

The situation of indigenous peoples in Cameroon

A supplementary report submitted in connection with Cameroon's 15th-19th periodic reports
(CERD/C/CMR/19)

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by

Centre for Environment and Development (CED),
Réseau Recherches Actions Concertées Pygmées (RACOPY)
Forest Peoples Programme (FPP)

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Newspaper articles:

- “Guide de chasse et bourreau de pygmées”, *Le Jour*, 29 July 2009, p.3.
- “Les non-Baka prennent les Baka pour des esclaves”, *Le Jour*, 29 July 2009, p.3.
- “Les Pygmées de l’Est dans l’Étau esclavagiste des Bantous”, *Le Messager*, 31 July 2009, pp.5-7.
- “Des écoles sans enseignants”, *Le Jour*, 3 August 2009, p.3.

Other documents:

- Bill/receipt from the Lycée Mixte d’Akom II for the sum of 11.50 euro covering enrolment, a contribution to the *Association de parents d’élèves (APEE)*, Association of Parents of Pupils, and the cost of medical and school record cards.

Submitting organisations

Established in 1995, the **Centre for Environment and Development (CED)** is an NGO working on forest and environment issues by providing support on the ground and monitoring national policies. Among other things, it works to promote and protect the rights of indigenous peoples in Cameroon and the Central African sub-region more generally.

Address: BP 3430 Yaoundé Cameroon, Tel: +237 22 22 38 57, Fax: +237 22 22 38 59,
Email: ced@cedcameroun.org

The **Réseau Recherche Actions Concertées Pygmées (RACOPY)**, which was set up in 1996, is a national network that brings together “Pygmy” organisations, NGOs and others working for or supporting the self-development of the Baka, Bagyéli, Bakola and Bedzang indigenous peoples and their voluntary incorporation into political, economic, social and cultural life as citizens of the country. Its members¹ hold general meetings three times a year and work together in “geographical hubs”. They are located in the eastern, central and southern regions of Cameroon.

Address: BP 11 Yaoundé, Tel: 00 237 : 22 21 15 51, Fax: 00 237 22 21 11 44
Email: racopy05@yahoo.fr

The **Forest Peoples Programme (FPP)** is an international NGO established in 1990. FPP works in partnership with indigenous, tribal and other forest peoples to secure their rights and control their lands and natural resources.

Address: 1c Fossey Business Centre, Stratford Road, Moreton-in-Marsh GL56 9NQ, United Kingdom. Tel: +44 1608 652893, Fax: +44 1608 652878.
Email: info@forestpeoples.org.

¹ CEFAID (Yokadouma), AAFEBEN (Yokadouma), ORADER (Yokadouma), CADER (Akom II), FODER (Akom II), PERAD (Lomié), ASBAK (Lomié), ABAWONI (Mintom), OKANI (Bertoua), INADES FORMATION (Yaoundé), RADEPY (Yokadouma), FONDAF (Bipindi), CADDAP (Abong-Mbang), ABAGUENI (Djoum), CADEFÉ (Lomié), ASTRDHE (Lomié), ASEDEF (Lomié), ADEBAKA (Djoum), ADEBAGO (Akom II), GRIPE (Yokadouma), Plan Cameroun (Bertoua), CED (Yaoundé).

Executive Summary

This report presents the situation of Baka, Bakola, Bagyéli and Bedzang “Pygmy” indigenous peoples in Cameroon to the UN Committee on the Elimination of Racial Discrimination (“the Committee”). Many treaty bodies, including the Committee and the African Commission on Human and Peoples’ Rights’ Group of Experts on Indigenous Populations/Communities, have explicitly said that the “Pygmies” are indigenous peoples under international law. As such, they enjoy the rights that are attached to that status as per international standards on the rights of indigenous peoples. Cameroon is a State Party to the Convention on the Elimination of All Forms of Racial Discrimination (“the Convention”), to the African Charter on Human and Peoples Rights, and to other treaties promoting and protecting the rights of indigenous peoples. Yet it does not recognise the existence of indigenous peoples on its territories, arguing at times that all African are indigenous.

