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Chanda Purn - NGA/

**Collective Statement**

**Under the Item Agenda No. 5**

Intervention to the Seventh Session of United Nations Permanent Forum on Indigenous Issues (UNPFII) to call for the direct representation of indigenous peoples in the constitution making process of Nepal

Presented by on behalf of:

Lawyers' Association for Human Rights of Nepalese Indigenous Peoples ( LAHURNIP), Nepal Federation of Indigenous Nationalities (NEFIN), AMAN Indonesia, AINU Resource Center, Japan, Indigenous Peoples Rights Monitor, Philippine, Chin Human Rights Organization, Burma NNIW, Indigenous Nationalities Upliftment Center (INUCE NEPAL), Pewa Nepal, IAITPTE, Thailand, ICIP India APIYN, India, NGA Forum on Cambodia, ANIJ, Nepal.

Madam Chair,

Distinguished members of UNPFII, government delegates, indigenous brothers and sisters , we wish to inform you that Nepal is now undergoing a democratization process after 238 years of unitary system. As part of this, the historic constituent assembly for the making the new Constitution is underway. The process involves the selection of 601 candidate- members from the registered political parties to become members of the constituent assembly. In the whole composition of the Constituent assembly, the political parties will have to designate 37 % out of the 325 to come from indigenous communities as a requirement for proportional representation system which included indigenous nationalities. Further, 26 members will be appointed by Council of Ministry.

Madam, Chair, while we partially welcome the proportional representation for the Constituent assembly which includes indigenous peoples, we wish to raise our concern on the process of selection of indigenous representatives to the Constituent Assembly. As presented above, the selection of indigenous representatives will have to go through the political parties. This process does not allow direct representation of indigenous peoples and undermines the indigenous institutions of decision making and well as of their own systems of selecting their own representatives which will be made directly accountable to them. Likewise the present election and selection process is tantamount to misrepresentation given the dominance of the party system, and worst, the prevailing control of non-indigenous dominant groups to the political parties.

Madame Chair, the ongoing restructuring of the State of Nepal by undertaking a democratization process was the demand by the popular people's movement of 2006 to correct the historical injustices made against indigenous peoples and other sectors during the last 239 years. We indigenous peoples of Nepal have lost our states at different historical periods, and we have been excluded from representation, consultation and participation in the nation building process. The nation building process continues to be racially discriminatory and the legal and policy frame works continue to be dominated by the so-called Hindu high caste

In spite of the very active participation on indigenous nationalities in the social movement for social justice, the state has totally denied our rights to participate in the constitution making process through our direct representation with full recognition as an indigenous group identity and compelled us to be assimilated in the political party without any option.

Madam Chair, the prevailing disregard of indigenous peoples' rights to participate directly in the constitution making process is a clear violation of the Article 1 of ICCPR and ICESCR, Article 1.2, 2, 3 of the ILO Convention No. 169, Article 8, Article 5 .c of the CERD and 4(d) (e) of CERD General Recommendation XXIII, article 3, 4, 18 and 19 of UNDRIP which guarantee the indigenous peoples rights to participate in the Constitution making process. Similarly, it is a perpetuation of systematic exclusion and discrimination towards Indigenous Peoples in Nepal.

Madam Chair, we make the following recommendations to the UNPFII:

- to urge the Nepal Government to review to ensure the direct representation, chosen by indigenous peoples through their own organizations and procedures, in the twenty-six members that are to be appointed by the Council of Ministers.
- to urge the Government of Nepal to comply to its international commitments and meet international standard to ensure IPs' rights, including free, fair and informed consent and meaningful participation TO MATTERS CONCERNING them.
- to request UN HR Mechanisms take immediate appropriate actions to encourage Nepal Government to comply with its international commitments during the constitution making process
- to encourage Nepal Government to ensure IPs' genuine representation in different committees, including the draft committee, of the Constituent Assembly.
- Ensure the free, prior and informed consent while deciding any constitutional provision that affect indigenous peoples rights directly or indirectly.

I thank you Madam Chair.