Inter-Session Activity Report of the Working Group on Indigenous Populations/Communities

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Introduction

1. In accordance with Rule 23(3) of the Rules of Procedure of the African Commission on Human and Peoples’ Rights (the Commission) and in my capacity as the Chairperson of the Working Group on Indigenous Populations/Communities (the Working Group), I present this report on the promotion activities carried out by the Working Group since the 57th Ordinary Session of the Commission held in Banjul, The Gambia, from 4 to 18 November 2015. The report is divided into four parts. The first part is on the activities undertaken by myself and members of the Working Group during the inter-sessional. The second part highlights developments on the continent with regards to indigenous peoples’ rights during the reporting period. The third lays out some activities planned for the forthcoming inter-sessional period and the last part contains recommendations towards improving the livelihood and rights of indigenous peoples in Africa.

I. Activities undertaken during the inter-session

i. Conference in Cameroon

1. The Working Group, in collaboration with the Association for the Social and Cultural Development of the Mbororo (MBOSCUDA), organized a Regional Workshop on the “Outcome Document of the World Conference on Indigenous Peoples (the Outcome Document)” from 15 to 16 December 2015 in Yaoundé, Cameroon.
2. The Workshop was attended by 48 participants hailing mainly from eight (8) countries of the East and Central Africa sub-regions representing indigenous communities, states, national human rights institutions, civil society organizations, the media, and international experts. Prominent among them was the UN Special Rapporteur on the Rights of Indigenous Peoples, Ms. Victoria Tauli-Corpuz, and high ranking officials of the Government of Cameroon.

3. The objective of the Conference was to inform and raise awareness among participants on the contents of the Outcome Document of the September 2014 UN World Conference on Indigenous Peoples, the cornerstone for the implementation of the UN Declaration on the rights of indigenous peoples (the Declaration) and other relevant international legal instruments; encourage ownership of the Outcome Document by indigenous communities for a wider understanding and dissemination in the various countries; and initiate dialogue between the different stakeholders for the operationalization of the Outcome Document at the national and local levels.

4. At the Conference, presentations were made by members of the Working Group and the UN Special Rapporteur on the Outcome Document and other matters related and relevant to the Outcome Document, including the mandate, role and contribution of the Working Group in promoting and protecting the rights of indigenous populations in Africa. The presentations were followed by discussions during which the relevance of the Outcome Document was reaffirmed, in particular regarding immediate actions to be undertaken in favour of beneficiary indigenous populations in terms of capacity-building for NGOs and other stakeholders involved. The mobilization of adequate domestic and external resources for this purpose was also discussed.
5. At the end of the Conference a Final Communique, wherein the recommendations made by participants were included, was adopted by participants. Participants also adopted a Declaration on the Implementation in Africa of the Outcome Document of the World Conference on Indigenous Peoples also known as the Yaoundé Declaration. In the Declaration, participants reaffirmed their commitment for wide dissemination, popularization and implementation of the Outcome Document. The Declaration is available in both English and French on the Working Group’s web page. A copy of the Declaration is also annexed to this report as Annex I.

6. The full report of the proceedings of the Conference will be finalized and made public in the coming inter-session period.

   ii. **Study on the Impact of Extractive Industries on Indigenous Populations**

7. As indicated in my last report, the Report of the Study on Extractive Industries was tabled before the Commission at the 57th Ordinary Session and its adoption was deferred to this 58th Ordinary Session.

8. Given the importance of the findings of the report, its adoption during this Session will be a milestone for the Working Group and the communities concerned towards holding discussions with the States concerned on the methods of effectively implementing the recommendations made by the expert consultant and participants during the workshop to adopt the report.

   iii. **Launch of the Tanzania Mission Report, 25 November 2015, Dar es Salaam, Tanzania**

9. The Tanzania visit and study report that was adopted by the Commission in March 2014 was officially launched on 25 November 2015 in Blue Pearl Hotel in Dar es Salaam, Tanzania. The ceremony was organized by the Commission on
Human Rights and Good Governance of Tanzania, and Dr Naomi Kipuri, an Expert Member of the Working Group who also undertook the mission. Over 50 participants including representatives from indigenous communities (Akiye, Hadzabe, Barbaig, Maasai and Baraguyu Maasai), relevant government departments including Justice and legal Affairs, Attorney General’s office, the media and many others were present, and participated in discussions on the content of the report. The report was well received by attendees.

iv. World Bank Consultation meeting, 11-12 February 2016, Addis Ababa

10. As part of the third round of consultations on the draft of the World Bank’s Environmental and Social Standards Framework, the World Bank organized a multi-stakeholder meeting in Ethiopia. The Working Group was represented by Dr. Albert Barume, Expert Member.

