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INDIGENOUS PEOPLES' RIGHTS AND NEW CONSTITUTION

Statement by :
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Honorable chair, excellences, and Indigenous brothers and sisters, Jojalapa ! (Warm Greetings in my mother-tongue)

I am Rajani Maharjan, General Secretary of Newa Dey Daboo (Newar National Organization) speaking on behalf of all Indigenous peoples of Nepal.

In Nepal, a grave disparity led by the discriminatory practices like systematic exclusion and marginalization of indigenous peoples exercised by the state from their rights to participate, their representation at decision making of state mechanism and structure. The Ten year conflict ended up giving mandate to write up a new constitution through constituent Assembly with a view to incorporating representations from excluded groups and minorities. And it resulted in comprising 218 representations from various indigenous communities among the total number of 601 CA Members. It was a great time for Indigenous CA members and came into a common platform in the form of a caucus that concluded following prominent issues expected to be addressed in new constitution

- *Formation of autonomous federal states;*
- *Fully proportional representation of indigenous peoples in all the state structures, and constitutional provision of special rights for indigenous ethnic minorities for their representation;*
- *Ensuring constitutional, legal and administrative provisions to establish the identity of indigenous ethnic women and to end all kinds of caste and gender discrimination;*
- *Establishing equal status and giving recognition to the language, religion and cultures of the indigenous ethnic groups;*
- *Making constitutional and legal arrangements for the effective implementation of ILO Convention 169 and UN Declaration on the Rights of Indigenous Peoples;*
- *Ensuring indigenous peoples' ownership and control over forests, land and other natural resources;*
- *Ensuring indigenous peoples' ownership and control over forests, land and other natural resources;*
- *National unity through the recognition of community identity and collective rights.***

But unfortunately, it dissolved in May, 2012 without promulgation of Constitution. It was a big disaster fell upon Indigenous peoples' dream. Notwithstanding Nepal witnessed 2nd Constituent Assembly formed in 2013 and it faced hue and cry for it has overlooked minimum legal standard to make representation of indigenous peoples along other minorities.

The present CA has dismayed Indigenous peoples of Nepal. The dissolution of former CA without promulgating constitution was a bolster step against Indigenous peoples' public outrage and

discontentment suppressed for more than 250 years and 2nd CA was born out of an entire planning of exterminating their voice and aspirations from the constitution.

Mr. Chairperson,

I would like to reiterate here regarding steps carried out by the Committee on the Elimination of Racial Discrimination (CERD). It had issued warning letter to Nepal government on March 13, 2009 and a follow up letter on September 28, 2009. In the letter, the committee advised the government to establish a mechanism for ensuring Indigenous people's free, prior and informed consent in relation to the constitution writing process. On July 20, 2009 and September 15, 2010, Prof. Anaya recommended Nepal Government to develop a special mechanism for consultation with the Nepali indigenous peoples, through their own representative institutions regarding new constitutional provisions.

With it, I would like to recommend on behalf of Nepal's Indigenous peoples:

It is inevitable for Special Rapporteur for Indigenous peoples Upcoming Vicky Tauli Corpuz to visit Nepal and analyze and recommend Nepal government and concerned bodies to put pressure the issues of Indigenous peoples' to be addressed in new constitution.

Let me seize this opportunity to thank Committee on the Elimination of All forms of Racial Discrimination (CERD) for its consistent follow up by sending letter to Nepal Government and also recommend to take constructive step to ensure effective and meaningful participation of IPs in ongoing Constitution making process. Further, recommend government to comply the Article 63(c) of the Interim Constitution of Nepal by nominating IP Constitution Members in 26, which is allocated for members of the civil society, and Indigenous Communities who are not represented in the CA. CERD, SRIP should recommend to set up a mechanism-established for ensuring FPIC especially in relation to ongoing constitution writing process.

Looking back to our experience in our Country, EMRIP should carry out a comprehensive study on law reforming process focusing to avoid systematic exclusion of Indigenous Peoples' rights and to ensure due reflection of the international human rights norms and values enshrined in the relevant instruments.

Thank you !