Resolutions of the African Commission on Human and Peoples’ Rights relevant to the rights of indigenous women in Africa
# Table of Contents

1. ACHPR /Res.66 (XXXV) 04: Resolution On The Situation Of Women And Children In Africa ......................................................................................................................... 1


3. ACHPR/Res.103 (XXXX) 06: Resolution on the Situation of Women in the Democratic Republic of Congo .................................................................................................. 3


5. ACHPR/Res.111 (XXXII) 07: Resolution on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence ........................................... 5

6. ACHPR/Res.121 (XXXII) 07: Resolution on the United Nations Declaration on the Rights of Indigenous Peoples .................................................................................. 8

7. ACHPR/Res.135 (XXXXIII) 08: Resolution on Maternal Mortality in Africa ................................................................................................................................. 9

8. ACHPR/Res153 (XLVI) 09: Resolution on Climate Change and Human Rights and the need to Study its Impact in Africa ......................................................................... 12


10. ACHPR/Res.176 (XLVIII) 2010: Resolution on the Deteriorating Situation of Indigenous People in some parts of Africa ........................................................................... 16

1. **ACHPR /Res.66 (XXXV) 04: Resolution On The Situation Of Women And Children In Africa**

The African Commission on Human and Peoples’ Rights during its 35th ordinary session held from 21 May to 4 June 2004 in Banjul, The Gambia,

Recalling that the Assembly of Heads of State and Government of the African Union adopted the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa at its 2nd Ordinary Session held in July 2003 in Maputo, Mozambique;

Noting that the African Charter on the Rights and Welfare of the Child entered into force on 29th November 1989 and the Committee of Experts on the Rights of Child;

Considering that the situation of the women and children in Africa need to be thoroughly addressed;

Considering that women and children are victims of multiple human rights violations;

Considering deportation, slavery, child trafficking and the proliferation of street children in some countries of our continent;

Considering the persistence of traditional practices that are harmful to women and children in some African countries (“almoudou” children and genital mutilation);

Concerned about widespread poverty among women and the stigmatization of women and children with HIV/AIDS;

1. Urges member states of the African Union to ratify the Protocol to the African Charter on the Rights of Women in Africa in order to facilitate its entry into force;

2. Urges all AU member states to ratify the United Nations Convention against All Forms of Discrimination against Women, and member states that have ratified it with reservations to withdraw them;

3. Launches an appeal to Member States to incorporate the above-mentioned international instrument into their national laws;

4. Urges member states to set up a special protection mechanism for women and children in war zones;

5. Appeals to member states to disarm and demobilize child soldiers, and put in place a system for their social reintegration;

6. Appeals to Member States to implement programmes to fight against HIV/AIDS;

7. Appeals to Member States to devise a system to help women benefit from social security.

Done in Banjul, 4 June 2004

The African Commission on Human and Peoples’ Rights meeting at its 38th Ordinary Session in Banjul, The Gambia from 21 November to 5 December 2005;

Recalling the commitments of the Heads of States and Governments in the Solemn Declaration on Gender Equality in Africa made during the 36th Ordinary Session held in Addis Ababa, Ethiopia, from 6 – 8 July 2004;

Noting with appreciation the election in Liberia of the first female President in Africa;

Further noting with appreciation the Member States of the African Union that have ratified the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa which entered into force on 25 November 2005, namely Benin, Cape Verde, Comoros, Djibouti, Gambia, Libya, Lesotho, Mali, Malawi, Namibia, Nigeria, Rwanda, the Republic of South Africa, Senegal and Togo;

Recognizing that women in Africa continue to be subject to discriminatory laws and practices;

Reiterating its commitment to continue working to promote the rights of women in Africa;

1. Congratulates all women in Africa on the occasion of the historic and speedy entry into force of the Protocol;

2. Congratulates the Liberian people on the election, in November 2005, of the first female President in Africa, Ms. Ellen Johnson Sirleaf;

3. Urges Member States of the African Union that have not already done so to urgently ratify the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa without reservations and to remove reservations where these have been included;

4. Further urges Member States that have already ratified this Protocol to immediately undertake measures for domestication, including the amendment of internal laws to conform with the provisions of the Protocol;

5. Encourages Member States to increase the participation of women in peacekeeping initiatives in the continent;

6. Calls on Member States to implement strategies, including affirmative action, to ensure that women can attain the highest levels of education and leadership in governance;

7. Urges Member States to respect their commitments under the CEDAW and the Beijing Platform of Action and urgently repeal or amend all laws and policies and eradicate all practices that are discriminatory against women;
8. Urges Member States, the African Union and international organisations to provide more support to the work of the Special Rapporteur on the Rights of Women.