Cameroon’s failure to implement the Convention is explained in this supplementary report with regard to various points. Firstly, in relation to the education system, the submitting organisations show that, contrary to the statement made by the State in its report, there is no law in practice that guarantees that indigenous peoples can access either secondary or collegial education without having to sit entrance exams; instead, access depends on the goodwill of the registration staff. The indigenous people’s level of education is very low, even more so for girls, and no indigenous children attend university at present. The report describes the range of obstacles to achieving the right to education without discrimination, such as unmanageable fees, the need to possess identity cards, the distances between villages and schools, and the fact that indigenous children are bullied and humiliated both by students and teachers. In addition, the culturally specific teaching method, “ORA” , that indigenous peoples have developed for themselves is not recognised under the public education system.

Secondly, the report explains how Cameroon’s new bill on “marginalised populations” is contrary to international law and amounts to the denial of indigenous peoples’ rights. Included in the concept of “marginalised populations” developed by Cameroon: are the “Pygmies”; the Mbororo; highland peoples such as the Mafa, Mada, Mandara, Zougrou, Ouldémé, Molko, Mbodko, Dalla and Guemdjek; and island and creek populations as well as cross-border populations.² This demonstrates that the approach taken by Cameroon is extremely inconsistent with the Committee’s jurisprudence on the right of indigenous peoples to self-identification, and we respectfully request that the Committee urge Cameroon to adopt the recommended approach.

Thirdly, the report explains that the Chad-Cameroon pipeline project exacerbated the vulnerability of Cameroon’s indigenous peoples. Many Bagyéli were displaced and adversely affected by this project but the compensation plan under the project did not reach them. The rationale behind the compensation plan failed completely to take into account the particular situation of the indigenous peoples. More specifically, proof of land use was required in order to get compensation but for many of the Bagyéli this was impossible to prove because they did not practice agriculture or own permanent constructions on the affected land. This requirement in order to claim compensation was thus discriminatory towards the Bagyéli.

Fourth, the violation of the right to equal treatment before customary tribunals is discussed and presented in the context of customary tribunals, where assessors play a role in decision-making. No assessors of Baka, Bakola/Bagyéli or Bedzang origin have been involved in customary courts. Nor do the courts use the traditional languages of the Baka, Bakola/Bagyéli or Bedzang. As there is no interpreting service available in these courts, the parties are obliged to express themselves in Bantu languages in which many indigenous peoples are not conversant.

² Speech by Mrs Cathérine Bakang Mbock, Minister of Social Affairs, at the opening of the regional workshop on the rights of indigenous peoples in Central Africa, 15 April 2009, in Hôtel Mont Fébé, Yaoundé.

Fifth, the right to security of person and protection by the State against violence or bodily harm is blatantly violated. The report demonstrates that game wardens hired by the State are violently beating up and terrorising indigenous peoples in protected areas. This situation is also an example of Cameroon's failure to implement international human rights law and basic information rights, as most indigenous peoples who are bodily harmed by the wardens learn through this that the law now prohibits them from living on and gaining access to their ancestral lands.

Sixth, indigenous peoples' property is violated through several legislative provisions in Cameroon. The report explains how the laws are discriminatory towards indigenous peoples:

- 1) the legal requirement concerning "*man's clear control of the land and evident development*"³ under the land registration law is incompatible with indigenous peoples' way of life. Their dwellings are temporary and they live from activities which, in contrast to permanent agriculture, leave no mark on the land, such as hunting, collecting and gathering. It is therefore impossible for indigenous peoples to register their property by meeting the requirements laid down in law with regard to land tenure;
- 2) the law on access to forest resources recognises some logging rights in some forest areas for communities who have customary land rights but limits the exercise of such logging rights by restricting them to personal use, which is incompatible with the indigenous peoples' traditional sell-and-exchange practices for those products;
- 3) the law on community forests requires that the forest on which land rights are claimed be situated in the non-permanent forest domain, in other words lands over which indigenous peoples usually do not have customary land rights: lands that have not traditionally been owned by them.

