

Intersession Activity Report of the Chairperson of the Working Group on Indigenous Populations/Communities in Africa

During the intersession of the 45th and 46th Ordinary Session of the ACHPR, in the execution of my function as Chairperson and member of the Working Group, the following activities were carried out and plans made for the activities of the Working Group in 2010.

The main activities of the Working Group undertaken since the last Ordinary Session of the African Commission include the following.

1. Undertaking of country missions

a. Country mission to the Democratic Republic of Congo

The Working Group undertook a Research and Information visit to the Democratic Republic of Congo (DRC) from 9 to 25 August 2009. The mission was undertaken by Mr. Kalimba Zephyrin, expert member of the Working Group and Mr. Moke Loamba, member of the Working Group's advisory network of experts.

The delegation held meetings with stakeholders such as government ministries, national and international NGOs and indigenous communities in order to gather information about the human rights situation of indigenous populations in the country, and to provide information about the Working Group's 2003 Report, conceptualizing the position of the African Commission on the rights of indigenous populations. The mission took place in Kinshasa, where ministries and main donors have their offices, as well as in Bukavu and Goma in the eastern part of the DRC, where many indigenous communities live. A draft report of the DRC mission is ready and the final report will be presented at the next session of the African Commission in May 2010.

b. Gabon mission report

The Working Group's research and information visit to Gabon in September 2007 was adopted by the African Commission at its 45th ordinary session and will be sent to the government of Gabon for comments. It will be published during the next intersession between the 46th and 47th Ordinary Session.

2. Publication of reports

a. Publication of the Uganda and Central African Republic reports

The reports of the Working Group visit to Uganda and Central African Republic have been published both in French and English. Copies are available at the front desk, and the report will be widely distributed to the relevant stakeholders.

b. Cameroon Seminar report

The report from the regional sensitization seminar "The Rights of Indigenous Populations/Communities in Central Africa" organised by the Working Group in Yaoundé, Cameroon, has also been published and copies are available at the front desk. The report has been distributed to all the seminar's participants and a wider distribution is planned.

c. Research project between the ACHPR, the ILO and the Human Rights Centre at the University of Pretoria

The Overview Report of the Research Project by the International Labour Organisation and the African Commission on Human and Peoples' Rights in collaboration with the Human Rights Centre of the University on the constitutional and legislative protection of the rights of indigenous peoples in 24 African countries has now been published in English, French and Arabic. The report provides the results of the research project that examined the extent to which the legal framework of 24 selected African countries impacts

on and protects the rights of indigenous peoples. Two types of study were undertaken as part of the research: desk and in-depth study. From the 24 selected countries, 10 in-depth studies were undertaken. Full electronic versions of these reports, the overview report, and primary legal documents pertaining to indigenous peoples are contained in a database developed as part of the project accessible at (www.chr.up.ac.za/indigenous).

The more detailed findings of the reports are discussed under eleven separate headings, each dealing with an aspect of particular concern to indigenous peoples. The headings are: recognition and identification; non-discrimination; self-management; consultation and participation; access to justice; culture and language; education; lands, natural resources and environment; socio-economic rights; Gender equality; indigenous children; indigenous peoples in border areas and trans-boundary situations.

Based on the findings, the report makes a number of recommendations to States, the international community, civil society, and the media.

Hard copies of the Overview Report could be obtained from the University of Pretoria, South Africa through Prof. Frans Viljoen as well as from the Secretariat of the African Commission.

d. Libya report

The report of the mission undertaken to Libya is now finalised and will be published before the end of this year.

e. Ethiopia seminar report

The report of the Sensitization and Consultative Seminar on Indigenous Populations held in October 2008, in Addis Ababa, Ethiopia will be finalized during the next meeting of the Working Group.

f. Rwanda report

The report from the mission undertaken to Rwanda will be finalized and presented at the 47th Ordinary session in May 2010.

g. United Nations Declaration on the Rights of Indigenous Peoples and African Commission Advisory Opinion

The Working Group plans to publish the UN Declaration on the Rights of Indigenous Peoples together with the Advisory Opinion of the African Commission on Human and Peoples' Rights on the Declaration before the end of this year.

h. Summary report

The summary of the 2003 report will be translated and published in Fulani and Tamazight before the next Ordinary Session in May 2010.

i. Manual for indigenous peoples' activists

A consultant from the Working Group's Advisory Network of Expert will develop a manual for indigenous peoples' activists on how effectively use the African Commission platform as well as other African mechanisms, such as the African Court.

4. International collaboration

2nd Ordinary Session of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

From 10 - 14 August 2009, Dr Albert Barume, expert member of the Working Group and I, participated in the 2nd Ordinary Session of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). In my capacity as Chairperson of the WGIP, I made two presentations: one on *the Study of lessons learned and challenges relating to the implementation of the right of indigenous peoples to education*, and the other, on *the United Nations Declaration on the Rights of Indigenous Peoples and its implementation in Africa*.