Done at Banjul, The Gambia, December 5th 2005

3. **ACHPR/Res.103 (XXXX) 06: Resolution on the Situation of Women in the Democratic Republic of Congo**

The African Commission on Human and Peoples' Rights, meeting in its 40th Ordinary Session held in Banjul, The Gambia, from 15 - 29 November 2006,

Considering the armed conflicts which have been affecting the Democratic Republic of Congo since 1996 and which have ushered in a climate of insecurity and violence, particularly for women;

Noting the recent promulgation of two laws relating to sexual violence in the Democratic Republic of Congo; Concerned by the fact that the Government of the Democratic Republic of Congo has not yet ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

Concerned by the widespread and systematic nature of sexual violence and other forms of violence against women in the Democratic of Congo;

Concerned by the impunity enjoyed by the perpetrators of sexual violence committed against women;

Concerned by the incapacity of the Police Authorities of the Democratic Republic of Congo to guarantee the right to life, to physical integrity and the security of women by preventing crimes and arresting the perpetrators;

Conscious of the difficulties of obtaining evidence inherent in the indictment and legal proceedings for crimes of sexual violence before national and international criminal courts;

Concerned by the complaints alleging collective rape by organised gangs against young girls in Kinshasa which have been brought to the attention of the Commission;

Concerned also by the allegations of collective rape committed by the Agents of the National Armed Forces which have been brought to the attention of the Commission;

Noting that an urgent appeal pertaining to the security of the young girls in Kinshasa had been issued in July 2006 by the Special Rapporteur on the Rights of Women in Africa to the President of the Democratic Republic of Congo and that the same had not been responded to;

Noting also the letters of allegation and the urgent appeals sent by the United Nations Special Rapporteurs concerning the cases of sexual abuse in the Democratic Republic of Congo;
Concerned by the spread of the HIV/AIDS virus among the women victims of sexual violence;

1. Urges the Government of the Democratic of Congo to take the necessary measures to guarantee the security of young girls and women in the entire country;

2. Calls on the Government of the Democratic Republic of Congo to ratify the Protocol to the African Charter on Human and Peoples’ Rights relative to the Rights of Women in Africa and to take measures for the harmonisation of its national laws with the Protocol;

3. Encourages the Government of the Democratic Republic of Congo to facilitate the effective implementation of the new law on sexual violence;

4. Urges the Government of the Democratic Republic of Congo to grant the necessary resources to the Police Force to enable it prevent and control the acts of sexual violence;

5. Urges the Government of the Democratic Republic of Congo to ensure that medical and psychological assistance is provided to the women victims of sexual violence;

6. Calls on the Government of the Democratic Republic of Congo to initiate action towards the sensitisation and the education of the population on the causes and consequences of the HIV/AIDS virus, particularly by supporting the initiatives of civil society in this area;

7. Recommends that the Special Rapporteur on the Rights of Women in Africa undertakes a mission to promote the fundamental human rights of women in the Democratic Republic of Congo.

Done in Banjul, The Gambia, 29 November 2006


The African Commission on Human and Peoples’ Rights meeting at its 41st Ordinary Session in Accra, Ghana, from 16 to 30 May 2007:

Recalling the entry into force of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Protocol) on 25 November 2005;

Noting that only 20 States Parties to the African Charter on Human and Peoples’ Rights have to date ratified the Protocol;

Considering the inherent difficulties in implementing the Protocol, notably those regarding its domestication, as well as harmonisation of national laws with its content;

Recalling that Article 14 of the Protocol specifically protects the health and reproductive rights of women;
Concerned that female genital mutilation is a harmful practice which affects the reproductive health of women and continues to exist in some countries in spite of legislation outlawing it;