Other discriminatory practices in Cameroon include:

- 4) the distribution of the benefits from the "annual forest tax", which is usually distributed to Bantu chiefs and do not reach indigenous peoples who are considered an integral part of Bantu villages.⁴ No specific measures have been taken to ensure that the annual forest tax is distributed fairly so that it reaches indigenous peoples. In general, they are excluded from the management committees established in Bantu villages for the management of such funds, as they are not recognised as having resident status; and
- 5) the creation of protected areas without the free, prior and informed consent of indigenous peoples and thus the non-consideration of indigenous peoples' specific characteristics. Without having changed the nature or location of their activities in any way, indigenous peoples have found themselves arbitrarily and without prior warning to be breaking the law. That was the case for the evictions from the Dja Reserve, Boumba Bek National Park and Campo Ma'an National Park.⁵

Finally, it is argued that Cameroon is not taking all the necessary measures to eliminate racial discrimination, particularly in the context of Article 7, i.e. in the context of teaching, education, culture and information. Instead, it is using an approach that endeavours to assimilate or integrate indigenous peoples into the dominant culture and does not promote understanding and tolerance of indigenous peoples.

³ Article 15 (1) of Order No 74-1 of 6 July 1974 laying down the land tenure system.

⁴ Albert Barume (2005), *Étude du cadre légal pour la protection des peuples indigènes et tribaux au Cameroun*, Geneva, International Labour Organization, p. 66.

⁵ Samuel Nguiffo, "Cameroon – Dja Wildlife Reserve. One forest and two dreams: the constraints imposed on the Baka in Miatta by the Dja Wildlife Reserve" in *Indigenous peoples and protected areas in Africa: From principles to practice*, Forest Peoples Programme, Moreton-in-Marsh, 2003; Joseph Claude Owono, "The extent of involvement of Bagyéli Pygmies in the management and development plan of the UTO Campo Ma'an", Cameroon, in *Summary of case study presented at the CAURWA/FPP conference: Indigenous Peoples and Protected Areas in Africa: From Principles to Practice*, Kigali, Rwanda, September 2001, available at: http://www.forestpeoples.org/documents/africa/fpproj_cameroon_campo_maan_summ_eng.shtml.

Following the above, the submitting organisations respectfully request the Committee:

- To ask the State to take all necessary measures to eliminate racial discrimination in the educational sphere and to effectively implement the right to education for indigenous peoples, in particular by guaranteeing the principle of free schooling for these populations and by favouring teaching systems, such as the ORA method, which are representative and inclusive of the culture and language of indigenous peoples and, to the extent possible, determined, administered and controlled by them. This includes providing State support, for those institutions that currently employ the ORA method, on an equal footing with other educational institutions;
- To urge the State to guarantee the protection of the rights of “indigenous peoples” as defined by the international and regional bodies whose treaties it has ratified and to bring national legislation in line with international and regional standards;
- To urge the State to respect the principle of free, prior and informed consent for indigenous peoples when it comes to drafting legislation that concerns them and especially when involving such populations in the steps taken to draft the bill on “marginal populations”, by making sure that their views and concerns are taken into account, thereby ensuring that indigenous peoples participate fully and effectively in the drafting of legislation that concerns them;
- To urge the State to provide adequate compensation for violations of the right to land and free, prior and informed consent for the Bagyéli peoples who have been affected by the implementation of the Chad-Cameroon oil pipeline project, and to take all necessary measures to prevent such violations from occurring when negotiating and carrying out projects funded by the World Bank and other institutions and investors which are likely to affect indigenous peoples’ right to land;
- To remind the State of its duty to guarantee indigenous peoples equal treatment before the courts, especially with regard to the need to provide interpreting services in the languages spoken by indigenous peoples and the use of assessors who are representatives of the culture of indigenous peoples;
- To urge the State to take all immediate and effective measures necessary to ensure the security of indigenous peoples who are located in the region of the Campo Ma’an National Park and the areas around Ancien and to conduct serious investigations so that those responsible for physical violence and other abuses can be brought to justice;
- To urge the State to take all necessary measures to guarantee the right of indigenous peoples to own property and to rectify any legislative provisions that discriminate against indigenous peoples, especially those that concern the land registration procedure; access to forest resources; the establishment of community forests and community hunting grounds; and distribution of the annual forest tax;
- To urge the State to guarantee the right of indigenous peoples to restitution and other forms of reparation for any violations of their customary land rights over ancestral lands that may result from the creation of protected areas;
- To remind the State of its duty to take all immediate and necessary measures to combat racial discrimination against indigenous people, not by “integrating” and “stabilizing” them but by effectively implementing regional and international standards and promoting the culture of indigenous peoples with their full and effective participation.

