THE VOICE OF THE INDIGENOUS

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MANDATE & MEMBERSHIP

The WGIP is one of the oldest and most active special mechanisms of the Commission. Since its establishment in 2000, it has undertaken several promotional activities that have brought the issue of indigenous peoples to the forefront of the Commission’s agenda. Under the 2003 resolution of the Commission, the Working Group is mandated to:

- Secure funding for the activities of the Working Group, with the support and collaboration of interested donors, institutions and NGOs;
- Gather information from all relevant sources (including governments, civil society, indigenous populations and communities) on violations of the human rights and fundamental freedoms of indigenous populations and communities;
- Undertake country visits in order to assess the human rights situation of indigenous populations/communities;
- Make recommendations and proposals on specific measures and activities to prevent and redress violations of the human rights and fundamental freedoms of indigenous populations/communities;
- Present an activity report at every Ordinary Session of the African Commission;
- Cooperate, whenever appropriate and feasible, with other international and regional human rights mechanisms, institutions and organizations.

The WGIP is composed of ten members – three Commissioners, four indigenous experts and three independent experts. As of March 2017, the members of the WGIP are:

Chairperson
Commissioner Soyata Maiga (Mali)
soyatam@yahoo.fr

Member
Commissioner Reine Alapini-Gansou (Benin) alapinireine@yahoo.fr

Member
Commissioner Jamesina King (Sierra Leone)
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Indigenous Expert
Mr. Belkacem Lounes (Algeria) - congres.mondial.amazigh@wanadoo.fr

Indigenous Expert
Dr. Kanyinke Sena (Kenya)
kanyinke@gmail.com
Meetings in Banjul

The WGIP held two meetings, on 18-19 October 2016 and 30–31 October 2017, in Banjul, The Gambia, where it assessed and discussed urgent and relevant human rights issues across the continent as well as decided on appropriate actions and priority activities to be implemented in 2017 and 2018.

For further information, please see the following reports of the Chairperson of the WGIP:

**59th Ordinary Session ACHPR**


**61th Ordinary Session ACHPR**


New member

At its meeting held from 18-19 October 2016, the WGIP also reviewed applications for membership received following a call for applications advertised on the Commission’s website.

Based on the recommendations of the WGIP, the Commission appointed Dr. Kanyinke Sena from Kenya as a new member of the WGIP.

Dr. Kanyinke Sena teaches law at the Faculty of Law of Egerton University in Nakuru, Kenya, and is the Kenya Advocacy advisor for Minority Rights Group International. He previously served as member and first African to Chair the United Nations Permanent Forum on Indigenous Issues.

Dr Sena has a Law Degree from the University of Mysore in India, and a Master’s and PhD in Law from the University of Arizona in the US.
Addressing the Plight of Indigenous Women and Girls through the ACHPR

The year 2016 marked a significant milestone in Africa’s human rights trajectory. 2016 marked not only the 30th Anniversary of the entry into force of the African Charter on Human and Peoples’ Rights (the Charter) but also the 35th anniversary of the adoption of the Charter; the 15th anniversary of the operationalization of the African Committee of Experts on the Rights and Welfare of the Child; the 10th anniversary of the operationalization of the African Court on Human and Peoples’ Rights (the African Court); and, finally, the 13th anniversary of the Protocol to the African Charter on the Rights of Women in Africa (the Maputo Protocol).

To celebrate these achievements, the African Union declared 2016 the African Year for Human Rights, with a particular focus on the Rights of Women.

As part of the celebrations, the African Commission, the African Committee of Experts on the Rights and Welfare of the Child (the Children’s Committee) and the African Court on Human and Peoples’ Rights (the African Court) synchronized their commemorative sessions to jointly mark the momentous occasion. As such, the 59th Ordinary Session of the Commission, the 28th Ordinary Session of the Children’s Committee and the 43rd Ordinary Session of the African Court were all held in October/November 2016.