Further concerned about the disproportionate impact of the HIV and AIDS pandemic on women, especially on the African continent;

Concerned also about the problems relating to reproductive health care and the quality of services available to women in Africa, including the inability of existing healthcare institutions to provide adequate pre- and post-natal care for mothers and babies especially in cases of complications, the high rate of maternal mortality in a number of African countries, and the prohibition of abortion where necessary to save the woman’s life:-

1. Congratulates States which have ratified the Protocol and urges them to take all the necessary measures to domesticate and harmonise their national laws in order to give full effect to the rights enshrined in the Protocol;

2. Urges States which have not yet ratified the Protocol to do so promptly and without reservations;

3. Further Urges States to protect the health and reproductive rights of women as stipulated in the Protocol;

4. Congratulates States which have adopted laws prohibiting female genital mutilation and encourages them to implement specific programs to create awareness in all sectors of society and ensure eradication of this harmful traditional practice;

5. Urges those States that have not yet outlawed female genital mutilation to do so without delay;

6. Calls on States to take appropriate measures to protect women from sexually transmitted diseases, including HIV and AIDS;

7. Requests States to reduce the maternal mortality rate and to take adequate measures to provide effective access for women to reproductive health services, including access to lawful medical abortion in accordance with the Protocol.

Done in Accra, Ghana, 30 May 2007

5. ACHPR/Res.111 (XXXII) 07: Resolution on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence

The African Commission on Human and Peoples’ Rights (the African Commission or ACHPR), meeting at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;
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);

Bearing in mind that the right to a remedy and reparation is notably affirmed by: Article 25 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa; Article 8 of the Universal Declaration of Human Rights; Article 2 of the International Covenant on Civil and Political Rights; Article 39 of the Convention on the Rights of the Child; and Articles 68 and 75 of the Rome Statute of the International Criminal Court;

Deploring all forms of sexual violence against women and girls;

Considering that rape in times of conflicts has been categorised as a crime against humanity and as a war crime in the founding statutes of the International Criminal Tribunal for the former Yugoslavia (Art 5 (g)), of the International Criminal Court (Arts 7 and 8) and of the Special Court for Sierra Leone (Art 2(g)); and considering furthermore that the International Criminal Tribunal for Rwanda has qualified rape in conflict situations as an act of genocide case No. ICTR- 96-4-T (Sept 1998) and the International Criminal Tribunal for the former Yugoslavia classified rape as amongst the most serious crimes of war by defining it as a breach of the Geneva Conventions in case No.IT-94-1-T (May 1997);

Reaffirming its Resolution ACHPR/Res.103 (XXXX) 06 on the Situation of Women in the Democratic Republic of Congo, adopted during its 40th Ordinary Session held in Banjul, The Gambia, on 29 November 2006;


Recalling also the provisions of the Fourth Geneva Convention on the protection of civilians in armed conflicts;

Recalling furthermore the United Nations’ General Assembly Resolution A/RES/60/147 adopting Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law in March 2006;

Noting with great concern the prevailing impunity for the perpetrators and accomplices of crimes of sexual violence and emphasising that a culture of impunity encourages the commission of such crimes;

Taking into consideration the legal and practical obstacles existing in many countries and preventing victims of sexual violence in particular in times of conflict, from accessing their rights to truth, justice and reparation, notably the lack of adequate training on sexual violence issues for actors of the judiciary and the lack of information on services and access to justice for victims;

Concerned by the extent of physical and psychological trauma that women and girls victims face as a result of sexual violence and by the necessity for them to receive adequate and accessible health care, including psychological support;
Acknowledging the civil society initiative creating the Nairobi Declaration of the Right to A Remedy and Reparation for Women and Girls Victims of Sexual Violence, which provides guiding principles for the implementation of programmes intended to achieve reparation for crimes of sexual violence perpetrated in times of conflicts;

Convinced that participation of women at all stages of creation and implementation of reparation programmes is necessary to ensure efficient programmes and to achieve sustainable peace;

The African Commission on Human and Peoples’ Rights:

1. Condemns all forms of sexual violence against women and girls;

2. Urges States Parties to the African Charter on Human and Peoples’ Rights to:

   • Criminalise all forms of sexual violence, ensure that the perpetrators and accomplices of such crimes are held accountable by the relevant justice system;

