

Resolution on the protection of indigenous peoples' rights in the context of the World Heritage Convention and the designation of Lake Bogoria as a World Heritage site

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 50th Ordinary Session held from 24 October to 5 November 2011 in Banjul, The Gambia:

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering Article 22 of the African Charter which recognizes that all peoples have the right to their economic, social and cultural development and that States have the duty, individually or collectively, to ensure the exercise of the right to development;

Recalling its Decision on Communication 276 / 2003 - *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (Endorois Decision), adopted at the 46th Ordinary Session held from 11 - 25 November 2009 in Banjul, The Gambia;

Noting that this decision affirms the rights of ownership of the Endorois to their ancestral lands around Lake Bogoria and that these rights are protected by Art. 14 of the African Charter;

Noting Article 1 of the Constitution of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) on the purposes and functions of the Organization, according to which UNESCO shall "further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations";

Recalling the United Nations Declaration on the Rights of Indigenous Peoples, a universal international human rights instrument that has attained consensus among UN Member States, and reaffirming the African Commission's commitment to fostering the values and implementing the principles enshrined in this Declaration;

Bearing in mind Advice No. 2 (2011) of the UN Expert Mechanism on the Rights of Indigenous Peoples, which calls on UNESCO and the World Heritage Committee to establish robust procedures and mechanisms to ensure that indigenous peoples are adequately consulted and involved in the management and protection of World Heritage sites and that their free, prior and informed consent is obtained when their territories are being nominated and inscribed as World Heritage sites;

Noting with concern that there are numerous World Heritage sites in Africa that have been inscribed without the free, prior and informed consent of the indigenous peoples in whose territories they are located and whose management frameworks are not consistent with the principles of the UN Declaration on the Rights of Indigenous Peoples;

Deeply concerned that the World Heritage Committee at its 35th session, on the recommendation of International Union for the Conservation of Nature (IUCN), inscribed Lake Bogoria National Reserve on the World Heritage List, without obtaining the free, prior and informed consent of the Endorois through their own representative institutions, and despite the fact that the Endorois Welfare Council had urged the Committee to defer the nomination because of the lack of meaningful involvement and consultation with the Endorois;

1. Emphasizes that the inscription of Lake Bogoria on the World Heritage List without involving the Endorois in the decision-making process and without obtaining their free, prior and informed consent contravenes the African Commission's Endorois Decision and constitutes a violation of the Endorois' right to development under Article 22 of the African Charter;

2. Urges the World Heritage Committee and UNESCO to review and revise current procedures and Operational Guidelines, in consultation and cooperation with the UN Permanent Forum on

Indigenous Issues and indigenous peoples, in order to ensure that the implementation of the World Heritage Convention is consistent with the UN Declaration on the Rights of Indigenous Peoples and that indigenous peoples' rights, and human rights generally, are respected, protected and fulfilled in World Heritage areas;

3. Calls on the World Heritage Committee to consider establishing an appropriate mechanism through which indigenous peoples can provide advice to the World Heritage Committee and effectively participate in its decision-making processes;

4. Urges IUCN to review and revise its procedures for evaluating World Heritage nominations as well as the state of conservation of World Heritage sites, with a view to ensuring that indigenous peoples are fully involved in these processes, and that their rights are respected, protected and fulfilled in these processes and in the management of World Heritage areas;

5. Urges the Government of Kenya, the World Heritage Committee and UNESCO to ensure the full and effective participation of the Endorois in the decision-making regarding the "Kenya Lake System" World Heritage area, through their own representative institutions;

Done in Banjul, The Gambia, 5 November 2011