

Statement by the African Caucus
8th Session of the United Nations Permanent Forum on Indigenous Issues
United Nations Headquarters, New York
18th – 29th May, 2009

Item 4-Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Madam Chairperson
Distinguished Members of the Forum
Delegates
My fellow indigenous brothers and sisters,

I speak on behalf of the African Caucus.

The Africa Caucus and the Indigenous Peoples of Africa Coordinating Committee note that there are four levels of implementation of effective human rights for indigenous peoples on the African continent. These levels are the international system of norms and standards, the regional mechanisms for human rights, national standards and the empowerment of peoples and individuals at the community level.

The Caucus and IPACC recognize the tremendous achievement of the adoption of the UN Declaration on the Rights of Indigenous Peoples by both the UN Human Rights Council and the General Assembly. After some delays, this instrument was strongly endorsed by African states and stands as a landmark in the evolution of human dignity.

The second level of human rights standards and mechanisms for implementation are at the regional level. We note the importance of the African Charter on Human and Peoples Rights, the African Commission on Human and Peoples Rights and the newly created African Court.

In November 2003, the African Commission adopted the favourable report of its working group on indigenous communities in Africa. In this report the African Commission, which is the treaty body of the African Charter noted inter alia that there are indigenous peoples in Africa, that these peoples experience systematic discrimination and violation of their human rights and that like all other Africans they have the right to collective self-determination and positive action to protect their rights and human dignity.

Madam Chair, in our experience, very few African embassies at the United Nations are aware of the African Commission decision of 2003 which in many ways goes beyond the scope of the UN Declaration of 2007. It is important that the UN Human Rights Council and the UN Permanent Forum continue to cooperate with the African Commission and the African Court to ensure monitoring and follow through on the standards and norms set out by the African Charter and the 2007 UN Declaration.

Madam Chair, the third level of implementation refers to the national level of policies, norms, standards and legislation. The African Caucus and IPACC note that it is at this level we have the greatest challenges.

We note some favourable examples of national policy development, including but not limited to the 2005 decision by the Republic of Burundi to recognize indigenous peoples in the national constitution and to provide them with representation in the Senate and National Assembly. We note the excellent work of the Republic of Congo (Brazzaville) in the elaboration of a national law on indigenous peoples' rights in-line with the UN Declaration on the Rights of Indigenous Peoples and the African Charter. We note progress on cultural and language rights in Morocco, Namibia, Uganda and Cameroon.

We note with concern the deterioration of human rights of indigenous peoples in Niger, Mali and Sudan, the current military campaign in the Niger Delta of Nigeria that heightened last week and the ongoing extreme insecurity in the east of the Democratic Republic of Congo.

Madam Chair, IPACC and Africa Caucus would like to make the following recommendations for effective national implementation and capacity building:

1. We ask the UNPFII and the UN Human Rights Council to address a letter to African heads of state on their progress in the implementation of the standards set out in the 2007 UN Declaration on the Rights of Indigenous Peoples;
2. We recommend that UN agencies and donors assist in training African national human rights commissions on norms and standards related to the rights of indigenous peoples, notably in reference to the African Regional mechanisms and the UN Declaration;
3. We recommend training of judges and Parliamentarians in the specifics of human rights of indigenous peoples in Africa and the harmonisation of national legislation and the international and regional standards and norms;
4. We repeat our earlier 2007 recommendation to the UNPFII that the United Nations should provide financial and technical support to create national review committees which regroup relevant Ministries, UN agencies and indigenous peoples' organisations to monitor and support the implementation of the Declaration and related instruments through dialogue and cooperative actions;
5. We call on the Office of the High Commissioner on Human Rights and the UN Human Rights Council to create a liaison process with the African Commission on Human and Peoples Rights, the African Court and National Human Rights Commissions in Africa to harmonise training and reporting on national progress in implementing human rights of indigenous peoples. There is an opportunity to link reporting to the African Commission and to the Universal Periodic Review. UPR national reports should include reference to the implementation of the UN Declaration;
6. We call on the UNPFII and the Human Rights Council to send the UN Special Rapporteur on the Human Rights and Fundamental Freedom of Indigenous Peoples to high intensity civil conflict areas including northern Niger, the Niger Delta and eastern Democratic Republic of Congo, we note also the situation of extreme land insecurity in the United of Republic of Tanzania;

7. We note with concern the absence of a coherent approach of UN agencies to the vulnerability of indigenous women and children in Africa;
8. We remind the UNPFII that the majority of indigenous peoples in Africa are to some degree mobile and / or transhumant. Land rights in Africa are based on colonial discrimination against mobile peoples. There can be no adequate resolution of human rights standards in Africa until there is attention given to the rights to mobile indigenous pastoralists and hunter-gatherers. Mobility is not only a fundamental right but also an important component of ecosystem-based approaches to adaptation;
9. We call on African states to follow the example of the Republics Burundi and Congo-Brazzaville in establishing national constitutional and legislative norms in harmony with the UN Declaration on the Rights of Indigenous Peoples and the African Charter on Human and Peoples Rights.
10. We call on the African Commission to include the UNDRIP as a basis for assessing states' compliance with the African Charter
11. We call on African states to reconsider climate change mitigation measures that are infringing on the human rights of indigenous peoples such as mass evictions and contravening the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Thank you.