While the Commission and the Committee both held their sessions in Banjul, The Gambia, the African Court held its session in Arusha, Tanzania.
As part of the broader focus on women’s rights and the joint celebration of the African Year of Human Rights, the Commission’s 59th Ordinary Session hosted a women’s conference, where the Working Group on Indigenous Populations/Communities (WGIP) organized a panel discussion on the rights of indigenous women in Africa. Commissioner Soyata Maiga, Chair of the WGIP, chaired the WGIP panel composed of Dr. Mariam Aboubakrine, member of the UN Permanent Forum on Indigenous Issues, Ms Dubravka Simonovic, UN Special Rapporteur on Violence Against Women, Dr. Melakou Tegegn, expert member of the WGIP, Ms Jane Meriwas and Ms Ann Reisano, indigenous representatives from Samburu Women Trust in Kenya and Ms Lisenga Bafalikiki, coordinator of the Coalition of Women Leaders for the Environment and Sustainable Development in the Democratic Republic of Congo (DRC).

All panellists covered important and relevant themes pertaining to the contemporary plight of indigenous women in Africa. In her opening presentation, the Chair of the panel, Commissioner Soyata Maiga, gave a brief overview of the WGIP’s establishment and mandate, after which she highlighted some of the most important challenges indigenous women face on the continent.

In her remarks, Commissioner Maiga underscored the fact that indigenous women play instrumental roles in their respective communities, being responsible for their families and ensuring a stable livelihood.

However, the problem when talking about indigenous women is the fact that there exists very little disaggregated data. Lack of data on the challenges and areas that need special attention calls for enhanced research in the area. The Commissioner further noted that basic services, such as health care and education for indigenous communities, are often insufficient due to the geographical remoteness of the communities and the lack of political will. The Commissioner concluded her remarks by stating that African governments should do their best to empower and ensure the political participation of indigenous peoples in general and indigenous women in particular.

The rest of the panellists spoke on the following topics:

- The role of Indigenous Women in Preserving and Promoting Indigenous and Traditional Knowledge
- Addressing Violence Against Indigenous Women
- The Persistent Limited Participation of Indigenous Women in Crucial Decision-Making Processes
- Harmful Traditional Practices against Women and Girls in the Samburu Community in Kenya
- The Lack of Property/Land Rights for Indigenous Women and the Issue of Securing Livelihoods and Incomes to Sustain their Families in Central Africa.
While remarkable international achievements have been made by the global indigenous movement with regard to promoting and protecting indigenous peoples’ rights, the panel presentations underscored the fact that indigenous peoples’ rights on the African continent are still largely neglected and they all pointed to the need for further and strengthened sensitization and awareness raising on the issue of indigenous peoples’ rights in Africa.

The panellists, moreover, highlighted the fact that indigenous women often face a double discrimination; they are discriminated both as indigenous and as women.

Despite this double discrimination, it was indicated that indigenous women play an instrumental role within their communities in the protection, preservation and future development of indigenous cultures. In conclusion, the panellists all called for enhanced focus and attention on indigenous peoples’ issues across Africa in general and African indigenous women’s issues, in particular.

By Katrine Broch Hansen
International Work Group for Indigenous Affairs (IWGIA)
Advanced Human Rights Course on the Rights of Indigenous Peoples in Africa

PERSONAL TESTIMONY

My name is Delis Mzambani from Zimbabwe. I work for the Zimbabwe Human Rights Commission as a human rights officer. I am also attached to the Special Interest Groups Thematic Working Group which seeks to advance the rights of vulnerable groups in society such as indigenous people, older persons, persons with disabilities and youth.

When the University of Pretoria advertised the Advanced Human Rights Course on the Rights of Indigenous Peoples in Africa for 2016, I saw it as an opportunity to enhance my personal and professional knowledge on the concept of indigeneity. Before attending the course, I equated indigeneity with minority but the course was an eye opener since it was clarified that there are distinguishing characteristics between the two groups, especially with regard to attachment to land and subsequent dispossession, discrimination and marginalization.

I also appreciated the knowledge on the protection mechanisms that are available to indigenous people but not to minority groups, knowing these mechanisms were crucial for my work in promoting, protecting and enforcing the rights of indigenous people. Before attending the course in June 2016, I had carried out a human rights situational analysis on the rights of the San People of Zimbabwe together with the Special Interest Groups Thematic Working Group.

