

E/C.19/2011/CRP. 10
3 May 2011
Language: English

Permanent Forum on Indigenous Issues
Tenth session
New York, 16 – 27 May 2011

**Contribution of the African Commissions' Working
Group on Indigenous Populations/Communities in
Africa to the 10th Session of the UNPFII
Presented by Commissioner Musa Ngary Bitaye**

Contribution of the African Commissions' Working Group on Indigenous Populations/Communities in Africa to the 10th Session of the UNPFII

Presented by Commissioner Musa Ngary Bitaye¹

This contribution of the African Commission's Working Group on Indigenous Populations/Communities tries to address the questions highlighted in the Questionnaire prepared by UNPFII in order of their presentation.

1. At its tenth session in 2011, UNPFII will review its recommendations in relation to (a) Economic and Social Development; (b) Environment; (c) Free, Prior and Informed Consent.

(i). Please provide information on how your agency is dealing with this important issue in the seven regional areas of the Permanent Forum².

As the primary intergovernmental organ for the promotion and protection human rights on the African continent, the African Commission on Human and Peoples' Rights (the African Commission) has different mechanisms that deal with the issue of economic and social development, environment and free, prior, informed consent. These three thematic areas are, in one way or another, dealt with by the Special Rapporteur on Economic, Social and Cultural Rights in Africa, the Working Group on Extractive Industries and Human Rights Violations in Africa and the Working Group on Indigenous Populations/Communities in Africa.

But among these Special Mechanisms, the Working Group on Indigenous Population/Communities in Africa (WGIP) to which I am the Chairperson exclusively deals with the issue of indigenous people. Accordingly, since its establishment in 2000 the WGIP has undertaken so many activities that have contributed to the better protection and promotion of the rights of indigenous people in Africa.

In 2003 the WGIP published a groundbreaking report on the conceptualisation of indigenous populations in Africa, which was adopted by the African

¹ Commissioner at the African Commission on Human and Peoples' Rights and Chairperson of the Working Group on Indigenous Populations/Communities in Africa. Email: mnbnet@gamtel.gm

² UNPFII's seven socio-cultural regions are Africa; Asia; Central and South America and the Caribbean; the Arctic; Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.

Commission. The report has provided indigenous peoples in Africa with arguments and a solid advocacy tool to request their governments to recognize the rights of indigenous peoples in their country particularly in relation to their economic and social development, their environment and land rights. This is for instance the case in Kenya where the indigenous civil society has actively used the report to advocate for legal and policy reforms, such as the new Constitution and the new Land Policy.

With a view to discharge its mandate the WGIP has also undertaken 14 country visits since 2005 and the reports from these visits have been published in book format in English and French. In these reports the WGIP has highlighted, among others, the socio-economic environment/land related challenges indigenous people are facing in those countries and recommended ways of improving the lives and wellbeing of indigenous populations. Some governments have taken the recommendations of the reports into account, for example the Central African Republic by ratifying the ILO Convention 169, the Republic of Congo by passing a law on indigenous peoples, Burundi by establishing quotas for Batwa representation in the Senate and National Assembly, etc.

One of the strategies adopted by the WGIP in creating awareness on the rights of indigenous peoples and engaging States Parties and other stakeholder on the issue has been through the organization of sensitization seminars. So far the WGIP has organized two sensitization seminars in Yaoundé, Cameroon and Addis Ababa, Ethiopia in 2006 and 2008 respectively. The effect of these seminars has particularly been felt in Central Africa where many governments are now recognising the specific problems indigenous peoples are facing and are starting to put in place legal/policy frameworks, as indicated above.

In October 2010 the WGIP launched a report on the constitutional and legislative protection of indigenous peoples in 24 African countries, in collaboration with the ILO and the University of Pretoria, wherein the socio-economic conditions, land and natural resources related, environmental, cultural, linguistic and educational rights of indigenous peoples was extensively covered and assessed. The report has also categorically set out recommendations addressed to African states, to concerned organs of the UN, AU and other international organizations; and to the civil society and the media.

The WGIP does also participate in international fora, including UNFPII and EMRIP with a view to make the issue of indigenous peoples in Africa more visible at the international level and collaborate with various partners in areas of common interest. The WGIP has been taking measures within its mandate when the rights of indigenous people have allegedly been violated such as by sending

urgent appeals. Urgent appeals have been sent to the Heads of State of Tanzania, Botswana and Rwanda.

In line with its protective mandate the African Commission has made a favourable ruling relating to the Endorois peoples in Kenya recognising their rights to their traditional land and environment which has been widely publicized by the media in Kenya and celebrated by civil society. The ruling has been positively received by the government of Kenya that has promised to respect and implement the ruling. The ruling has further motivated other indigenous communities to take their cases to the African Commission.

(ii). What are some of the obstacles your agency has encountered in implementing the recommendations of the Permanent Forum, including those addressed specifically to your agency?

The major challenges the WGIP is facing in discharging its mandate in general and in implementing the decisions of the Permanent Forum in particular can be broadly categorized as financial and lack of collaboration from states and other stake holders.

With regards to finance, the WGIP has so far received very limited funding from the African Union, and for the past years it has been dependent on the funds made available to it by DANIDA through the International Work Group on Indigenous Affairs (IWGIA). This has made the continuity and sustainability of its activities and projects very uncertain. Lack of finance has also prevented the WGIP from conducting as many promotion and fact finding missions, seminars and conferences as possible to sensitize and engage with stakeholders. The limited finance has even excluded it from participating and being visible in international fora like UNFPII.