   • Ensure that police and military forces, as well as all the members of the judiciary receive adequate training on the principles of international humanitarian law, women’s rights and the children’s rights;

   • Identify the causes and consequences of sexual violence and to take all necessary measures to prevent and eradicate it;

   • Develop campaigns to raise public awareness on existing remedies for cases of sexual violence;

   • Put in place efficient and accessible reparation programmes that ensure information, rehabilitation and compensation for victims of sexual violence;

   • Ensure that victims of sexual violence have access to medical assistance and psychological support;

   • Ensure participation of women in the elaboration, adoption and implementation of reparation programmes;

   • Ratify without reservations and ensure the effective implementation of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa and the Convention on the Elimination of All Forms of Discrimination against Women as well as its Optional Protocol;

   • Ratify the Protocol to the African Charter on Human and Peoples’ Rights on Establishing an African Court on Human and Peoples’ Rights and make a declaration according to Article 34(6) of this Protocol, and ratify as well the Rome Statute of the International Criminal Court.

Done in Brazzaville, Republic of Congo, 28 November 2007
6. ACHPR/Res.121 (XXXII) 07: Resolution on the United Nations Declaration on the Rights of Indigenous Peoples

The African Commission on Human and Peoples’ Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

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);

Recalling its decision to establish a Working Group to examine the issue of Indigenous Populations and advise it accordingly, at the 28th Ordinary Session, in Benin, Cotonou;

Recalling further its Resolution Ref. ACHPR/Res.65 (XXXIV) 03 on the adoption of the Report of the African Commission’s Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session held in Banjul, The Gambia from 6 - 20 November 2003;

Noting with appreciation the immense work done by the Working Group in articulating the African Commission’s position on the rights of Indigenous populations/Communities;

Recalling the Advisory Opinion it adopted at the 41st Ordinary Session held in Accra, Ghana in May 2007 calling on Member States of the African Union to adopt the United Nations Declaration on the Rights of Indigenous Peoples;

Noting with satisfaction the adoption of the United Nations Declaration on the Rights of Indigenous Peoples on 13 September 2007 by the UN General Assembly;

Noting further that no State Parties to the African Charter on Human and Peoples’ Rights voted against this Declaration; Recognizing further the importance of enhancing the effort to foster the values and implement the principles enshrined in this Declaration;

Now, therefore, resolves:

1. To adopt the Communiqué annexed hereto on the adoption of the United Nations Declaration on the Rights of Indigenous Peoples;

2. To have this Communiqué read out during the Closing Ceremony of the 42nd Ordinary Session; and

3. To have it widely publicized and distributed to all stakeholders including State Parties during and after the said Session.

Done in Brazzaville, the Republic of Congo, 28 November 2007
Communiqué on the UN Declaration on the Rights of Indigenous Peoples

The African Commission on Human and Peoples’ Rights welcomes the adoption of the UN Declaration on the Rights of Indigenous Peoples by the UN General Assembly on the 13th September 2007. This Declaration is a very important document for the promotion and protection of indigenous peoples’ rights all over the world, including on the African continent.

The UN Declaration on the Rights of Indigenous Peoples sets out the individual and collective rights of the world’s indigenous peoples, calls for the maintenance and strengthening of their cultural identities, and emphasizes their right to pursue forms of development in keeping with their own needs and aspirations. The Declaration also explicitly encourages harmonious and cooperative relations between States and indigenous peoples: It prohibits discrimination against indigenous peoples and promotes their full and effective participation in all matters that concern them.

With the adoption of the UN Declaration a giant step has been taken towards securing the survival of indigenous peoples and their unique cultures based on their own needs and visions.

The UN Declaration came about after more than 20 years of negotiations in the UN Human rights bodies, a process that involved genuine participation of indigenous peoples’ themselves. The African Commission notes with satisfaction that the great majority of African states voted in favour of the Declaration and that not a single African country voted against this groundbreaking international human rights instrument. A total of 143 countries voted in favour, 4 against and 11 abstained.

