFII.

The President of ECOSOC is requested to ensure that the Forum is not misused by motivated individuals/organisations to disrespect the fundamental principles of the UN Charter, in particular the principles of sovereignty, territorial integrity and political independence of Member States.

India is a strong supporter of the promotion and protection of the rights of indigenous peoples. India had supported the adoption of the UN Declaration on the Rights of the Indigenous Peoples in 2007.

The Permanent Mission of India to the United Nations avails itself of this opportunity to renew to the President of the United Nations Economic and Social Council the assurances of its highest consideration.

ANNEX III

Note verbale dated 6 May 2022 from the Permanent Mission of Indonesia to the United Nations addressed to the Chair of the Permanent Forum on Indigenous Issues at its twenty-first session

The Permanent Mission of the Republic of Indonesia to the United Nations presents its compliments to the Chair of the Twenty-First Session of the United Nations Permanent Forum of Indigenous Issues (the 21st UN PFII) and has the honor to refer to the draft Report: Unedited Rapporteur's version of the 21st UN PFII.

The Permanent Mission has further the honor to convey its strongest objection to the sentence referring to "**..the West Papuan people's assertion of their rights to decolonization and independence,**" as contained in the Pacific section in the Report on Item 5 (e): Regional dialogues: Indigenous peoples and pandemic recovery.

- There was never a dialogue on the issue of decolonization and independence during the Pacific Regional Dialogue under Agenda Item 5(e).
- Reference to West Papua depicted in the Report is not accurate, and does not reflect the legal status of The Provinces of Papua and West Papua as an integral part of Indonesia. Papua and West Papua are irrevocable part of Indonesia since 1945. It was also firmly endorsed by the United Nations and the international community decades ago by UN GA Resolution No. 2504 (XXIV).
- Reference to the issue of decolonization and independence contained in this Report violates Article 46 (1) of the United Nations Declaration of The Rights of Indigenous People (UNDRIP), which states:

"Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States."

Given the above, **we request that the reference to the issue of decolonization and independence be deleted** in the Pacific section in the Report on Item 5 (e).

We remind the Chair and Members of the 21st UN PFII of your responsibility to uphold and fully adhere to the fundamental principles of the UN Charter and UNDRIP in undertaking your work. Deliberations of indigenous people's issues must be carried out in accordance with the principle of sovereign equality, territorial integrity, and political independence of States.

The Permanent Mission further requests that this Note Verbale be recorded as part of the official documentary proceedings of the 21st Session of UN PFII and circulated among the members of the UN PFII.

The Permanent Mission of the Republic of Indonesia to the United Nations avails itself of this opportunity to renew to the Chair of the Twenty-First United Nations Permanent Forum of Indigenous Issues the assurances of its highest consideration.