



LEGAL RESOURCES CENTRE

NPO No. 023-004

PBO No. 930002175

3rd Floor Greenmarket Place • 54 Shortmarket Street • Cape Town 8001 • South Africa • PO Box 5227 • Cape Town 8000

South Africa • Tel: (021) 481 3000 • Fax: (021) 423 0935 • E-mail: [wilmien@lrc.org.za](mailto:wilmien@lrc.org.za) • [www.lrc.org.za](http://www.lrc.org.za)

25 October 2011

The Legal Resources Centre presents this submission on behalf of a number of NGOs interested in the work of the Working Group on Extractive Industries as listed below.

A resolution was adopted by the NGO Forum prior to this, the 50th ordinary session of the African Commission on Human and Peoples' Rights. The resolution notes both the African Charter provisions in articles 20, 21 and 24 as well as principle 1, 2 and 22 of the 1992 Rio Declaration on Environment and Development.

We recognise the state sovereignty over natural resources and thus their responsibility in protecting their people from the pillaging of the natural resources that, in terms of the Charter, they have the right to freely dispose of. We note that human beings are at the center of concerns for sustainable development and in the African context, it is stressed that local communities have a vital role to play in environmental management and development and therefore their identity and culture must be protected.

We note the valuable work that has been done in the context of the governance of water in order to prevent the ever increasing depletion of water resources in Africa due to priority given to diamond mining, excavation of shallow pools and foreign acquisition of land for development.

But we regret that current natural resources management in Africa continues to be gravely hampered by ill-planned development, misappropriation of land, corruption, bad governance, misaligned budget priorities, lack of strong institutional reforms, weak policies coupled with continued denial of civil and political rights and prevailing insecurities, including military interventions in extractive areas.

Tragically, this has a disproportionately negative impact upon the rural communities of Africa that continue to struggle to assert their customary rights to their land and resources but in this regard, we are elated to note that your newly released Guidelines and Principles on Socio-Economic Rights protects these very customary rights in the comments on the rights to property.

In working towards a reaffirmation of the Rio+20 summit in 2012 and the international agreement that natural resource management must respect international human rights law, we call upon the Commission to urge AU member states to:

- Reaffirm that they are the ones responsible for natural resource stewardship that

National Office:  
Cape Town:  
Durban:  
Grahamstown:  
Johannesburg  
Constitutional Litigation Unit:

J Love (National Director), A Hall (Development Director), K Reinecke (Director: Finance)  
W R Kerfoot (Acting), A Andrews, S Kahanovitz, C May, HJ Smith,  
MR Chetty (Director), C Penn, W Holness  
S Sephton (Director) C McConnachie  
N Gobodo (Director), S Dhever, N Fakir, S Shirinda, Z Sujee  
T Ngcukaitobi (Director) G Bizos SC, J Brickhill, A Bodasing, S Cowen, S Nindi

must be exercised in terms of human rights law;

- Ensure free, prior and informed consent of communities, access to information, fair compensation and accountability in the management of natural resources in line with the Charter provisions as interpreted by the Commission in the Endorois decision
- Fight corruption at all levels by enforcing the criminalisation of corruption and ending impunity.

The Commission is further called upon to provide appropriate resources to the Working Group on Extractive Industries to enable them to discharge their function as provided for in Resolution 148/09.

The Working Group, with the support of the Commission is called upon to:

- Review existing standards of resource management on the continent;
- Review national mining legislation and the African Mining Vision 2050 and make recommendations to ensure the protection of human rights;
- Develop effective human rights impact assessments and monitoring mechanisms that ENSURE the protection of human rights of all people, including the most vulnerable people on the continent;
- Strengthen regional efforts to develop guidelines for the continent that respect human rights and require maximum and effective community participation in decision making pertaining to any development on the community's land or other resources.

Signed:

Legal Resources Centre

Waterlex

IANRA

Open Society Justice Initiative

Media Institute of Southern Africa

Law, Media and Development Institute