11. The meeting was co-chaired by the Vice President of the WB and the Ethiopian Minister of Finance. In attendance were the WB Executive Director, Mr. Louis Peter LaRose, who represented 22 African States; senior government officials from Tanzania, Ethiopia, South Sudan and Kenya. Several WB country Directors, former UN Special Rapporteur Prof. James Anaya, current Special Rapporteur Ms. Victoria Tauli-Corpuz, OHCHR representative, and two civil society representatives from Kenya also participated in the consultation.

12. The main topics of discussion were the Environmental and Social Standard 7 (ESS7) which relates to indigenous peoples and free, prior and informed consent. Although at the beginning state delegates objected to the retention of the term ‘indigenous’ in the draft, in the end, with the intervention of experts and lengthy discussions that ensued state delegates agreed to keep the term indigenous. Further consultations are ongoing and the Bank’s Board of Executive Directors is expected to take a final decision in the second half of 2016.
13. The Working Group has been actively participating in the consultations and monitoring the situation closely. The final decision will be taken by the Board of the Bank but so far the signs are encouraging. The Working Group will continue to engage the World Bank and monitor the situation.

v. Appointment of a new indigenous expert member and adoption of resolution on indigenous peoples

14. During the 57th Ordinary Session, one of the long serving members of the Working Group, Mr. Mohammed Khattali of Mali tendered his resignation because of other commitments that require his full attention and time. As a result, the Working Group advertised the post on the Commission’s website. Several applications were received which were reviewed by the Commission at its 19th Extraordinary Session held in Banjul, The Gambia, from 16 to 25 February 2016, and decided to appoint Mr. Belkacem Lounes of Algeria as a replacement. Mr. Lounes has been actively promoting and advocating for the rights of the Amazigh in North Africa as a member of the NGO called Congres Mondial Amazigh and as an indigenous person.

15. I would like to seize this opportunity to express my sincere gratitude, on behalf of the Working Group and the Commission, for the hard work, devotion and contribution of Mr. Mohamed Khattali for the rights of indigenous populations in Africa, and wish him all the best in his future endeavors. I would also like to welcome Mr. Lounes to the Working Group; I have no doubt that he will use his vast experience and competence for the betterment of the work of the Working Group and the improvement of the situation of indigenous populations on the continent.
16. The resolution appointing Mr. Lounes can be accessed at http://www.achpr.org/sessions/19th-eo/resolutions/329/ It is also attached in this report as Annex II.

vi. Resolution on Indigenous Populations/Communities in Africa

17. Alarmed by the deteriorating situation of indigenous populations/communities in some parts of Africa, in particular regarding their economic, social and cultural rights as a result of the plundering of their ancestral lands followed by serious violations of human rights perpetrated by some State and non-State actors, the Commission adopted a Resolution on Indigenous Populations/Communities in Africa at its 19th Extraordinary Session. The Resolution reminds States of their obligations under regional and international human rights instruments concerning the adoption of policies, laws and measures that are indigenous people friendly.

18. The Resolution is available on the website of the Commission http://www.achpr.org/sessions/19th-eo/resolutions/329/ A copy is also enclosed in this report as Annex III.

vii. Working Group Meeting

19. The Working Group held its first biannual meeting for 2016 from 4 to 5 April here at Kairaba Beach Hotel. At the meeting the Working Group discussed various agenda items, including worrying reports about the situation of indigenous populations in Ethiopia, Tanzania and Kenya, and planned activities for the next inter-session period.

20. It will be recalled from my previous reports that the Working Group meets with indigenous peoples representatives that participate at the NGO Forum. However, this time around, the Working Group was not able to meet with the
only individual registered for the special group discussion at the NGO Forum as identifying the person and establishing contact with the person was not possible.

21. I would, therefore, like to urge indigenous organizations and civil society working on indigenous issues and partners, to encourage and finance the participation of indigenous peoples representatives at the NGO Forum and Sessions of the Commission.

