

# Information note #4

## The Working Group on Indigenous Populations/Communities

### Towards a deeper understanding of the rights of indigenous peoples

#### Historical background

The undertaking by the African Commission on Human and Peoples' Rights (the African Commission or the Commission) to address the rights of indigenous peoples and communities is relatively recent. Indeed, at first the issue was pushed aside in the belief that the notion of indigenous peoples' rights was inapplicable in the African context. At the 28th Ordinary Session of the African Commission, in November 2000, it was decided to establish the Working Group on Indigenous Populations/Communities (the Working Group). This represents a significant step for indigenous peoples in Africa as it demonstrates the African Commission's willingness to consider the question of indigenous peoples' rights, as well as recognising the particular challenges and obstacles faced by indigenous peoples.

#### Mandate

The Working Group's mandate has been renewed on several occasions. The most recent mandate undertakes to:

- Raise funds for the Working Group's activities relating to the promotion and protection of the rights of indigenous populations/communities in Africa drawing on the support and cooperation from interested donors, institutions and NGOs;
- Gather, request, receive and exchange information and communications on violations of human rights and fundamental freedoms of indigenous peoples from all relevant sources, including governments, indigenous peoples and their communities and organisations;
- Undertake country visits to study the human rights situation of indigenous populations/communities;
- Formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous populations/communities;
- Submit an activity report at every ordinary session of the African Commission; and



A group of women from the Hamar tribe, Ethiopia.  
Photo: Carolyne Pehora, Dreamstime.com.

- Co-operate, when relevant and feasible, with other international and regional human rights mechanisms, institutions and organisations.

#### Composition

The Working Group is currently (in 2011) composed of the following members:

- Commissioner Musa Ngary Bitaye, Chair of the Working Group;
- Commissioner Soyata Maïga, member of the Working Group;
- Commissioner Mumba Malila, member of the Working Group;
- Mr Mohammed Khattali, expert;
- Ms Marianne Jensen, expert;
- Mr Zephyrin Kalimba, expert;
- Mr Melakou Tegegn, expert;
- Dr Naomi Kipuri, expert;
- Dr Albert Barume, expert.

#### Activities and Achievements

*Report of the African Commission's Working Group on indigenous populations/communities*

The Working Group first devoted itself to producing a report which explored the concept of indigenous peoples in Africa and to reporting on their human rights situation. This report was submitted to the African Commission and adopted in 2003. It was published in book format in 2005.

The report examines the criteria for identifying indigenous peoples in Africa. It documents the human rights violations that indigenous peoples suffer, analyses the African Charter on Human and People's Rights (the African Charter) with reference to the rights of indigenous peoples, and formulates recommendations to the African Commission on ways to improve the protection of indigenous peoples' human rights. This report represents the key text of the Working Group and, through the recommendations that it issues, underpins the activities of the Working Group and those of the African Commission.

A careful reading of the full report or the abridged version (available at: <http://www.iwgia.org/sw25165.asp>) is strongly recommended. This will help achieve a deeper understanding of the interpretation that the African Commission recommends of concepts relating to indigenous peoples, including the definition

of “indigenous peoples”, the accepted indicators for identification of indigenous African peoples and rights guaranteed under the African Charter specific to indigenous peoples as a whole, and the individuals constituting those peoples. Further detail on the content of this report is available in Information note #5.

Unfortunately, the report does not address the question of the rights of indigenous women and the issues relating to their status as indigenous women. Very little information is available on this subject. It is therefore vital that those organisations working to defend indigenous women’s rights bring to the attention of the Working Group any information about the challenges faced by indigenous women. It is hoped that the Working Group will devote special attention to indigenous women within the framework of its future activities.

#### *Official missions and fact-finding visits*

The Working Group carries out official missions as well as fact-finding visits in various African states in order to gather information and conduct investigations regarding respect for indigenous peoples’ rights. The Working Group’s official missions are always undertaken by Commissioner members of the Working Group, while the fact-finding visits are led by expert members. They share similar objectives: to engage all stakeholders concerned (government authorities, national human rights institutions, civil society, international agencies and indigenous communities) in debate on the rights of indigenous peoples and the strategies intended to strengthen their protection.

To date, the Working Group has undertaken official missions to Botswana, Namibia, Niger, the Republic of Congo, and Rwanda and fact-finding visits to Burundi, Central African Republic, the Democratic Republic of Congo, Gabon, Kenya, Libya, the Republic of Congo and Uganda.

The recommendations that the Working Group makes to a State relate to the specific context of that country and are intended for that particular country. However, they may equally serve to defend the rights of indigenous women in other African countries. When the African Commission adopts the Working Group reports, the recommendations issued by the Working Group become standards of international regional law for the protection of human rights. They can therefore be cited as legal standards applying to all African countries.

On this subject, it is useful to highlight the outcomes of Working Group’s reports relating to the rights of indigenous women:

- Within the framework of their mission to the **Central African Republic** in 2007, delegates of the Working Group reported that women of the Aka community are often victims of violence and sexual abuse. They stated that women and children of the Mbororo community were frequently taken hostage for ransom. Furthermore, they cited practices comparable to slavery which affect Pygmies, trapping them in a state of servitude and leaving the women of their communities vulnerable to sexual abuse and

to HIV/AIDS. They recommended that the Central African Republic government establish a national commission with a mandate to investigate allegations of slavery-like practices afflicting members of the Aka community. In addition, they recommended that incidents of sexual violence against Mbororo and Aka women, and similarly the practices akin to slavery, be severely punished under domestic law.

