

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
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ACHPR/Res.224 (LI) 2012: Resolution on a Human Rights-Based Approach to Natural Resources Governance

The African Commission on Human and Peoples' Rights (African Commission), at its 51st Ordinary Session held from 18 April to 2 May 2012 in Banjul, The Gambia;

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

Recalling Articles 20, 21 and 24 of the African Charter as elaborated by the 2011 Tunis Reporting Guidelines and the 2010 Nairobi Implementation Guidelines on Economic, Social and Cultural Rights, particularly in protecting the rights of peoples to pursue their social and economic development in terms of policies they have freely chosen; to freely dispose of their natural resources in the exclusive interest of the people; and to generally satisfactory environment;

Noting the interdependence between human rights and development;

Recalling Principle 2 of the 1992 Rio Declaration on Environment and Development establishing State sovereignty over natural resources, read with Principle 1 providing that "human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature" and Principle 22 providing that "local communities have a vital role in environmental management and development and, as a result, their identity, culture and interests must be protected";

Noting that there has recently been rapid progress in the definition of minimum international standards with respect to natural resources required to maintain life itself, in particular the recent recognition of the human right to food and the human right to water and sanitation;

Observing that current natural resources governance is gravely hampered by ill-planned development, misappropriation of land, corruption, bad governance and prevailing insecurities, amongst others;

Mindful of the disproportionate impact of human rights abuses upon the rural communities in Africa that continue to struggle to assert their customary rights of access and control of various resources, including land, minerals, forestry and

fishing;

Calls upon States Parties to:

- i. **Reaffirm** that, in accordance with the Rio Declaration and African Charter principle of State sovereignty over natural resources, the State has the main responsibility for ensuring natural resources stewardship *with, and for the interest of,* the population and must fulfill its mission in conformity with international human rights law and standards;
- ii. **Confirm** that all necessary measures must be taken by the State to ensure participation, including the free, prior and informed consent of communities, in decision making related to natural resources governance;
- iii. **Recommit** themselves to vigorously fighting corruption at all levels of decision making by strengthening and enforcing criminalization of corruption, decisively ending impunity and ensuring asset recovery and repatriation for illicitly expatriated capital;
- iv. **Ensure** that respect for human rights in all matters of natural resources exploration, extraction, toxic waste management, development, management and governance, in international cooperation, investment agreements and trade regulation prevails, and in particular:
 - Establish a clear legal framework for sustainable development as it impacts on natural resources, in particular water, that would make the realization of human rights a prerequisite for sustainability;
 - Strengthen regional efforts, such as the 2009 ECOWAS Directive on Mining and the African Commission's Working Group on Extractive Industries and Human Rights, to promote natural resources legislation that respect human rights of all and require transparent, maximum and effective community participation in a) decision-making about, b) prioritization and scale of, and c) benefits from any development on their land or other resources. or that affects them in any substantial way;
 - Set up independent monitoring and accountability mechanisms that ensure that human rights are justiciable and extractive industries and investors legally accountable in the country hosting their activities and in the country of legal domicile;
 - Ensure independent social and human rights impact assessments that guarantee free prior informed consent; effective remedies; fair compensation; women, indigenous and customary people's rights; environmental impact assessments; impact on community existence including livelihoods, local governance structures and culture, and ensuring public participation; protection of the individuals in the informal sector; and economic, cultural and social rights.

Done in Banjul, The Gambia, 2 May 2012