II. Brief report on the Situation of Indigenous Peoples in Africa

22. During the inter-session, the Working Group continued to monitor the situation of indigenous peoples on the continent. In this regard, it should be noted that there have been positive developments in some countries. In other countries, allegations of serious violations of the rights of indigenous populations have been reported and brought to the attention of the Working Group. For instance, in some parts of Kenya there have been reports of continued eviction of some members of the Ogiek community from their ancestral lands and intimidation. Allegations of killing of members of the community have been brought to the attention of the Working Group.

23. Moreover, despite signs of political will on the part of the Government of Kenya towards taking the necessary measures for the effective and prompt implementation of the Commission’s decision on the Endorois case, there are delays in implementation which are a source of major concern given the continuous violations of the human rights of the community concerned.

24. In Ethiopia, the Working Group is seriously concerned about information that several people have reportedly been killed, wounded and displaced as a result of a conflict that erupted between the Nuer and Anuak communities of the Gambella Regional State. In the southern part of Ethiopia, we continue to receive information about the grabbing of land belonging to some members of the Mursi
community of the Lower Omo Valley, and that protesters against evictions were beatened and received inhuman and degrading treatment.

25. Continuous allegations from various sources mention the disproportionate use of force by law enforcement officers in quelling protests that erupted in many parts of the country as a result of land grab, which continues to claim lives, cause injuries and destroy property.

26. Regarding positive developments in the promotion of the rights of indigenous populations, despite Algeria’s non-recognition of the concept and existence of indigenous communities among its population, the country has recognized the Berber/Amazigh language, the language spoken by the Berber/Amazigh community which identifies itself as an indigenous community, as one of the official languages of the Republic. This is a major achievement for which there is need to commend the Amazigh community for its efforts towards achieving this goal and the Government of Algeria for respecting the social and cultural rights of all components of the Algerian society. Other African countries should take cue from Algeria.

III. Planned activities for the next inter-session period

i. Course in Pretoria

27. The one week course that the Working Group launched in collaboration with the Centre for Human Rights of the University of Pretoria and IWGIA, will be given for the sixth time this year from 12 to 16 September at the University of Pretoria, Pretoria, South Africa. Those interested are encouraged to apply. For more information visit the website of the Centre for Human Rights http://www.chr.up.ac.za/index.php/ahrc.html
ii. Publication and launch of the Study on Extractive Industries

28. Following the adoption by the Commission of the Study on the Impact of Extractive Industries on Indigenous Populations, the Working Group plans to widely disseminate it to all stakeholders. A national dialogue forum is also planned in Kenya and Cameroon, two countries covered by the study, during which stakeholders will discuss extractive industries and their impact on indigenous peoples in the various countries.

iii. Regional Workshop on the Rights of Women in Africa

29. Cognizant of the fact that indigenous women in Africa face double discrimination on the basis of their identity and their gender, and that little attention is given to their plight, the Working Group sees the need to do more work in the area. Accordingly, it deems it appropriate to organize, as part of celebrations for “2016: African Year of Human Rights with particular focus on the Rights of Women”, a regional workshop on the rights of indigenous women in Africa during which representatives of indigenous women from all parts of Africa will be invited. The workshop will help gather preliminary information on the situation and challenges of indigenous women in Africa, which will be used as a bedrock to do more comprehensive and detailed researches and studies.

IV. Recommendations

The Working Group calls on:

- *African Governments to:*
  
i. ratify ILO Convention 169;

ii. honor the commitments they have made under the UN Declaration on the Rights of Indigenous Peoples, 2007, and the Outcome Document of the World Conference on Indigenous Peoples, 2014;
iii. work in collaboration and cooperation with indigenous communities within their territories, civil society organizations, UN bodies and the Commission for the recognition and better protection and promotion of indigenous peoples rights;

iv. strictly observe and follow the principle of free, prior and informed consent requirement as recognized by human rights instruments in the planning and implementation of development projects that affect indigenous communities;

❖ Government of Kenya to respect the request for provisional measures issued by the African Court in the Ogiek case and also to implement the decision of the Commission on the Endorois case;

❖ Government of Ethiopia to refrain from using lethal force against indigenous peoples that protest against land grab and to stop the illegal eviction of indigenous communities.

❖ **World Bank to**

Ensure that the new Environmental and Social Safety Standards to be adopted by the Bank’s Board of Executive Directors are in line with internationally recognized human rights standards and norms;

❖ **Indigenous communities, civil society and national human rights institutions to**

Continue working with the Working Group by, among others, regularly reporting on the situation of indigenous communities.