I. Introduction

1. This report supplements the information provided in Cameroon's 15th–19th periodic reports (CERD/C/CMR/19) and is respectfully submitted to the Committee on the Elimination of Racial Discrimination ("the Committee") for consideration at its 76th session. It sheds light on pervasive, persistent and systematic breaches of the International Convention on the Elimination of All Forms of Racial Discrimination ("the Convention") by Cameroon to the detriment of the indigenous peoples that live within its borders. These indigenous peoples, often referred to as "Pygmies"⁶, comprise the Baka, Bagyéli, Bakola and Bedzang peoples.
2. The breaches of the Convention described in this report can be all traced back to two interrelated violations of the Convention: 1) the ongoing denial of the rights of the Baka, Bagyéli, Bakola and Bedzang to own, control and peacefully enjoy their traditionally owned lands, territories and resources; and 2) Cameroon's failure to protect these highly vulnerable indigenous peoples and to recognise the rights that attach to that status under international law. These two problems underpin the violations to the Convention that are raised in this report.
3. The report critiques the measures described by the State as actions to implement the Convention. The problem of discrimination in schools is addressed first. The report then explains that Cameroon is currently developing a new law by which it categorises indigenous peoples in a wider group, described as "marginal populations", and that amounts to reaffirming discrimination because the specific rights of indigenous peoples are being associated and merged with the rights of others non-indigenous groups. Indeed, within "marginalised populations" Cameroon includes the "Pygmies"; the Mbororo; highland peoples such as the Mafa, Mada, Mandara, Zouglou, Ouldémé, Molko, Mbodko, Dalla and Guemdjek; and island and creek populations as well as cross-border populations.⁷ The report explains why this is contrary to international law.
4. The report also examines the Chad-Cameroon oil pipeline project and its effects on the rights of indigenous peoples. The report then describes the difficulties encountered by indigenous peoples in accessing justice, which stem from a lack of equality before the law and courts, as well as ill-treatment, including physical violence inflicted by government officials, to which indigenous peoples are subjected. Lastly, it argues that the legislation on the land registration procedure, access to forest resources, community forests and community hunting grounds, as well as access to the proceeds of the annual forest tax and the procedures for creating protected areas, are discriminatory and in breach of the right to own property and other rights guaranteed by the Convention.
5. In its concluding observations following examination of the previous periodic report submitted by Cameroon, the Committee gave the following as one of its principal subjects of concern: "*Protection of the rights of minorities and indigenous peoples to enable them to live in harmony in their environment is, especially as regards the Pygmies and Boro, a subject of concern in the light of article 2, paragraph 2, of the Convention and of the Committee's General Recommendation XXIII on the rights of indigenous peoples*".⁸ This report shows that the Committee's concerns are still not being addressed by Cameroon and that the protection attached to the status of indigenous peoples under international law is not recognised for the Baka, Bakola, Bagyéli and Bedzang peoples.