The UN Declaration on the Rights of Indigenous Peoples is in line with the position and work of the African Commission on indigenous peoples’ rights as expressed in the various reports, resolutions and legal opinion on the subject matter. The African Commission is confident that the Declaration will become a very valuable tool and a point of reference for the African Commission’s efforts to ensure the promotion and protection of indigenous peoples’ rights on the African continent.

Done in Brazzaville, the Republic of Congo, 28 November 2007

7.  ACHPR/Res.135 (XXXXIII) 08: Resolution on Maternal Mortality in Africa


Recalling that women’s rights and the principle of non discrimination have been recognised and guaranteed in all international human rights instruments, notably the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, and all other international and regional conventions and covenants such as the African Charter on Human and Peoples’ Rights relating to the rights of women;
Recalling that women’s rights to maternal health have been recognised and reaffirmed by the United Nations Plans of Action on Population and Development in 1994 and on Social Development in 1995 and have been enshrined in the Beijing Declaration and Platform for Action in 1995;

Recognising that improving maternal and reproductive health is both a regional and international obligation enshrined in the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa and the Millennium Development Goals;

Further recalling the commitments of the Heads of State and Governments in the Solemn Declaration on Gender Equality in Africa adopted during the 3rd Ordinary Session held in Addis Ababa, Ethiopia from 6-8 July 2004;

Noting the commitments of the Heads of State and Governments in the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases made during the African Summit on HIV/AIDS, Tuberculosis and Other Infectious Diseases in Abuja, Nigeria from 24-27 April 2001 to allocate 15% of their national budgets to health;

Standing by our Declaration on Economic, Social and Cultural Rights in Pretoria during our 36th Session in December 2004 that lack of political will, privatisation of essential services, failure to allocate sufficient resources and brain drain amongst other factors are at the centre of the non-realisation of economic, social and cultural rights in Africa including the right to enjoy the best attainable state of physical and mental health;

Deeply disturbed that Africa currently has the worst records of maternal deaths in the world accounting for more than two hundred and fifty thousand deaths annually;

Concerned that most member states of the African Union are not making progress in reducing the maternal mortality rates in their respective countries;

Noting with concern that maternal mortality destroys the very foundation of the African family which according to article 18 of the African Charter on Human and Peoples’ Rights is the “natural unit and basis of the society” and “the custodian of morals and traditional values recognised by the community”;

Considering that the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa makes provision in article 14 for health and reproductive rights and in particular, obliges states to “establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding”;

Appreciating the great role women play in securing the future of the society and that pregnancy being a natural occurrence, every society should seek to protect the life of the mother and the child from conception, to delivery and beyond;

Convinced that preventable maternal mortality is a violation of the rights to life, health and dignity of women in Africa; FIRMLY convinced that only through effective health institutions as well as strategic and sustained funding to the health sector that the problem of maternal mortality will be managed and finally reduced in Africa;

2. Calls upon African Governments to individually and collectively address the issue of maternal mortality in accordance with the recommendations attached to this resolution.

Done in Abuja, Federal Republic of Nigeria on the 24th November 2008

Recommendations on Addressing Maternal Mortality in Africa

The African Commission on Human and Peoples’ Rights

In accordance with its Resolution on Maternal Mortality in Africa adopted during its 44th Ordinary Session held from 10-24 November 2008 in Abuja, Federal Republic of Nigeria, hereby recommends that States parties to the African Charter on Human and Peoples’ Rights:

1. Meet their obligations under the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases. In particular, to:

   • Allocate 15% of their national budgets to the health sector in accordance with the Declaration;
   • Ensure that market based economic reforms including privatisation do not take away the responsibility of the state to fulfil the right to health;
   • Ensure that health reforms, policies and programmes should make adequate considerations of the right of poor and rural women to access basic healthcare as enshrined in the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa;
   • Further ensure that access to ante natal and obstetric services as much as practicable be free, available and accessible;

2. Adopt human right based approaches in the formulation of country programs and strategies to reduce maternal mortality in Africa. In particular to:

