Inter-session Activity Report of the Working Group on Indigenous Populations/Communities in Africa

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60th Ordinary Session of the African Commission on Human and Peoples’ Rights

Niamey, Niger
8 – 22 May 2017
Introduction

This Report is presented in accordance with Rule 23(3) of the Rules of Procedure of the African Commission on Human and Peoples’ Rights (the Commission or the African Commission) in my capacity as the Chairperson of the Working Group on Indigenous Populations/Communities in Africa (the Working Group or WGIP). It highlights the promotion activities undertaken since the 59th Ordinary Session of the Commission held from 21 October to 4 November 2016 in Banjul, The Gambia. It is divided into four parts: Part I deals with the activities I undertook as the Chairperson of the Working Group. Part II deals with the activities undertaken by members of the Working Group. Part III gives an update on the state of indigenous communities on the continent and Part IV relates to recommendations.

I- Activities undertaken in my Capacity as the Chairperson of the WGIP

1. IFAD Global Forum on Indigenous Peoples

   1. From 10 to 13 February 2017, I participated in the 3rd Global Forum on Indigenous Peoples organized every other year by the International Fund for Agricultural Development (IFAD) in Rome, Italy. A unique platform within the United Nations system, the Forum now institutionalizes IFAD’s consultation and dialogue with indigenous peoples’ representatives at the national, regional and international levels.

   2. It is an inclusive and participatory process providing an opportunity for indigenous peoples to engage in a direct dialogue with IFAD officials and staff involved in country programmes to enhance their participation and contribution in the implementation and monitoring and evaluation of programmes affecting them.

   3. This year’s theme focused on economic empowerment of indigenous peoples, particularly women and youth. It is worth noting that the Forum coincided with the 10th anniversary of the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and IFAD’s engagement with indigenous peoples during the past decade within the context of the implementation of the UNDRIP was commended and encouraged by participants.
4. In attendance were the UN Special Rapporteur on the Rights of Indigenous Peoples’, Madam Victoria Tauli-Corpuz, some current and former members of the United Nations Permanent Forum on Indigenous Issues, higher officials of IFAD, state delegates and indigenous peoples’ representatives from all continents.

5. My presentation focused on the “Situation of Indigenous Peoples/Communities in Africa and the impact of the WGIP’s work in the promotion and protection of their rights”. I highlighted the progress made in certain African countries since the World Conference on Indigenous Peoples held in 2014 in New York (USA), in terms of recognizing the concept and at the normative and programmatic level, as well as the numerous challenges facing the continent, particularly with regard to the protection of these vulnerable groups against various forms of abuse.

6. The positive developments include the constitutional recognition of the Tamazight language as an official language in Algeria in 2016; protection afforded to indigenous populations in the Constitution of the Republic of Congo following the referendum held in October 2015; protection given to indigenous populations under the 2015 Constitution of the Central African Republic; and the existence of numerous programmes and projects in vital areas including education, health and access to drinking water.

7. The contemporary challenges are mainly related to issues arising from land grabbing and forced evictions of indigenous populations from their ancestral lands. This trend is observed in all countries where they live, but are glaringly witnessed in Ethiopia, Kenya and Tanzania.

8. Discussions and exchanges on current challenges revealed similarities between the situation in Africa and other parts of the world.

2. Urgent Appeal to the United Republic of Tanzania

9. Following reports of the continued forced eviction and violations of the rights of certain indigenous communities in the United Republic of Tanzania, I, in my capacity as the Chairperson of the WGIP, wrote a letter of Urgent Appeal, dated 14 March 2017, to His Excellency Mr. John Magufuli, President of the United Republic of Tanzania.
10. In this letter, besides expressing the WGIP’s deep concern over the reports it received relating to the alleged violations, I brought His Excellency’s kind attention to the lack of response from the Government to the letters of Urgent Appeals sent. To mention only a few, I recalled the letter of appeal I sent on 1 April 2015 with regard to the alleged deadly attacks against the Masai and Dagota communities of the Morogoro region of Tanzania; that of 22 August 2016 in relation to the alleged arbitrary arrest and intimidation of pastoralists rights defenders; and the follow up letter to the latter dated 28 October 2016.

11. To date we have not received any response from the Government. In this regard, I would like to call on the authorities of the United Republic of Tanzania to kindly furnish us with a report on the measures put in place, if any, to investigate the alleged violations, and prosecute the perpetrators.