Apart from participating in the EMRIP session, Dr. Barume and I held other important meetings as follows:

- the Office of the African Union in Geneva;
- the African Permanent Mission in Geneva;
- the 5 members of EMRIP;
- the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples;
- the indigenous African Caucus of indigenous NGOs and communities;
- the Indigenous Peoples and Minorities Unit of the UN Office of the High Commission on Human Rights;
- the International Labour Organisation (ILO); and
- the International Working Group on Indigenous Affairs (IWGIA).

These meetings which were facilitated by the Office of the African Union in Geneva discussed ways and means of collaboration in the execution of our different mandates.

ILO/ACHPR Meeting

On 6 November 2009, the Working Group organised a workshop in collaboration with the ILO to follow up on research findings of the Research Project on the rights of indigenous peoples in 24 African countries and to explore the opportunities to disseminate and operationalize the research findings as well as to provide recommendations for future joint actions. In addition to the Working Group and the ILO, also present were the Human Rights Centre of the University of Pretoria, the UN Expert Mechanism for the Rights of Indigenous Peoples, the Office of the High Commissioner of Human Rights, the UNDP and one government representative from Namibia. Recommendations in the Overview Report and others raised at the meeting were reviewed and the ILO, together with the Centre for Human Rights of the University of Pretoria, tasked to analyse and report on them. All participants made concrete commitments on the involvement of their institutions.

5. Video production

The Working Group has developed Terms of reference for the production of a video film on the work of the African Commission on the situation of indigenous peoples in Africa. Based on the Terms of Reference quotations from different producers have been received and the Working Group has selected one producer. The contract will be signed this year and the production of the film will start next year. The video film will give an overview of the situation of indigenous peoples in Africa and the work of the Working Group.

The main target groups for the video film are African governments, civil servants, key civil society actors and other relevant stakeholders. The idea is to produce a video of good quality that can be presented on national and local television stations and thereby reach a large audience in Africa. It can also be used by the African Commission and the AU as a promotional tool for its work and by different indigenous organizations, human rights organizations, teaching institutions and other stakeholders in Africa to raise awareness about indigenous issues.

8. Meeting of the Working Group on Indigenous Populations

The Working Group held its regular meeting from 7th – 9th November 2009 in Banjul, the Gambia to discuss activities undertaken during the past six months and plan for future activities.

During its planning for its 2010 activity programme, the Working Group identified a number of activities that it requests to be included in the African Commission's 2010 budget, and these include two country missions, one sensitization seminar, two meetings of the Working Group, website development, and funding for a technical assistant. The budget for 2010 is expected to be approved by the African Union in January 2010.

The planned activities for 2010 are the following:

- a Research and Information visit to Kenya;
- two country visits - one to Congo Brazzaville and the other to Tanzania or yhe Democratic Republic of Congo.
- Publication of the mission reports to Libya, Gabon, Rwanda and DRC as well as the report of the sensitization seminar held in Ethiopia.
- a combined publication of the UN Declaration on the Rights of Indigenous Peoples and the African Commission's Advisory Opinion on the same.
- Translation and publication of the summary report of the 2002 Report in Fulani and Tamazight.
- Publication of an advocacy manual for indigenous peoples.
- Production of a video film on the situation of indigenous communities in Africa and the work of the Working Group.
- a regional sensitization seminar in the southern African region to be held in Botswana.
- Strengthening the collaboration between the African Commission and other international mechanisms on matters relating to indigenous peoples' rights – specifically institutions such as the UN Special Rapporteur on the Rights and Fundamental Freedoms of Indigenous Peoples, the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), the ILO and the OHCHR.

The achievements made at the level of the African Commission to promote and protect the rights of indigenous peoples has unfortunately not yet translated into significant

improvements on the ground. Indigenous peoples continue to face serious problems such as lack of recognition, land and natural resource dispossession, lack of access to health and education, lack of access to justice, lack of citizenship rights, as well as other rights guaranteed under the Charter. However, gradually progress is being made in countries such as the Republic of Congo with the development of a specific law for the protection of the rights of indigenous peoples, in Burundi with the provision of special seats in the Senate for the indigenous Batwa people, in Rwanda with the initiation of housing, health and education programmes for the Batwa and in Cameroon with the development of policies and legislation for the protection of vulnerable groups such as indigenous peoples. Despite the generally very precarious situation of indigenous peoples in Africa, such emerging progressive developments are much welcomed, and the Working Group sincerely hopes to be able to continue its dialogue with states and its sensitization work in the coming years to encourage more states to honour their responsibility to protect the rights of indigenous populations.

Musa Ngary Bitaye
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