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HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Panelist	Dr. Paul Kanyinke Sena
Panel	Panel 2: Role of international and regional bodies in monitoring the implementation
Time	11.00 – 12.30
Date	Thursday 23 February 2023
Location	Robert H. Lee Alumni Centre University of British Columbia 6163 University Blvd Vancouver, BC

Before the adoption of the Declaration important steps regarding indigenous peoples' rights had already taken place in Africa. In 2000, the regional human rights mechanism, the African Commission on Human and Peoples' Rights (the African Commission), established a Working Group on indigenous peoples.

In 2005, the Working Group issued a first ever African Union report domesticating o"the term "indigenous peoples", clearly unfolding the concept and criteria of indigenous peoples in the African context.

Though at a slow pace, the situation of indigenous peoples in Africa has changed following the adoption of the United Nations Declaration on the Rights of the Indigenous Peoples.

The Declaration is persuading African States to move, even though not with the same pace and sometime not in the same direction.

1. African Regional Institutions

African commission Endorois community decision was a land mark decision

The Working group on Indigenous Populations as a special mechanism of the Commission. The working mandate includes

Gather information from all relevant sources (including governments, civil society, indigenous populations and their communities) on violations of human rights and fundamental freedoms of indigenous populations and communities;

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;



Cooperate when relevant and feasible with other international and regional human rights mechanisms, institutions and organizations.

The working group undertakes country visits, publications, seminars and workshops, urgent appeals, drafts resolutions for the adoption by the commission and engages stakeholders.

The Working group therefore already plays a critical role in monitoring implementation of the declaration

Key challenges

Lack of resources as it primarily relies on IWGIA this portends a risk of Africa governments accusing it of promoting a foreign agenda.

Heavy workload as members have other commitments at various levels consequently reducing time spent on monitoring

Low engagement by Indigenous Peoples organizations and academia (except for the University of Pretoria's centre for human rights).

Suggestions

A resolution requiring countries to include a secure on implementation of indigenous peoples rights in their national reporting to the regional bodies.

Building the capacity of a regional indigenous peoples network to coordinate with the working group would strengthen monitoring of implementation in Africa

Working group could then report to UN IPs Mechanisms

Key areas be monitoring laws and policy developments, impacts on projects on IPs, fulfillment of IPs rights but most importantly, implementation of regional and national decisions that entrench the declaration. This include

- o the Ogiek community decision of May 2017 by the African Court.
- o The Endorois decision of 2010 by the African Commission
- o The Richtersveld community decision of 2004 by the South African Constitutional Court
- o Basarwa community case in Botswana among others.



Regional policies include the African Development Bank safeguard policies that already mention protection of indigenous peoples rights.

2. UN Agencies

Various UN agencies have or designing programs that target indigenous communities either identifying them as such or marginalized communities of local communities. This include

WHO, UNDP, UNICEF, ILO, WTO, UNEP etc.

In 2019, the IASG led by UNICEF met with the African commission working group to discuss support for the indigenous agenda in Africa. A Steering Committee on Indigenous Peoples in Africa was established to serve as a platform for initiating and sustaining strategic partnerships within the Africa region, particularly between the Working Group, IASG and UN Country Teams.

The critical role that the UN ECONOMIC COMMISSION FOR AFRICA would play was discussed as currently it not clear how it is engaging with the Indigenous Peoples agenda. Its mandate is to promote the economic and social development of its member States, foster intraregional integration, and promote international cooperation for Africa's development. While its program focus include areas of interest to indigenous peoples.

However, it is not clear how far the steering group has progressed and some communications indicated the IASG committing to act only at the request of the Working Group but not to take leadership.

With a weak Working group, this may not always be possible.

Suggestions

Reexplore the idea of the Steering Committee on Indigenous Peoples in Africa to bring together the Working Group, IASG and UN Country Teams to monitor and report on implementation.

A regional network of indigenous peoples should be assisted to manage to steering committee

At the national level, similar committees should be operationalized. In Kenya, a UNIPAK was initiated by fizzled out when the UN staff responsible left the country.



National –

Congo

National Human Rights institutions can play a leading monitoring role

Including a requirement in national reporting to regional bodies like the African commission

A requirement in national reporting to UN agencies or even developing a mechanism in which state can specifically report on UNDRIP implementation.

Financially assisting the African commission working group

Assisting regional, subregional and national organizations to effectively monitor UNDRIP implementation