

## **Q&A:**

# **African Commission's new Resolution (372) on Sacred Natural Sites and Territories**

### **1. What is the African Commission?**

The African Commission on Human and Peoples' Rights is a pan-African body. Its key role is to ensure that both individuals (humans) and communities (peoples) have their inherent rights, as enshrined in the African Charter, acknowledged and protected across Africa.

Since being founded in 1987, Commissioners have met at least twice a year to report on progress and violations of these rights. The Commission can address and pressure African states directly on rights issues, pass resolutions and produce reports that highlight rights violations; and hear cases of violations internally or refer them to the African Court or African Union.

The African Charter is amongst the most visionary of rights-based charters, founded on both individual and communal rights, as well as being committed to decolonising the continent rather than just entrenching Western legal norms.

### **2. What are Sacred Natural Sites and Territories?**

Sacred Natural Sites are commonly referred to as sites of ecological, cultural and spiritual importance, and defined as "areas of land or water having special spiritual significance to peoples and communities".<sup>1</sup>

They are natural features, such as mountains, springs, lakes, forests, waterfalls, caves, that include not just the horizontal domains of plants, animals, and ancestral spirits, but also vertical domains reaching deep into the Earth, beyond the subsoil, rocks and minerals, and up into the celestial constellations in the sky, embedded in cultural landscapes, seascapes, indigenous territories or ancestral lands.

Sacred Lands or Territories refers to physical, spiritual and energetic domains rather than political administrative boundaries. Such territories may also be known as biocultural landscapes. As Sacred Natural Sites usually exist within such territories, the inclusive term Sacred Natural Sites and Territories (SNST) is commonly used.

### **3. What does the African Commission resolution on Sacred Natural Sites and Territories say?**

The resolution "Urges State Parties [...] to recognize and respect the intrinsic value of sacred natural sites and territories".

It calls on African states to recognise Sacred Natural Sites and Territories (SNST) and their custodial governance systems, which lie at the heart of indigenous cultures and belief systems. It emphasises that Sacred Natural Sites must be protected for indigenous and

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<sup>1</sup> Best Practices Vol. 16, *Sacred Natural Sites: Guidelines for Protected Area Managers*, IUCN-UNESCO, 2008

traditional peoples to enjoy their rights enshrined in the African Charter on Human and Peoples' Rights.

It is a reminder that the African Charter commits African member states to respect and maintain plurilegal systems as a means of decolonising Africa's jurisprudence. This means recognising that indigenous and traditional peoples' customary governance systems are underpinned by a different source of law from the dominant system. They are derived from the laws that govern life, the Earth's laws, based on generations of acute observation of their ecosystem. This is known as Earth Jurisprudence - a philosophy of law that recognises the laws of the Earth as primary and non-negotiable, and from which human laws should be derived, as with indigenous customary laws.

[Read the resolution in full](#)

#### 4. What power does the resolution have?

The resolution has no directly enforceable provisions. However, it represents a step-change in recognising the significance of Sacred Natural Sites for indigenous people, and their central place in the traditions, cultural cohesion and ecological integrity. The resolution empowers the African Commission to take action within its remit to protect SNST in the following ways:

**Pressure:** The African Commission can pressure African states directly to ensure they are aware of and implement the resolution at national level and are upholding the African Charter.

**The law:** As a quasi-legal body, the African Commission can now hear cases about the violation of Sacred Natural Sites. The Commission can also refer cases to the African Court to hold violators to account.

**Best Practice Guidelines:** The resolution, along with the [report](#) can be used to develop best-practice guidelines for states, NGOs and other regional bodies on how to recognise and support Sacred Natural Sites and their governance systems.

**Visibility:** The resolution puts Sacred Natural Sites on the radar of the African Commission, whose relevant working groups will now highlight the state of Africa's SNST in their reports and ensure they are protected and the custodial governance systems are respected.

#### 5. How did the resolution come to be?

It stems from two important gatherings, in 2012 and 2015, of custodial communities from Benin, Ethiopia, Ghana, Kenya, South Africa and Uganda, who met to discuss their hopes and concerns for the continent's sacred natural sites. Together, they drafted a Statement of the Common African Customary Laws for the Protection of Sacred Natural Sites, and they decided to take their voices to the African Commission and seek recognition from Africa's most respected human rights institution.

Their Statement became the core of the 2015 report, *'A Call for Legal Recognition of Sacred Natural Sites and Territories, and their Customary Governance Systems'*. It was launched by

African Commissioner Med. S. Kaggwa in Kampala, Uganda, in May, hosted by local civil society organisation NAPE.

Thanks to the collaborative efforts of The Gaia Foundation with African civil society organisations – along with the advocacy work of a core group of Earth Jurisprudence practitioners, and the support of allies such as Minority Rights Group and other advisers - the report was taken-up by the African Commission’s Working Group on Indigenous Populations/ Communities (WGIP).

The working group then played a critical role in developing what one of its members, Commissioner Soyata Maiga, has called a resolution “at the vanguard of indigenous peoples’ rights in Africa”.