3. Follow-up Letter on the Waiver of the World Bank’s Operational Policy 4.10 in the SAGCOT Corridor Project of Tanzania

12. In my report to the 59th Ordinary Session of the Commission, I had indicated that on 25 July 2016 I sent a letter of appeal to the President of the World Bank Group, His Excellency Dr. Jim Yong Kim, regarding the waiver granted to the Government of Tanzania in what is known as the SAGCOT Corridor Project (Southern Agricultural Growth Corridor of Tanzania) that allows the Government to receive considerable amount of funding from the World Bank without the application of Operational Policy 4.10, the current safeguard policy designed to ensure that the rights and interests of indigenous populations are not violated in projects or programmes receiving World Bank funding. In the letter, I had underscored the potential hazardous consequences of the move on the lives and livelihoods of indigenous communities living on and around the project area.

13. In the absence of any response from the Bank on such matter, we wrote a follow-up letter dated 28 October 2016 emphasizing the gravity of the ramifications of the waiver on the social and economic conditions of the indigenous populations affected by the project, and the responsibility and obligations of the Bank to prevent such violations from occurring. We have not yet received any response from the Bank.
4. Side-event on the Use of Legal Remedies for Indigenous Peoples to assert their Land Rights


15. The event provided the opportunity to emphasize the importance of strategic litigation for the protection and promotion of indigenous peoples’ rights in Africa.

II. Activities undertaken by the WGIP

1. Launching of the Study on Extractive Industries and Indigenous Communities in Africa

16. The Study on Extractive Industries, Land Rights and Indigenous Peoples’ in Africa that was adopted by the Commission at its 58th Ordinary Session was planned to be launched at this Session but has been rescheduled to the 61st Ordinary Session.

2. Participation at the 16th Session of the UNPFII

17. The 16th Session of the United Nations Permanent Forum on Indigenous Issues was held from 24 April to 5 May 2017 in New York, U.S.A., under the theme “Tenth Anniversary of the United Nations Declaration on the Rights of Indigenous Peoples: Measures Taken to Implement the Declaration”. The WGIP was represented by one of its members, Madam Hawe Bouba, who made a presentation on the implementation of the UNDRIP in Africa.

3. Course in Pretoria

18. The Advanced Course on the Rights of Indigenous Peoples, organized through collaboration between the WGIP and the Centre for Human Rights of the University of Pretoria, will be given for the seventh time this year from 25 to 29 September 2017 in Pretoria, South Africa. Interested individuals can get more information about the course and process of application at http://www.chr.up.ac.za/index.php/ahrc-courses/ipr-course.html.
III. The Situation of Indigenous Peoples’ in Africa

19. During the inter-session, no significant progress in the promotion of indigenous peoples’ rights has been brought to the attention of the WGIP. However, slow progress and often with no major impact is noted, though much-needed and at a faster pace considering the precarious situation and poverty in which these groups live.

20. In this regard, I would like to urge our focal points, indigenous peoples’ representatives and organizations, and all those working with indigenous communities in Africa to keep us regularly informed about positive developments in their countries. The WGIP also looks forward to receiving reports from all stakeholders on the implementation of UNDRIP in the respective countries.

21. The WGIP continues to receive reports on alleged violations of the rights of indigenous populations. Controversial evictions to give way to development projects have continued in Ethiopia, Tanzania and Kenya. In Algeria, the WGIP was informed of harassment of indigenous peoples’ rights advocates. In Kenya, the Task Force established for the implementation of the decision on the Endorois case has not made concrete progress, and the Government has not reported to the Commission on the implementation of this decision, rendered in 2010, despite several reminders.

IV. Recommendations

To States:

i. Include in periodic reports, a part on progress made and challenges faced in the protection and promotion of the rights of indigenous communities;

ii. Adopt National Action Plans for the implementation of the UNDRIP in accordance with the Outcome Document of the World Conference on Indigenous Peoples held in 2014;
iii. Recognize, through laws, the existence of indigenous populations, as conceptualized by the African Commission and provided for by the UNDRIP;

iv. Ensure that all organs of the Government, including the Executive, Judiciary and Legislatures, are sensitized and trained on the rights of indigenous peoples’ in general and on the UNDRIP in particular;

v. Ensure the Sustainable Development Goals and the Paris Agreement implementation processes address key challenges faced by indigenous communities, most notably the protection of their rights over lands and resources while ensuring Free, Prior and Informed Consent;

vi. Continue engaging constructively on indigenous peoples' issues, including through active participation at the sessions of the African Commission, UNPFII, UN Expert Mechanism on the Rights of Indigenous Peoples’, and by authorizing country visits by the WGIP;

vii. Participate, regularly and actively, in the sessions of the African Commission and the United Nations mechanisms/procedures on indigenous peoples, and in doing so include indigenous peoples’ representatives in their delegation;

viii. Undertake to effectively implement decisions in favour of indigenous peoples' rights by, among others, national courts, the African Commission and the African Court.

**To Indigenous Communities**

i. Work in collaboration and synergy with all stakeholders to create awareness, defend their rights and to make their voices heard.