It was gratifying to note that our findings matched those of a study that was conducted by the University of Zimbabwe in collaboration with IWGIA in 2013.
The two reports validated each other and are being used as lobbying tools to advance the rights of the San People of Zimbabwe. All in all, I gained vast knowledge on:

- Regional and international human rights instruments on the rights of indigenous people;

- Regional and international human rights protection mechanisms for the rights of indigenous people, such as the African Commission’s Working Group on Indigenous Populations/Communities; and

- Policy and strategy formulation for the purpose of effectively promoting the rights of indigenous people.

I appreciate the opportunity accorded to me by IWGIA and the University of Pretoria’s Centre for Human Rights in attending the course. The course was well organized and seasoned presenters made the course an oasis of invaluable information.

The country presentations were informative and an eye opener since they provided an African perspective which it would not have been possible to acquire in just one session.

Furthermore, I realised that there were a number of best practices on protection and promotion of the rights of indigenous people from countries such as Namibia and Burundi which are worth emulating. Thank you and well done IWGIA AND CHR.
About the course

The Advanced Human Rights Course on the Rights of Indigenous Peoples in Africa is a one-week course organized by the WGIP in collaboration with the Centre for Human Rights of the University of Pretoria and IWGIA. It was launched in 2011 and will be offered for the eighth time this year from 24 to 28 September 2018 at the University of Pretoria, Pretoria, South Africa.

Interested individuals are encouraged to apply. For more information, visit the website of the Centre for Human Rights: http://www.chr.up.ac.za/index.php/ahrc.html

The Course was also held for the 7th time from 25 to 29 September 2017 at the Centre for Human Rights of the University of Pretoria. Dr Melakou Tegegn, Dr Kanyinke Sena, Ms Lesle Jansen and Mr Samuel Tilahun participated as guest lecturers from the WGIP. Other guest lecturers included Prof. Alexandra Xanthanki of the University of Brunel and Dr Elifuraha Laltaika, African member of the United Nations Permanent Forum on Indigenous Issues.

More information on the 2017 course can be found at:
Report on Extractive Industries and Indigenous Peoples in Africa

In 2013, in consultation with the Working Group on Extractive Industries in Africa, the WGIP decided to undertake a study on the impact of extractive industries on the rights of indigenous peoples on the continent. It therefore commissioned a consultant to conduct the study.

The study basically builds on field studies conducted in four African countries, namely Kenya, Cameroon, Uganda and Namibia. A workshop to validate the draft report, bringing together several stakeholders, was held in March 2015 in Windhoek, Namibia.

After a long process of consultation and revision, the study on “Extractive Industries, Land Rights and the Rights of Indigenous Communities/Populations: East, Central and Southern Africa” was finally adopted by the African Commission in April 2016 at its 58th Ordinary Session held in Banjul, The Gambia.

The report was officially launched at the 61st Ordinary Session of the ACHPR, held from 1 to 15 November 2017 in Banjul. The launching was presided by Commissioner Soyata Maiga, who gave a brief background of the study, findings, conclusions and recommendations by Dr. Melakou Tegegn and Mr. Samuel Tilahun.

The Study was also launched in Cameroon through a National Dialogue organized by the WGIP in collaboration with Mbororo Social and Cultural Development Association (MBOSCUDA) from 7 to 8 September 2017 in Yaoundé.

The National Dialogue brought together representatives from, among others, various concerned government ministries, indigenous communities, private sector companies, NGOs, and the National Human Rights Commission. The WGIP also plans to organize a national dialogue on the Study in Uganda in 2018.

Indigenous peoples in Africa are among the first to feel the consequences of the global increase in extractive industries, as they often live, where natural resources are found.

The report can be downloaded and shared HERE.
The Living Convention

Indigenous peoples and local communities often ask what their rights are at the international level. The answer to this crucial question is complicated for several reasons, including the fact that the provisions containing the rights are spread across a wide range of international instruments, each with its own particular focus.

As a result, Indigenous peoples and local communities are denied an easily accessible means of learning about the full spectrum of their rights relating to issues such as developments on their territories, lands and waters and the use of their natural resources and knowledge.

To address this deficiency, and to help answer the question posed above, Natural Justice has produced the Living Convention.