   • Ensure participation of women and civil society in the formulation, implementation, monitoring and evaluation of policies and frameworks aimed at addressing maternal mortality;
   • Take all appropriate measures including positive discrimination in providing funds for specific programs and projects to secure maternal health;
   • Provide a well staffed and equipped maternity centres in rural areas;
   • Employ and retain skilled health personnel and birth attendants at rural and semi-urban areas;
   • Train and retain health workers in emergency obstetric care;
   • Develop community led emergency transport systems to cushion the effect of delays in getting medical attention;
   • Develop adaptive training curriculum for the education of women and girls on rights to reproductive health.
3. Include in their periodic reports under article 62 of the African Charter:

- The general state of maternal health, including the level of mortality and morbidity and challenges faced in implementing related programs;
- Policy and institutional measures taken to give effect to the provisions of article 14 of the African Charter on the right to the best attainable state of physical and mental health for women;
- Budgetary and institutional measures dedicated to securing maternal health;
- Other programs and activities undertaken to secure maternal health with results;

4. Consider the declaration on the state of maternal health in Africa as a continental emergency and to take appropriate regional actions;

5. To those member states of the African Union that have not already done so, to urgently ratify the Protocol to the Africa Charter on Human and Peoples’ Rights on the Rights of Women in Africa;

6. To member states that have already ratified this protocol to immediately undertake measures for domestication, including the amendment of internal laws to conform with the provisions of the Protocol;

7. To develop programmes aimed at drawing attention to the negative impacts of maternal mortality on women in Africa and future generations of Africans;

8. To civil society organisations in Africa to work in collaboration and develop partnerships to:

- Conduct research on maternal mortality in respective African countries;
- Work in collaboration with governmental agencies to develop effective country strategies for securing the right to maternal health;
- Ensure the participation of communities and women groups in the formulation of programs and activities aimed at reducing maternal mortality;
- Monitor the implementation of programs aimed at reducing maternal mortality;
- Advocate for accountability by governments to their respective obligations in reducing maternal mortality and securing the right to maternal health;

Done in Abuja, Federal Republic of Nigeria, the 24th November 2008

8. **ACHPR/Res153 (XLVI) 09: Resolution on Climate Change and Human Rights and the need to Study its Impact in Africa**

Bearing in mind 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 the provisions of Articles 22 and 24 of the African Charter relating to the right of peoples to economic, social and cultural development and the right of peoples to a satisfactory environment favourable to their development;

Considering the provisions of the United Nations Declarations on the Rights of Indigenous Peoples, which recognises the rights of indigenous peoples and communities to their ancestral lands, cultures, lifestyles and a safe satisfactory environment;

Noting Article II of the African Convention on the Conservation of Nature and Natural Resources (Maputo Convention) of 11 July 2003, which among other things, provides for “socially acceptable development policies and programmes” guided by human rights principles, including the right to development and the right of all peoples to a satisfactory environment favourable to their development;

Recalling that the Convention on Biological Diversity urges states Parties thereto to “...respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities...protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements”;

Noting further that African regional standards for the protection of the environment, management of natural resources and human rights are consistent with provisions of the Convention on Biological Diversity of 5 June 1992, to which more than 40 African States are parties;

Taking note that climate change is principally the result of emissions of greenhouse gases, which remain relatively high in developed countries;

Concerned that the negotiations on climate change leading to the Copenhagen Conference in December 2009, make no clear reference to human rights principles, such as the rights to traditional knowledge and intellectual property of local and indigenous communities, as well as the principle of free, prior and informed consent by communities, as enshrined in the Maputo Convention and other relevant African human rights instruments;

Concerned further that the lack of human rights safeguards in various draft texts of the conventions under negotiation could put at risk the life, physical integrity and livelihood of the most vulnerable members of society notably isolated indigenous and local communities, women, and other vulnerable social groups;

The African Commission hereby:

1. Urges the Assembly of Heads of State and Government of the African Union to ensure that human rights standards safeguards, such as the principle of free, prior and
informed consent, be included into any adopted legal text on climate change as preventive measures against forced relocation, unfair dispossession of properties, loss of livelihoods and similar human rights violations;

2. Urges the Assembly of Heads of State and Government to ensure that special measure of protection for vulnerable groups such as children, women, the elderly, indigenous communities and victims of natural disasters and conflicts are included in any international agreement or instruments on climate change;

