

**ACHPR/Res.65(XXXIV)03: RESOLUTION ON THE ADOPTION OF THE “REPORT OF THE AFRICAN COMMISSION’S WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES”**

*The African Commission on Human and Peoples’ Rights, meeting at its 34th Ordinary Session, in Banjul, The Gambia from 6<sup>th</sup> to 20<sup>th</sup> November 2003;*

**Recalling** the provisions of the African Charter on Human and Peoples’ Rights which entrusts it with a treaty monitoring function and the mandate to promote human and peoples rights and ensure their protection in Africa;

**Conscious** of the situation of vulnerability in which indigenous populations/communities in Africa frequently find themselves and that in various situations they are unable to enjoy their inalienable human rights;

**Recognising** the standards in International law for the promotion and protection of the rights of minorities and indigenous peoples, including as articulated in the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the International Labour Convention 169 on Indigenous and Tribal Peoples in Independent Countries, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child;

**Considering** the emphasis given in International law to self identification as the primary criterion for the determination of who constitutes a minority or indigenous person; and the importance of effective and meaningful participation and of non discrimination, including with regard to the right to education;

**Considering** that the African Commission at its 28<sup>th</sup> Ordinary Session held in Cotonou, Benin in October 2000, adopted the “*Resolution on the Rights of Indigenous Populations/Communities*” which provided for the establishment of a Working Group of Experts on the Rights of Indigenous Populations/Communities in Africa with the mandate to:

- Examine the concept of indigenous populations/communities in Africa;
- Study the implications of the African Charter on Human and Peoples Rights on the well being of indigenous communities;
- Consider appropriate recommendations for the monitoring and protection of the rights of indigenous populations/communities.

**Noting** that a Working Group of Experts comprised of three Members of the African Commission, three Experts from indigenous communities in Africa and one Independent Expert was established by the African Commission at its 29<sup>th</sup> Ordinary Session held in Tripoli, Libya in May 2001 and consequently held its first meeting prior to the 30<sup>th</sup> Ordinary Session held in Banjul, the Gambia in October 2001 where it agreed on developing a *Conceptual Framework Paper* as a basis for the elaboration of a final report to the African Commission, and where it agreed on a work-plan;

**Noting further** that the Working Group of Experts convened a Roundtable Meeting prior to the 31<sup>st</sup> Ordinary Session of the African Commission in April 2002 in Pretoria, South Africa where it discussed the first draft of the *Conceptual Framework Paper* with African human rights experts whose contributions were taken into account in the elaboration of the second draft of the *Conceptual Framework Paper* which was further discussed at a Consultative Meeting held in January 2003, in Nairobi, Kenya;

**Emphasising** that the Final Report of the Working Group of Experts is the outcome of a thorough consultative process involving various stakeholders on matters relating to indigenous populations/communities in Africa;

**Reaffirming** the need to promote and protect more effectively the human rights of indigenous populations/communities in Africa;

**Taking into account** the absence of a mechanism within the African Commission with a specific mandate to monitor, protect and promote the respect and enjoyment of the human rights of indigenous populations/communities in Africa;

**Decides to:**

**Adopt** the “*Report of the African Commission’s Working Group on Indigenous Populations/Communities*”, including its recommendations

**Publish** as soon as possible and in collaboration with International Working Group of Indigenous Affairs (IWGIA) the report of the Working Group of Experts and ensure its wide distribution to Member States and policy makers in the international development arena;

**Maintain** on the agenda of its ordinary sessions the item on the situation of indigenous populations/communities in Africa

**Establish** a Working Group of Experts for an initial term of 2 years comprising of -:

1. Commissioner Andrew Ranganayi Chigovera (Chair)
2. Commissioner Kamel Rezag Bara,
3. Marianne Jensen (Independent Expert)
4. Naomi Kipuri
5. Mohammed Khattali
6. Zephyrin Kalimba

for the promotion and protection of the rights of indigenous populations/communities in Africa and with the following Terms of Reference;

- With support and cooperation from interested Donors, Institutions and NGOs, raise funds for the Working Group’s activities relating to the promotion and protection of the rights of indigenous populations/communities in Africa;

- Gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous populations and their communities and organisations, on violations of their human rights and fundamental freedoms;
- 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;
- Co-operate when relevant and feasible with other international and regional human rights mechanisms, institutions and organisations.