It sets them out in an ordered manner, grouping similar provisions under the same heading to enable the reader to quickly assess the extent of international law relating to specific issues.

In this way, the Living Convention aims to democratize international law by providing a straightforward resource for Indigenous peoples, local communities, and their supporting organizations to refer to when seeking to understand their international rights.

By Harry Jonas, Natural Justice Focal point organization in South Africa
The second edition of the Living Convention (published in May 2013) is divided into three parts:

- **Part I** sets out the rationale and methodology of the research undertaken to develop the compendium in Part II.

- **Part II** contains a compendium of internationally recognized rights that support the integrity and resilience of Indigenous peoples’ and local communities’ territories and other social-ecological systems.

- **Part III** sets out a number of key questions concerning, for example, the utility of integrated rights approaches, how international law can be reformed, and how national governments can better uphold their international commitments. It then suggests initial activities that could further deepen the analysis and ways to address the current weaknesses in the development and implementation of international law.

The Living Convention also includes annexes which (among other things): detail the instruments reviewed, included, and excluded from the compendium; provide a list of relevant international and regional judgments; and list a number of Indigenous peoples’ declarations.

This second edition of the Living Convention represents a further step in an ongoing process of ensuring that international law properly fulfils its intended purpose.

You can download the Living Convention [HERE](https://www.naturaljustice.org) or contact [www.naturaljustice.org](http://www.naturaljustice.org)

Natural Justice invites you to peer-review the publication and to work with them and others to improve it and take it forward in practice.
The Amazigh of North and West Africa

The Amazigh are one of the oldest peoples on earth. Their presence in North Africa (Tamazgha) dates back over 10,000 years. They are the first or indigenous people of this region.

Amazigh means “free man or people” but the Amazigh are also known as the "Berbers", a derogatory term that comes from “barbarous”, given by the Romans to all that was foreign to their civilization. North Africa experienced countless invasions between the 10th century BC and the 19th century of the Christian era: Phoenicians, Romans, Vandals, Byzantines, Arabs, Spanish, Italians, Turks and French succeeded each other and spent varying degrees of time on North African soil.

Tamazight, the Amazigh language, has existed since ancient times. It features a unique written script known as Tifinagh.

The Amazigh language is currently spoken by some 30 million people in the countries of North and West Africa (from Siwa Oasis in Egypt to Morocco through Libya, Tunisia, Algeria, Niger, Mali, northern Burkina Faso and Mauritania). The relentless and violent colonization of the Canary Islands by Spain in the 15th century eventually obliterated the language in the Canary Islands but failed to obliterate place names and other characteristics of the Amazigh identity.
In terms of beliefs, previously celebrated animists, Amazigh now discovered the main monotheistic religions: Judaism, brought by the Jews at the time of Solomon (970 BC), then Christianity in the first century of the Christian era with the Romans and, finally, Islam with the arrival of the Arabs from the 7th century on.

Even when they adopted these new religions, however, the Amazigh always preserved their traditional practices by adapting these new religions to their lifestyle. Monotheism has thus never removed the earlier pre-monotheist traditional practices such as animist rituals or the veneration of local saints (places and persons). The Amazigh identity is not defined by any religion but rather with respect to the moral values of the people (freedom, justice, mutual assistance, its land, its history, its civilization and its language).

The traditional social and political organization, based on the Amazigh culture, is known as "tajmaât" and comprises the village assembly or tribe or community. Decisions are made democratically by a committee of wise men by consensus.

These assemblies use Amazigh custom law to legalize social acts (marriages, divorces, inheritances, etc.) and to resolve any individual or community conflicts. The customary law of the Amazigh, known as "azref", is quite independent of religious prescriptions. The Amazigh society is, therefore, essentially secular. Several local churches can unite as a federation of tribes, known as an "Aarch", which meets primarily when the community is threatened by a serious danger or when there are major projects of common interest. Amazigh communities lived autonomously irrespective of the existence of the formal structures of the State.

The Amazigh today

The vast majority of them now live in Morocco (50%) and Algeria (30%) with the remaining 20% living in Tunisia, Libya, Egypt, the Canary Islands and in Niger, Mali, Burkina Faso and Mauritania.