3. Calls on the Assembly of Heads of State and Government to take all necessary measures to ensure that the African Commission on Human and Peoples’ Rights is included in the African Union’s negotiating team on climate change;

4. Decides to carry out a study on the impact of climate change on human rights in Africa.

Done in Banjul, The Gambia on the 25 November 2009


The African Commission on Human and Peoples’ Rights, meeting at its 48th Ordinary Session held in Banjul, (Republic of The Gambia) from 10 to 24 November 2010;

Recalling the relevant provisions of the African Charter on Human and Peoples’ Rights (African Charter), and those of the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol);

Recalling also its Resolutions; Res.103(XXXX)06 of 29th November 2006, on the situation of women’s rights in DRC; Res.111(XXXXII)07, on the right to appeal and to compensation for the victims of sexual abuses; and Res.139(XXXXIII)08 of 24 th November 2008 on the human rights situation in DRC;

Paying tribute to the process of the ratification of the Protocol to the African Charter on the Rights of Women in Africa;

Paying tribute to the passing of two laws against sexual abuses by the DRC Government (Laws no 06/018 and 06/019) which criminalize various forms of sexual abuses which formerly had not been criminalized in the Criminal Code;

Bearing in mind the aims and objectives of the Constitutive Act of the African Union and the authority conferred on the Peace and Security Council (PSC);

Recalling Resolution 1325 of the United Nations Security Council of the 31st October 2000 on women, peace and security as well as the Goma Declaration of 18th June 2008 on the elimination of sexual abuse and the combat against impunity in the Great Lakes region;

Considering the Decision of the Assembly of Heads of State and Government of the African Union to declare the year 2010 « Year of peace and security in Africa » adopted during its 14th Ordinary Session;
Concerned by the persistence of the systematic and highly widespread practice of rape by armed groups against women and young girls in particular in the Eastern region of the DRC and the incapacity of the Congolese Authorities, to put an end to the impunity being enjoyed by the perpetrators of these odious crimes despite the existence of two laws on sexual abuse;

Mindful of the need to strengthen cooperation between the Organs and Institutions of the African Union in the combat against impunity and to coordinate our activities with those of the Peace and Security Council (PSC) of the African Union;

Strongly condemns the persistence of the serious human rights violations perpetrated against the civilian population in the context of the on-going armed conflict in Eastern DRC;

Calls on all the armed groups active in Eastern DRC to immediately put an end to the rape and all kinds of violence against women and children;

Urges the DRC Government to take all necessary steps for the effective implementation of the 2006 laws on sexual abuse, including the pursuit and punishment of the perpetrators of rape and other acts of violence against women;

Urges the DRC Government to accelerate the process of the ratification of the Maputo Protocol and also the establishment of a Compensation Fund for the victims of sexual abuse currently being created within the Ministry of Justice and human rights;

Decides to enter into immediate consultations with the Peace and Security Council (PSC) of the African Union to collaborate and send, in the very near future, an investigation mission on the sexual abuse being perpetrated against women in DRC in which the Special Rapporteur on the Rights of Women in Africa will participate and which will seek, among other objectives, to:

• Draw up an exhaustive inventory of the sexual abuse to which Congolese women in Eastern DRC are subjected;

• Identify the armed groups guilty of these serious violations of the African Charter on Human and Peoples’ Rights and of international humanitarian law;

Also decides that the conclusions of this Investigation Report be carried forward jointly by the Peace and Security Council (PSC) of the African Union and the ACHPR so that appropriate and urgent measures can be taken to bring the actors of these odious crimes before the national, regional or/and international Courts;

Decides finally to submit report to the Assembly of Heads of State and Government of the African Union.