⁶ The term "Pygmy/Pygmies" has been put in inverted commas because it can have pejorative connotations and is used here solely for the purpose of clarity. It is worth noting that the organisations submitting this report most often chose to use the French equivalent of "indigenous forest peoples" to designate Baka, Bakola, Bagyéli and Bedzang indigenous peoples. Nevertheless, in the context of this report, the term "indigenous peoples" is also used to denote the same groups of people.

⁷ Speech by Mrs Cathérine Bakang Mbock, Minister of Social Affairs, at the opening of the regional workshop on the rights of indigenous peoples in Central Africa, 15 April 2009, in Hôtel Mont Féréb, Yaoundé.

⁸ CERD/C/304/Add.53, paragraph 9.

6. By means of this report, the submitting organisation respectfully request that the Committee urges the state to :
- eliminate racial discrimination in the educational sphere and effectively implement the right to education for indigenous peoples;
 - recognise the existence of indigenous peoples on its territory and protect the rights that attach to that status under international law;
 - implement the principle of free, prior and informed consent;
 - provide adequate compensation for the Bagyéli peoples who have been affected by the implementation of the Chad-Cameroon;
 - guarantee indigenous peoples equal treatment before the courts;
 - ensure the security of indigenous peoples in national parks;
 - guarantee the right of indigenous peoples to own property;
 - eliminate any legislative provisions that discriminate against indigenous peoples, especially those that concern the land registration procedure, access to forest resources, the establishment of community forests and community hunting grounds, and distribution of the annual forest tax;
 - guarantee the right of indigenous peoples to restitution and other forms of reparation for any violations of their customary land rights over ancestral lands that may result from the creation of protected areas;
 - take all immediate and necessary measures to combat racial discrimination against indigenous people by effectively implementing regional and international standards and promoting the culture of indigenous peoples with their full and effective participation.

II. Brief description of the indigenous peoples of Cameroon

7. According to historians, the “Pygmies” were the first occupants of the Congo Basin. Nowadays they inhabit the eastern, central and southern regions of Cameroon and are made up of the Baka, the Bakola, the Bagyéli and the Bedzang indigenous peoples. Although no exact figures are available, of a total national population of some 19 million, “Pygmy” indigenous peoples in Cameroon are estimated to make up about 0.4 per cent⁹ of the population, with over half being the Baka people. This amounts to approximately 8,000 persons.
8. The Baka live mainly in the eastern and southern regions of Cameroon. The Bakola and the Bagyéli live in an area covering approximately 12,000 km² in southern Cameroon, mainly in the Subdivisions of Akom II, Bipindi, Kribi and Lolodorf. Lastly, the Bedzang live in the centre of the country, to the north-west of Mbam in the region de Ngambè Tikar.¹⁰
9. What all these groups have in common is their attachment to their ancestral territories and what remains of the forests therein, which they know intimately and see as common property and which form the foundation of their existence. The forest is, in fact, the source of their food, health and medicines and the setting for their recreation and cultural and spiritual celebration. The indigenous peoples share a culture that differs from that of the dominant population: they hold property communally and share forest resources, consuming forest products such as game, yams, wild fruit, honey, and various types of leaves and bark.¹¹
10. Today indigenous peoples in Cameroon live in a state of extreme marginalisation and poverty. This marginalisation has its roots in the colonial era since, prior to colonisation, the indigenous peoples of Cameroon maintained friendly relations with their Bantu neighbours, bartering products gained by hunting and gathering for agricultural produce cultivated by the Bantu. Colonisation brought substantial changes to these relationships insofar as the Bantu, who were the first to come into contact with European settlers, quickly acquired manufactured goods (such as alcohol, guns, sugar, salt and tobacco), thereby causing an imbalance in commercial relations and turning the terms of trade in favour of the Bantu. The indigenous communities became heavily dependent and, in many cases, subservient to their Bantu neighbours, a state of affairs which still persists today.¹²
11. The colonial law set in place under the German Protectorate (1884-1916) and later under the Franco-British mandate (1919-1939) and trusteeship (1945-1960) disregarded the specific characteristics of the Pygmy peoples and institutionalised their marginalisation. The most disastrous consequences of colonial legislation have been with regard to land tenure and access to forest resources. These severely negative consequences persisted after independence because Cameroon continues to apply the main tenets of colonial law in these two areas.¹³

