

**Sixteenth Session of the Permanent Forum on Indigenous Issues
United Nations Headquarters, New York
27 April, 2017**

**Agenda Item 4: Implementation of the six mandated areas of the Permanent
Forum with reference to the United Nations Declaration on the Rights of
Indigenous Peoples**

Statement of National Indigenous Women Forum (NIWF)

Mr./Madame Chair, distinguished representatives, indigenous sisters and brothers,

I am Yasso Kanti Bhattachan from Nepal. I am honored to share our experience in this august gathering as a representative of the National Indigenous Women Forum (NIWF). This statement refers to six mandated area, specifically human rights and fundamental freedoms enshrined under the UNDRIP.

The Constitution of Nepal that gives racial supremacy to the Khas Arya caste, and the efforts made by the Government of Nepal go against articles 3, 17, 20, 23, 32 on economic, cultural and social development, articles 29 & 32 on environment, articles 21 & 24 on health of the UNDRIP. These rights have been blatantly violated in the new constitution of Nepal promulgated in 2015.

In Nepal, indigenous peoples, including indigenous women, and our movements are using the UNDRIP in multiple ways, namely, to engage in dialogue with the Government, private business and companies, and international aid agencies to fully comply with UNDRIP in their policies, plans, programs and actions. Also, UNDRIP is used to fight against the Nepal Government, private companies and multilateral agencies such as the World Bank, against violation of indigenous peoples' human rights, including right to free, prior informed consent, compensation and benefit sharing, in various areas, including hydropower projects, road expansion project, national park and wildlife hunting ground, and sacred sites. Further, we have been using UNDRIP in legal cases, conflict resolution, agreements between the government and indigenous peoples movements, advocacy, and awareness raising as well.

In such a bleak situation, the National Indigenous Women Forum (NIWF), in the capacity of national coordinator, organized the annual event called Human Rights Magna Meet in Kathmandu, Nepal from 9 to 11 December of 2016. More than 200 human rights organizations working in various parts of Nepal participated in the Magna Meet. It was indeed an alliance across movements for the rights of indigenous peoples, women, Dalits, Madhesi, Muslims, linguistic and religious groups, disables, and LGBTI. UNDRIP has indeed helped to human rights defenders and activists belonging the dominant caste and other non-indigenous peoples and other non-indigenous peoples to understand the rights of indigenous peoples. But we have a long way to go to enjoy fully and meaningfully in our everyday life. The Human Rights Magna Meet of 2015 indeed highlighted and focused on the collective rights of indigenous peoples enshrined in the UNDRIP in a significant way.

During the making of the constitution by the elected Constituent Assembly, The Supreme Court of Nepal issued a directive order to Nepal Government on 8 April 2013 to amend the existing Constituent Assembly Law, Regulation and constituent Assembly Regulation in par with international laws, including UNDRIP. The Supreme Court of Nepal issued a mandamus on 12 May 2014 to represent indigenous peoples left out by the first-past-the-post and proportional election systems through nomination. The government never implemented both the directive order and mandamus issued by the Supreme Court of Nepal, which indeed are contempt of the Court and against rule of law, one of the fundamental values of democracy. The Committee for the Elimination of Racial Discrimination had issued two early warnings to Nepal, one on 13 March 2009 and the other on 28 September 2009, with recommendation that "Mechanisms be established to ensure indigenous peoples' free, prior and informed consent in relation to the constitutional preparation process, and that an indigenous peoples' thematic committee be set up to guarantee the representation of and participation of indigenous peoples in political life." It was never complied with.

Therefore, National Indigenous Women Forum (NIWF) makes the following recommendations to UNPFII concerning the six mandated areas with reference to the UNDRIP:

- 1) To call upon the Nepal Government to rewrite or full amendment of the Constitution of Nepal, 2015 to make it fully compatible with the UNDRIP, and also to fully respect agreements made between Government and movements of indigenous peoples.

- 2) To call upon the government of Nepal to establish a mechanism for free, prior and informed consent and take consent of indigenous peoples in the course of enacting more than 360 legislations in progress.
- 3) For UNPFII and to call upon relevant UN Agencies to facilitate Government of Nepal to reform the new constitution by respecting collective rights in line with UNDRIP and other international standards of which Nepal has ratified, adopted.
- 4) For UNPFII to develop indicators, common as well as country specific, collect disaggregated data, and to monitor progress made by Nepal in these six mandated areas.
- 5) For UNPFII to carry out periodic indigenous auditing of Nepal.
- 6) Call upon the Government of Nepal and the UN system and other international aid agencies working in Nepal to implement with time bound plan of action in the six mandated areas of the UNPFII through revision of policies, plans, strategies, and programs making these fully compatible with UNDRIP and the Outcome Document.

Thank you.