Done in Banjul, The Gambia, 24 November 2010
10. **ACHPR/Res.176 (XLVIII) 2010: Resolution on the Deteriorating Situation of Indigenous People in some parts of Africa**

The African Commission on Human and Peoples’ Rights meeting at its 48th Ordinary Session held in Banjul, The Gambia, from 10 to 24 November 2010

Recalling its mandate under the African Charter on Human and Peoples’ Rights (African Charter) to promote and protect human and peoples’ rights in Africa;

Underscoring the principle of non-discrimination recognized under Article 2 of the African Charter and other international human rights instruments particularly the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

Underscoring further that peoples’ rights, including indigenous peoples rights, are recognized and protected under Articles 19, 20(1), 21 and 22 of the African Charter and the UN Declaration on the Rights of Indigenous Peoples;

Recalling ACHPR/Res.121 (XXXXII) 07: Resolution on the United Nations Declaration on the Rights of Indigenous Peoples adopted during the 42nd Ordinary Session of the African Commission held from 15 to 28 November 2007; (include NUE)

Concerned with the increased and continued killings of the Batwa in Burundi and the intended eviction of the Ogiek in Kenya;

Deeply concerned with the decision (add the number of the decision) of the HIGH Court of Botswana that have denied the San Bushmen of the Central Kalahari Game Reserve their right to access water within their ancestral lands;

Further concerned with the displacement of indigenous pastoralists in Tanzania from their ancestral lands;

Noting with concern the harassment, intimidation, arbitrary arrest, illegal detention and the killing of indigenous communities and their advocates in Burundi and Tanzania:

- Urges the Governments of Burundi and Botswana to investigate the violation of human rights committed against indigenous people within their respective territories and bring those responsible to justice;

- Urges the Government of Kenya to stop the intended eviction of the Ogiek community from Mau Forest and to facilitate the mapping of Ogiek territories;

- Calls upon the Government of Tanzania to recognize and respect the rights of indigenous communities in Tanzania.

Done in Banjul, the Gambia 24 November 2010

The African Commission on Human and Peoples’ Rights (the African Commission), meeting at its 49th Ordinary Session, held in Banjul, The Gambia, from 28 April to 12 May 2011;

Recalling its mandate to promote and protect human and peoples’ rights pursuant to the African Charter on Human and Peoples’ Rights (the African Charter);

Considering the relevant provisions of Articles 2 and 3 of the African Charter on Human and Peoples’ Rights (the African Charter), which proclaims equality and prohibits all forms of discrimination;

Recalling the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa which prohibits discrimination against women, and the right to a positive cultural environment, whereby the States undertake to ensure protection for women from marginalized populations and to guarantee them a framework adapted to their conditions in relation with their physical, economic and social requirements;

Further recalling the international instruments which prohibit all forms of discrimination, in particular on the basis of race, ethnic grouping, colour, gender, language, religion, national or social opinion or origin, and specifically the United Nations Declaration on the Rights of Indigenous Populations, in its Articles 21 and 22 which calls on the States to pay particular attention to the Rights of Indigenous Women in the application of the said Declaration;

Considering the 1995 Beijing Declaration on Indigenous Women which urged the Governments and non-Government actors to adopt concrete measures to promote and strengthen national policies and programmes for the benefit of indigenous women pertaining specifically to their rights to good health, education and economic development;

Noting the indivisibility of the rights of indigenous women and those of the populations to which they belong and the fact that the respect for the rights of indigenous women passes necessarily through the respect for the collective rights of indigenous populations;

Recognizing the crucial role played by indigenous women in the protection and preservation of natural resources and in the protection, development and transmission of indigenous knowledge and culture;

Recalling that the rights of indigenous populations to property, to freely dispose of their wealth and natural resources, to practice their culture and their right to development as guaranteed in the African Charter and other pertinent international instruments;

Noting the persistence of violence and various forms of discrimination and marginalization faced by indigenous women in all areas of society.
Concerned by the fact that the expropriation of indigenous populations’ ancestral lands and the prohibition of their access to the natural resources on these lands has a particularly serious impact on the lives of indigenous women;

Preoccupied by the high rate of maternal mortality of indigenous women and cases of illnesses affecting them, which could have been prevented if they had proper health care facilities;

Concerned by the absence of disaggregated data in several countries, which are important in the determination of required measures to develop adapted policies; Urge States Parties to:

1. Collect disaggregated data on the general situation of indigenous women;

2. Pay special attention to the status of women in their countries and to adopt laws, policies, and specific programs to promote and protect all their human rights;

Requests to all other concerned actors, notable NGOs, technical and financial partners to support the efforts of States Parties in the implementation of policies and programmes in favour of indigenous women.