⁹ Belmond Tchoumba: “*Peuples Indigènes et Tribaux et stratégies de réduction de la pauvreté au Cameroun*”, International Labour Organization, 2005, p. 17; see also <http://www.ilo.org/indigenous/Activitiesbyregion/Africa/Cameroon/lang--en/index.htm>.

¹⁰ Samuel Nguiffo, Pierre Étienne Kenfack and Nadine Mballa, “The influence of historical and contemporary land laws on indigenous peoples' land rights in Cameroon”, in *Land rights and the forest peoples of Africa: Historical, legal and anthropological perspectives*, No 2, Forest Peoples Programme, 2009, p. 2. Available at: http://www.forestpeoples.org/documents/africa/cameroon_land_rights_study_09_eng.pdf; see also <http://www.ilo.org/indigenous/Activitiesbyregion/Africa/Cameroon/lang--en/index.htm>.

¹¹ Sévérin Cécile Abéga, *Pygmées Baka Le Droit à la Différence*, Inades Formation, Cameroon 1998; see also Edmond Dounias and Serge Balbuchet, *Habitat semi-permanent en forêt d'Afrique centrale, Société d'écologie humaine*, France, 2000, available at: http://www.ecologie-humaine.eu/DOCUMENTS/SEH_Cabane/Cabane_15_Dounias&Bahuchet.pdf.

¹² *Ibid.*

¹³ Samuel Nguiffo, Pierre Étienne Kenfack and Nadine Mballa, “The influence of historical and contemporary land laws on indigenous peoples' land rights in Cameroon”, in *Land rights and the forest peoples of Africa: Historical, legal and anthropological perspectives*, No 2, Forest Peoples Programme, 2009, p. 2. Available at: http://www.forestpeoples.org/documents/africa/cameroon_land_rights_study_09_eng.pdf.

12. The precarious situation of indigenous peoples has been further exacerbated by the gradual disappearance of forest biodiversity as a result of the establishment of industrial plantations, logging operations, national parks and other protected areas. The parks and protected areas created over the past few decades correspond to the lands traditionally occupied by indigenous peoples and applicable national legislation severely limits access to those areas and further exacerbates the denial of indigenous peoples' property rights that is entrenched in general and other sectoral laws.¹⁴ These protected areas were created without any meaningful participation by indigenous peoples, who were not accorded even basic due process when their property and related rights were effectively annulled by the State (which vested title to those areas in itself). The result is the ongoing denial of indigenous peoples' rights to own and control their territories. In some cases, indigenous peoples have been forcibly expelled from these areas; and some continue to be denied access, in some cases through violent acts by State agents. Moreover, there is no valid and compelling rationale for denying indigenous peoples' property right in and to these areas. Consequently, indigenous peoples today find themselves in a situation where they cannot practice their culture, in particular through maintaining their various relationships to their ancestral territories and the sacred sites therein and they are forced to sell their labour, mainly on Bantu farms, in order to survive.¹⁵
13. As a result of land laws drawn up in the colonial and post-colonial eras, there are currently two types of land tenure available in Cameroon's forests: non-permanent forest domain (land that can be converted to agricultural uses) and permanent forest domain (forests which are to be left unchanged and those which can be given over to industrial use and conservation). The non-permanent forest domain is constituted of national domain forests, for which Bantu populations own customary rights. These forests are the most degraded and are close to the roads.
14. The ancestral lands of indigenous peoples are mainly located in the second category of forested land – the permanent forest domain – which, according to extant law, is the private property of the State. The permanent forest domain consists more specifically of: 1) protected areas (national parks, wildlife reserves, hunting areas, game ranches, zoological gardens, wildlife sanctuaries and buffer zones); and, 2), forest reserves (integral ecological reserves, production forests, recreation forests, teaching and research forests, plant life sanctuaries, botanical gardens and forest plantations).¹⁶ The map entitled "*Ancestral areas of some of the Baka, Bagyéli and Bakola communities in Cameroon*", which is attached as an annex, shows how lands that form part of the State's permanent forest domain are imposed over indigenous peoples' ancestral lands and territories.

