

## Resolution on Extractive Industries and the Protection of Land Rights of Indigenous Populations/Communities in Africa - ACHPR/Res. 490 (LXIX)2021

Dec 31, 2021

### **The African Commission on Human and Peoples' Rights (the Commission), meeting at its 69th Ordinary Session, held virtually from 15 November to 5 December 2021;**

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

Recalling its Resolution ACHPR/Res.51 (XXVIII) 2000 adopted during its 28th Ordinary Session establishing the Working Group on Indigenous Populations/Communities in Africa (Working Group) to promote and protect the rights of indigenous populations/communities on the continent;

Further Recalling Resolution ACHPR/Res. 367 (LX) 2017 on the Niamey Declaration on Ensuring the Upholding of the African Charter in the Extractive Industries Sector adopted during its 60th Ordinary Session;

Bearing in mind the Report of the Working Group on the Rights of Indigenous Populations/Communities in Africa, adopted by the Commission in 2003 at its 28th Ordinary Session, and which among others recognizes that the protection of communal rights to land is fundamental for the survival of indigenous communities in Africa;

Also Bearing in mind the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment;

Taking into consideration the provisions of Articles 22 and 24 of the African Charter which guarantees the right of all peoples to economic, social and cultural development, and the right to a satisfactory environment favorable to their development;

Further Recalling the Report of the Working Group on Extractive Industries, Land Rights and Indigenous Populations'/Communities' Rights, adopted by the Commission in 2017 at its 58th Ordinary Session which recognizes amongst others the right of indigenous populations to consultation and negotiation in decision-making processes, in ways that are consistent with the principles underlying the right to Free, Prior and Informed Consent (FPIC);

Acknowledging that the extractive industries constitute a significant source of revenue in many African countries, which represents a considerable part of foreign direct investment, and if managed sustainably and transparently can lead to broad-based and inclusive socio-economic development;

Affirming the need for African States to recognize the important role of traditional pastoral leadership and structures in governance, particularly as it relates to conflict resolution,

management of land tenure and mobility, and facilitation of interactions between indigenous populations/communities and other interest groups;

Concerned by the forceful eviction of indigenous populations/communities from their ancestral lands in some African countries, often violently and without FPIC;

Convinced of the need for national legal framework to reinforce traditional resource management systems, and protect the right of indigenous populations/communities to communal land ownership, and their right to have adequate share of resources and compensation for any dispossession;

The Commission:

Urges State Parties to:

1. Adopt policies and laws that safeguard indigenous populations/communities' rights to customary ownership and control over their lands, and recognize the life style of the indigenous populations, especially in hunting and pastoralism;
2. Ensure that the legislation governing the granting of concessions includes provisions on consultation and FPIC, in consistence with international human rights standards;
3. Together with extractive industries, develop and implement national public participation models for the sector taking into account all citizens of the country including the full participation of Indigenous Populations/Communities;
4. Adopt measures to ensure that indigenous populations/communities who are actually or potentially impacted by business activities have complete and timely access to relevant information, to guarantee their effective participation in the decision making process;
5. Ensure that in addition to an environmental assessment, a participatory social, cultural, economic and human rights impact assessment is conducted prior to the implementation of any extractive activities within indigenous community lands. Social impact assessments should be required by law and undertaken prior to any phase of the extractive industry project. Assessment should be monitored to ensure full compliance;
6. Recognize indigenous populations/communities' customary laws and traditional mechanisms of conflict resolution, as well as undertake capacity-building within these communities to develop their own representative structures, and ensure effective participation in key decision-making processes;

7. Adopt laws that safeguard the rights of indigenous populations/communities and ensure transparency as well as accountability, especially in governance institutions and bodies that deal with indigenous populations/communities;

8. Devote adequate human, financial and technical resources to national human rights institutions, and increase their capacity to effectively monitor and address impacts of the activities of the extractive industries on indigenous populations/communities' rights;

9. Carry out awareness-raising campaigns, together with relevant stakeholders, to increase the ability of indigenous populations/communities to access the legal and non-legal remedies available to them;

10. Put in place grievance mechanisms that are accessible to indigenous populations/communities in the event that their rights are violated.

Done virtually, on 5 December 2021