In June 2011 the funding from IWGIA expires and there is no guarantee that it continues or the AU will start funding the activities of the WGIP. This may bring to an end the one and only intergovernmental mechanism that is devoted for the promotion and protection of the rights of indigenous people in Africa.

The other major obstacle the WGIP is facing is lack of response from States. The WGIP conducts promotion missions, sensitization seminars and conferences with the invitation of states. However, usually the requests sent by the WGIP to States has not elicited any responses, and when it does it is a negative response. Consequently, the WGIP has been held back from engaging with states and stakeholders and from properly advocating for the rights of indigenous people in Africa. The lack of response also applies to Urgent appeals and recommendations of the WGIP. Only few states respond to the appeals and

recommendations of the WGIP. This is mainly because many African governments are hostile to the issue of indigenous people.

- (iii). What are some of the factors that facilitate your agency's implementation of the recommendations of the Permanent Forum, including those addressed specifically to your agency?

The WGIP is of a strong conviction that if its financial problems are solved it will be able to have not only short term plans, as it is the case now, but will also long term plans and strategize to implement them accordingly. So, it needs donors that would be able to fund its activities in a sustainable manner. Regarding the lack of response from states, the WGIP needs to engage more with States to make them properly grasp the concept of indigenous people so that they would be more responsive and willing to collaborate.

2. Given the Forum's recommendation for the adoption of policies on indigenous peoples' issues, please specify whether your agency has:

- (i). A policy or other similar tool on indigenous peoples' issues;
- (ii). Recent programmes on indigenous peoples' issues;
- (iii). Budgetary allocations for indigenous peoples' issues;
- (iv) Projects/activities on indigenous peoples' issues,

(In order to facilitate the quantification of data by the Forum, please indicate the number of programmes and projects/activities devoted to indigenous peoples issues in the past year).

The position/policy of the WGIP is clearly laid-out in its 2003 report which reflects the position taken by the African Commission on the issue of indigenous people and has made the African Commission the main platform for the promotion and protection of the rights of indigenous peoples in Africa. (Few copies of this report are made available to the Forum).

Annual Work Plan of the Working Group on Indigenous Populations/Communities in Africa - 2011

The WGIP will have 1 pre-session meeting, 1 country visit and two sensitization seminars. There is also a plan to develop the website of the WGIP. The following

table shows the details of the planned activities with the budget allocated to each activity.

Planned activities	Key actions steps/ strategies	Target Dates	Budget Available
One pre-session meeting	<p>Finalizing reports and other working documents</p> <p>Follow-up and assessing activities undertaken during the intersession period</p> <p>Planning for the next intersession activities</p>	The meeting of the WGIP was held from 26 to 27 of April in Banjul, The Gambia	6212 USD
Country visit	<p>Meeting various stake holders such as Government officials, NHRIs, NGOs and members of indigenous communities</p> <p>Lobby the Government to work towards the recognition/better protection of indigenous communities</p> <p>Sensitize stakeholders on the rights of indigenous people</p>	It is planned to undertake the country visit in July 2011.	24648 USD
Two Regional Sensitization seminars for	Sensitize key stakeholders in Southern and	Two Regional Sensitization seminars for	178,524 USD

<p>Southern and Northern Africa</p>	<p>Northern Africa about the African Commission's approach to the issue of the rights of indigenous populations;</p> <p>Identify main problems faced by indigenous populations in Southern and Northern Africa;</p> <p>Identify the challenges and problems faced by Southern and Northern African countries in dealing with indigenous populations; and</p> <p>Develop strategies for a better collaboration between the African Commission, Southern and Northern African governments, civil society organizations and indigenous communities themselves.</p>	<p>Southern and Northern Africa</p>	
<p>Website development</p>	<p>To make the website of the WGIP more user friendly and to upload all the</p>	<p>Should be completed before the end of 2011</p>	<p>3,635 USD</p>

	publications, reports of the WGIP and all other necessary information.		
--	------------------------------------------------------------------------	--	--

3. Does your agency have regular or ad hoc capacity-building programmes on indigenous peoples' issues for staff, or a plan for capacity-building activities in this area, at headquarters or in the field?

4. Does your agency have a focal point on indigenous issues? If so, please provide the name and contact information of this person.

The WGIP is composed of six volunteer indigenous experts and three Commissioners, who are part time. The WGIP has also its network of experts and is currently being supported financially by IWGIA. The focal point of the WGIP is based at the Secretariat of the African Commission³. There is no regular or *ad hoc* capacity building program or even a plan to that effect for members of the WGIP or the focal point/Secretary to the WGIP.

5. Please provide a list of conferences and other meetings organized or supported by your agency on indigenous issues for the current year as well as next year.

For the year 2012 the WGIP has submitted its planned activities with the estimated budget and we are waiting for a response.

³ Samuel Tilahun Tessema, Secretary to the WGIP, African Commission on Human and Peoples' Rights, P.O.Box 673, Banjul, The Gambia, Tel: +220 4410505/4410506 (Office), +220 7008279 (Mobile), Fax: +220 4410504, Email: samuel@achpr.org ; samiazeb2005@yahoo.com
Website: www.achpr.org