¹⁴ See, among others: "Introduction and Project Overview" (paragraphs entitled 'Baka and the Dja Wildlife Reserve, Cameroon', 'Baka and Lobéké and Boumba Bek National Parks, Cameroon' and 'Bagyéli and Campo Ma'an National Park, Cameroon') in *Indigenous Peoples and Protected Areas in Africa: From principles to practice*, Forest Peoples Programme, 2003, pp. 35-39. Available at:

http://www.forestpeoples.org/documents/africa/foreword_and_intro_eng.pdf.

¹⁵ Sévérin Cécile Abéga, *Pygmées Baka Le Droit à la Différence*, Inades Formation, Cameroon 1998.

¹⁶ Law 94-1 of 20 January 1994 to lay down forestry, wildlife and fisheries regulations, article 24.

III. Implementation of the rights of indigenous peoples in Cameroon: a critique of the State report

A. Article 2 : The State's duty to eliminate discrimination in all its forms

1) Cameroon's failure to ensure that the public education system does not engage in racial discrimination practices

15. In paragraphs 34–46 of its report, Cameroon says that the country's laws on orientation and education¹⁷ guarantee equality of opportunity for all in regard to access to education and contribute to the eradication of all forms of discrimination. The State also says that the obligation to provide primary education free of charge, as laid down in the Constitution and national legislation, is gradually becoming a reality. It further states that "*Baka/Bakola children account for 0.5 per cent, and that is 150 children, of the total number of pupils attending school in the eastern province*", and that "*Baka children in this province are admitted to secondary schools and colleges without having to sit an entrance examination*".
16. However, the assertion that access to secondary schools is possible without having to sit an entrance examination needs to be qualified. As there are no regulations in place to enforce this rule, NGOs and others working to protect the rights of indigenous peoples have to negotiate with the heads of educational establishments in order to ensure that indigenous children who hold the "Certificate of Primary Studies" can be enrolled in secondary schools. Furthermore, this practice is carried out on an informal basis and relies on the goodwill of those in charge of the schools. Put another way, there are no effective guarantees or special measures applicable to access to secondary education for indigenous children either in law or practice.
17. As far as the principle of free education is concerned, it should be stressed that parents have to pay schooling costs which, in the areas where the signatory organisations are working, amount to about €11.50, which covers the registration fee, parents' association fees, medical and school record cards. This is exclusive of the costs of educational supplies and other expenses related to education.¹⁸ These sums are excessive for indigenous peoples, who largely live in extreme poverty, and thus these fees render education inaccessible for them.
18. The level of education among indigenous children in general, and especially among girls, is poor. A large number of children are several years behind in primary school and very few reach secondary or higher education.¹⁹ To the best of our knowledge, there are no indigenous children enrolled at university. We believe that non-aggregated data on the education of the children of indigenous peoples needs to be collected and that effective measures must be taken to ensure that these groups have the right to education. Contrary to repeated calls by various UN treaty bodies, including CERD and the UN Permanent Forum on Indigenous Issues, Cameroon does not collect disaggregated data that could be used to assess the situation of indigenous children and upon which special measures – that appear to be urgently needed – can be based and implemented.
19. There are several obstacles preventing the achievement of the right to education for indigenous children. First, a birth certificate is necessary for a child to be enrolled in a public school and

¹⁷ Law No 98/004 of 14 April 1998 and Law No 2001/005 of 16 April 2001 on orientation and education.