- In 2007, delegates of the Working Group undertook a mission to **Gabon**. They reported that indigenous Pygmy women in Gabon suffer from various types and forms of sexual violence, both as women and as Pygmies. Many indigenous Pygmy women are affected by HIV/AIDS and sexually transmitted diseases. The delegates indicated that ignorance and lack of financial means prevent the Pygmies from referring cases to national courts. They also added that indigenous peoples face discrimination and prejudice when taking legal action against a non-indigenous person. They recommended to the government of Gabon that it take measures to protect the rights of Pygmy women who are doubly vulnerable and recommended to the African Commission that it seek to convince the government to ratify the Protocol to the African Charter on Women’s Rights.
- On the occasion of its mission to **Uganda** in 2006, the delegation issued recommendations to the government to study the situation of the indigenous women and children who have been displaced within the country and who live in slums, and to ensure that their basic needs be met. In addition, the delegation recommended that attention be given to the “very vulnerable” state of indigenous women.
- On the occasion of its mission to the **Republic of Congo** in 2005, the delegation dedicated a section of its mission report to the question of sexual violence against indigenous women.
- The 2005 mission report to **Libya** notes that discrimination in terms of employment and education relating to identity, culture and language affects Amazigh women in general and Tuareg women in particular. According to the report, Tuareg women have to become committed Arab nationalists if they are to move up the social ladder.
- Finally, in the context of the Working Group’s mission to **Burundi** in 2005, the question of the political engagement of Batwa women in Burundi was addressed and is mentioned in the mission report.

In advocacy work for the rights of indigenous women, it is advisable to refer to the Working Group’s mission reports to provide support for the arguments. The Working Group reports can be obtained from the following sources:

- The Secretariat of the African Commission ([achpr@qachpr.org](mailto:achpr@qachpr.org))
- The website of the International Work Group for Indigenous Affairs (IWGIA), which supports the Working Group’s activities at: [www.iwgia.org/sw8768.asp](http://www.iwgia.org/sw8768.asp)
- The Forest Peoples Programme website at: <http://www.forestpeoples.org/>.

### *Awareness-raising activities*

The Working Group organises awareness-raising seminars aimed at promoting the African Commission's work and policies on the rights of indigenous peoples and individuals. These seminars provide an opportunity to initiate dialogue among actors involved in defending indigenous peoples' rights and seek to promote a better understanding of the issues and challenges involved in protecting those rights. The seminars also facilitate the development of partnerships and networks and improve coordination of activities among the various actors. Seminars took place in Cameroon in 2006 (report available at: <http://www.iwgia.org/sw39381.asp>) and in Ethiopia in 2008. Two further seminars are planned for 2011.

### *Film on the Working Group's activities*

In 2010, the Working Group prepared an informative video about its activities. Specifically, the film shows the public sessions of the African Commission; oral interventions by indigenous speakers from various African countries; the human rights situation of indigenous peoples in Cameroon and Kenya; and also several interviews with actors involved in defending and promoting the rights of indigenous peoples.

The film should be completed in 2011.

### *Partnership*

Finally, it should be noted that the Working Group, by virtue of its mandate, works with other international and regional mechanisms, institutions, and organisations including United Nations bodies. The Working Group has, for instance, worked with the International Labour Organization and the Centre for Human Rights at the University of Pretoria on preparing a comparative study of African laws relating to the protection of the rights of indigenous peoples. The report was published in 2009 and is available at: [www.chr.up.ac.za/indigenous](http://www.chr.up.ac.za/indigenous).

Other activities of the Working Group, planned or underway, include the creation of a major database of organisations working on issues relating to the indigenous peoples of Africa. The purpose of this initiative is to improve communications between these organisations and the African Commission, when working

on questions of mutual interest. A further activity is the creation of a bulletin aimed at providing information on the activities of the Working Group and enabling organisations dedicated to indigenous questions to inform the wider public about their activities.

### **Contributing to the mandate of the Working Group**

As indicated above, the question of the rights of indigenous women has not yet been addressed in detail by the African Commission and its Working Group. It is up to indigenous women themselves, and the organisations which support them, to change the situation and ensure that their specific problems are given special consideration.

It is possible to contribute to the Working Group's activities by:

- Passing on information about the situation of indigenous women and developments at the national level, by letter or email, to the Secretariat of the African Commission, for the attention of the Working Group;
- Documenting violations of the rights of indigenous women at the national level and sharing evidence with the Commission;
- Communicating with the Working Group prior to official missions or fact-finding visits in order to meet members of the delegation during their visit;
- Participating in its awareness-raising activities, if it is possible.

An example of an intervention by the Forest Peoples Programme to the Working Group, regarding the situation of indigenous peoples in the Democratic Republic of Congo is available at: <http://www.forestpeoples.org/topics/african-human-rights-system/publication/2010/ngo-report-systematic-pervasive-and-widespread-v>.