In terms of proportion of the population, the Amazigh represent 66% of the total population of Morocco (Rif, Atlas, Souss), 33% in Algeria (Kabylia, Aures Chenwa, Mzab, Tuareg in the Sahara...), 10% in Tunisia, 20% in Libya, 20% in Niger and 10% in Mali.

The Amazigh populations essentially inhabit the mountainous regions of the north and the southern desert (Sahara).

They form communities or peoples separated from each other by large distances and national borders. In the case of the Tuareg, whose territory is divided between six states, this is impeding their traditional way of life and therefore threatening their survival.

The Amazigh are neither accepted nor recognized as indigenous peoples in any of the countries in which they live. They are subjected to forced assimilation policies. Although the Amazigh language has achieved the status of official language in Algeria and Morocco, the Amazigh language and culture remain largely marginalized.

Amazigh also face the phenomenon of arbitrary occupation of their territories by the State and the theft of their land and natural resources (water, forests, minerals...). And when they protest, they are subjected to intimidation, threats, physical violence, arbitrary arrest and detention, as is currently the case, for example, in Mzab (Algeria).
The poor areas (mountains and deserts) into which they have retreated to save their language and their way of life as a result of foreign invasions and colonial expropriation meant that the Amazigh (men initially, then women) have often been likely to leave the homeland for more distant horizons in search of a livelihood and dignity.

They were forced to migrate not only to the cities of their country but also to Europe as early as the late 19th century, especially to the countries of their colonizers (France, Spain). Wherever they are, the Amazigh diaspora retains its own cultural practices and strong links with the country of origin.

With the exception of Canary Islanders, who have long opted to demand the independence of their archipelago, the different Amazigh peoples or communities have not yet decided between remaining embedded within the current nation-states but with more recognition of their specific rights as indigenous peoples, or to take their destiny into their own hands, in accordance with the right to self-determination, which would mean some form of autonomy or self-governance for Amazigh Territories.

Today, independence and autonomy movements exist particularly in Kabylia (Algeria), in several regions of Morocco and among the Tuareg in Mali and Niger.

The demands of the Amazigh

While their demands were originally limited to Amazigh language and cultural rights, they now relate more generally to recognition of the Amazigh as the indigenous people of North and some parts of West Africa with all their rights.

By Mr. Belkacem Lounes
World Amazigh Congress
Mega Development and Extractive Projects put Kenya’s Indigenous Communities at a Crossroads

The nature of indigenous communities’ livelihood systems and existence is intricately linked to land and natural resource ownership, access and use. Land and natural resources are considered sacred by Kenya’s indigenous peoples who include: pastoralists, hunter-gatherers, fishing communities and some small-scale farmers strewn across the country.

Over the centuries, nature has enabled indigenous communities to develop clear and practical capabilities, giving them access to material and social resources. Indigenous communities’ continue to review and improve their activities through experiential learning to ensure ecological integrity, survival of fauna and flora and to forestall and recover from disease outbreaks, climate shocks and stress.

Kenya’s indigenous peoples’ lands and territories form the country’s natural resource base, with forests, grasslands, highlands, water masses and mighty herds and wildlife – the latter forming the bed rock of the country’s wildlife-based tourism industry, which remains one of the most lucrative foreign exchange earners.

Kenya’s indigenous peoples’ cultures also continue to play multiple roles in the wellbeing of the country by providing a cultural identity as well as diversity.
Recently, following production of the blueprint for the country’s vision 2030 – a national master plan detailing the country’s transition to a newly-developed country by the year 2030, indigenous peoples’ lands form the last frontier for mega infrastructure projects, the extraction of oil, natural gas, geothermal and wind power.

For indigenous peoples in Kenya, land and natural resources such as forests and grasslands are held in very high regard since community land, in addition to securing subsistence and livelihood, is seen as sacred, being inextricably linked to the cultural and spiritual integrity of the community and its traditional way of life.

Among indigenous peoples, natural resources belong to the community not to the individual, and are essential to their preservation and survival as a traditional people.