### **The African Commission discussed and adopted Resolution 372 at its 60<sup>th</sup> ordinary session in May 2017.**

Resolution 372 also builds on a series of policy resolutions and recommendations achieved at IUCN World Conservation Congresses and other international fora, which reflect how indigenous SNST are now embedded in the global conservation movement. They include IUCN’s Resolution 4.038 for the “Recognition and conservation of sacred natural sites in protected areas”; technical guidelines on ICCAs (Indigenous and Community Conserved Areas and Territories) as a new governance type, including sacred natural sites and territories; and Recommendation 147 on “support for custodians and customary laws in the face of global threats and challenges”.

It falls short of echoing the important IUCN Recommendation 102, achieved at the World Conservation Congress in Hawai`i 2016, which calls on governments and other actors to avoid environmentally damaging industrial activities and infrastructure development that impact sacred natural sites and territories and areas conserved by indigenous peoples and local communities (ICCAs) – IUCN-WCC-Rec-102.<sup>2</sup>

## **6. What have custodian communities been doing?**

Custodians across Africa have been working with their clans and communities to revive their traditional knowledge and practices and restore their custodial governance systems, in order to protect their sacred natural sites and territories, over a decade now.

This work stems back to 2000 when The Gaia Foundation (Gaia) began to consolidate a network of African civil society leaders who were keen to tackle the root cause of the many social and ecological crises we face, and reflect on developing ‘another way’. We worked with our partner Gaia Amazonas, in the Colombian Amazon, to organize learning journeys for African leaders to experience the thinking and the work of indigenous people in the Amazon forest. We also developed other experiential learning processes, one known as ‘the Botswana process’, to reconnect African leaders to their rich bio-cultural heritage of

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<sup>2</sup> IUCN WCC Recommendation 102 - Protected areas and other areas important for biodiversity in relation to environmentally damaging industrial activities and infrastructure development. The recommendation can be downloaded from: [https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC\\_2016\\_REC\\_102\\_EN.pdf](https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2016_REC_102_EN.pdf)

ecological and spiritual knowledge which they had largely rejected as a result of the colonial process.

Through these transformative experiences, African leaders were inspired to pilot what they had learnt in the Amazon and Gaia supported them to do so. This ranged from enabling them to form new organizations to focus on this work; to accompany them in working with communities to revive their indigenous knowledge and practices; growing the network advocating for systemic change; and raising funds to support the evolution of this work.

Through this process many are now working with custodian communities to revive bio-cultural knowledge and practices, to restore sacred sites and associated rituals, seed diversity and food sovereignty, and to strengthen ecological governance systems derived from the laws of the Earth.

In 2008 Gaia and partners brought together custodians from Africa and the Amazon to participate in developing the first international statement by custodians at the IUCN meeting in Barcelona. This was followed by a series of other global meetings where custodians advocated for recognition of indigenous Sacred Natural Sites and their governance systems, together with their allies. Finally, in 2016 IUCN recommendation - IUCN-WCC-Rec-102 - received overwhelming support

This regional and international work is rooted in the ongoing commitment of custodians to exercise their rights and uphold their responsibilities to their ancestors – by regenerating the traditions.

The Gaia Foundation, African Biodiversity Network, GRABE-Benin, CIKOD-Ghana, MELCA-Ethiopia, NAPE-Uganda, EarthLore-South Africa and a core group of African Earth Jurisprudence practitioners, are accompanying custodians and their communities in:

- holding ongoing community dialogues to revive their ecological knowledge, practices and governance systems, bringing clans together to exercise their rights and responsibilities and take back control of their lives;
- mapping their territories and the passage of the seasons to collectively visualise the ways of the past, the disorder of the present and build a vision of the future;
- reviving seed diversity and agroecological farming practices that build seed and food sovereignty and enhance resilience to the challenges of climate change;
- demarcating and protecting sacred natural sites;
- advocating in defence of land, water and life when threatened by destructive industrial activities.

## **7. What comes next?**

The resolution validates and supports the work of custodian communities in protecting their SNST, and strengthening their governance systems and indigenous practices for regenerating the ecosystem and their food systems. By doing so they exercise their rights and affirm their responsibilities to maintain their traditions.

The resolution provides a basis for developing national policy frameworks and legislation for recognising SNST and their customary governance systems. So far only Benin has a formal legislative framework, with a law on Sacred Forests. It also opens up opportunities for

developing legal frameworks that recognise Africa's plural legal systems, and customary governance systems that are rooted Earth Jurisprudence.

These global resolutions and now the African regional resolution on Sacred Natural Sites provide an important platform for helping bring a resolution to the UNCBD member states for endorsement. And, for Africa, it means there is a legal basis to start lobbying for better conservation and governance of sacred natural sites within national policy frameworks.

Internationally: Africa's adoption of this resolution can serve as a springboard for the Convention on Biological Diversity to adopt a legally binding commitment on Sacred Natural Sites conservation and custodial governance that nations would have to adhere to.

**Contact us to find out more: [earthjurisprudence@gaianet.org](mailto:earthjurisprudence@gaianet.org)**