Natural resources form a source of health and wellbeing, livelihood, religion and culture, which are all intimately connected to indigenous peoples’ traditional lands, which are used for grazing, hunting and gathering, fishing, sacred religious practices, and to plants used for traditional medicine.

Indigenous peoples have successfully managed climate variability for centuries. Their skills and knowledge will become more valuable as the impact of global climate change becomes more pressing.

The blend of Indigenous Technical Knowledge (ITK) and Science forms part of the responsive and sustainable responses to the challenges posed by climate change and variations in indigenous peoples’ territories.
The Central African Republic has been concerned with the situation of the indigenous peoples of its country for decades.

In the early 2000s, a mass-based movement led by national and international civil society organizations led to increased national awareness of indigenous peoples’ rights.

There are two indigenous groups present in the Central African Republic, the Baaka or Pygmies, who have lived for centuries in the southwest, particularly in the forest area, and the Peulhs or "Bororo" who live in the savanna because they are pastoralists.

In 2011, the Central African Republic ratified ILO Convention 169 on Indigenous and Tribal Peoples, making it the first and only country in Africa to do so. It also acceded to the United Nations Declaration on the Rights of Indigenous Peoples.

The political crisis that led to the civil war in 2012 was a very critical period for the CAR’s indigenous peoples.

The Bororo, who live in the savanna areas of the centre and north of the country where the rebellion began were regularly held to ransom, their cattle taken as spoils of war and their children taken hostage. Some have since gone into exile, while others have been forced to cooperate with the armed groups to survive.

The Baaka, who lived in the forest, which was not really the theatre of the conflict, were used by warlords who occupied the forested areas in search of ivory and other trophies and wood.

They were subjected to atrocities and were forced to leave their natural territories to live in other areas that were not favourable to them. Many were displaced and died in the process.
With the transition that began in 2014, especially with the beginning of the process of drafting the new Constitution, preparing and holding the Bangui National Forum in 2015, a renewed interest in indigenous peoples emerged.

Civil society was involved in strong advocacy work that has resulted in the rights of indigenous peoples being included in the new Constitution in particular.

Its Preamble reaffirms its adherence to all duly ratified Conventions and the Convention on Indigenous and Tribal Peoples.

Title I: Basic principles of society; article 6 states that: the State shall ensure the enhanced protection of the rights of minorities, indigenous peoples and persons with disabilities.

Title XIII: On the National Authority and Good Governance; article 148 states that: the State shall also ensure the protection of the rights of minorities, indigenous peoples, etc.

Article 149 further states that: the Supreme National Authority shall ensure the protection of national heritage and transparency in the exploitation and management of natural resources and shall ensure the equitable redistribution of the profits generated from natural resources.

It should be noted that indigenous peoples are also minorities in the Central African Republic.

It should also be noted that, in the area of forest governance, particularly within the framework of the Voluntary Partnership Agreement (VPA) signed between the Central African Republic and the European Union in 2011, stakeholders are in the process of integrating the indigenous forest peoples, the Baaka, into the implementing bodies for this process in order to improve transparency and forest sector governance.

A draft framework law is currently under discussion on the form of land legislation. This bill has satisfactorily addressed the indigenous peoples’ right to land.

In conclusion, despite the crisis in the country, the Central African Republic is continuing to move towards protecting and promoting the rights of indigenous peoples.

However, while there is a demonstrable interest in improving the legal framework, much still remains to be done in terms of implementing legislation and international conventions.

The civil society organizations that are making efforts in this area rarely provide support for further progress in this regard. Much remains to be done to improve the rights of indigenous peoples in everyday life.

By Mr. Jean Jacques Urbain Mathamale, Centre pour l’Information Environnementale et le Développement Durable
The Voice of the Indigenous is an annual e-newsletter of the Working Group on Indigenous Populations/Communities (WGIP) of the African Commission on Human and Peoples’ Rights (the Commission) that aims to create awareness about the situation and rights of indigenous populations/communities in Africa as well as the mandate and work of the WGIP.

The e-newsletter is available in two languages – English and French. Anyone interested in sharing articles, news or information of any kind relating to indigenous peoples can contact Mr. Samuel Tilahun Tessema at samiazeb2005@gmail.com