¹⁸ See the attached receipt from the Lycée Mixte d'Akom II for the amount of 11.50 euro covering enrolment, a contribution to the *Association de parents d'élèves (APEE)*, Association of Parents of Pupils, and the cost of medical and school record cards. The amount paid to the APEE is to cover works of a technical nature carried out in schools, in particular the building of classrooms.

¹⁹ "Des écoles sans enseignants", *Le jour*, 3 August 2009, p.3.

indigenous families face considerable problems in even obtaining this sort of official document.²⁰ Accessing public services in general, including the registration of births and education, is very difficult for indigenous families because of the cost of the administrative procedures involved and the distances between public services centres and indigenous villages. In some cases, schools are located over 90 km from their villages.²¹

20. Another obstacle is the fact that the public school system is, contrary to the recommendations of various UN treaty bodies, simply unsuited to the culture of the indigenous peoples: school textbooks are not available in their languages and the school calendar is incompatible with hunting seasons and the transmission of traditional knowledge through practice. This problem is further exacerbated because the State does not recognise the “ORA” teaching method, which is used by the Baka communities in the Mbang area and the Bagyéli communities in the Bipindi area. “ORA” is a teaching method designed for indigenous children which preserves the traditional cultural values and aims to enable them to express themselves in French while taking account of their culture and specific characteristics.²² However, it is not recognised by the State’s education system and the informal basic education centres which promote and use this method therefore receive no financial or technical support from the State.
21. Another major obstacle, which is a significant source of discouragement, is linked to the fact that indigenous children are routinely subjected to insults and bullying by both teachers and the other students.²³ This situation is consistent with the generalised discrimination and marginalisation affecting the Baka, Bakola, Bagyéli and Bedzang populations that is rife within Cameroonian society.²⁴
22. The education rights of indigenous children are guaranteed in several international instruments. The Committee on the Rights of the Child recently issued General Comment No 11,²⁵ which calls on States to take measures to eliminate discrimination in the field of education and ensure that indigenous children have access to education on an equal footing with non-indigenous children. The United Nations Declaration on the Rights of Indigenous Peoples also affirms the right of indigenous children to receive an education that is free from any type of discrimination as well as the right of indigenous peoples “to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning”.²⁶ CERD and the Committee on Economic, Social and Cultural Rights have also adopted recommendations containing similar language.
23. At the regional level, the right of indigenous children to have an education that is free from any kind of discrimination and in harmony with their traditional values follows from the right to take part in the cultural life of their community, enshrined in the African Charter on Human and Peoples’ Rights.²⁷ The African Charter on the Rights and Welfare of the Child also affirms that

²⁰ Albert Barume, *Étude sur le cadre légal pour la protection des droits des peuples indigènes et tribaux au Cameroun*, International Labour Organization, 2005, p. 42, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_100775.pdf.

²¹ *Ibid.*; see also “Des écoles sans enseignants”, *Le jour*, 3 August 2009, p.3.

²² ORA means “observer, réfléchir et agir” (“observe, reflect and act”). On this subject, see: Venant Messe, *Recherche sur les bonnes pratiques pour la mise en œuvre des principes de la Convention 169 de l’OIT- Le cas de l’éducation des enfants baka de la commune rurale de Mbang au Cameroun : Étude de cas #2*, International Labour Organization, 2009, available at: http://www.ilo.org/indigenous/Recourses/Publications/lang--fr/docName--WCMS_118170/index.htm.

²³ Albert Barume, *Étude sur le cadre légal pour la protection des droits des peuples indigènes et tribaux au Cameroun*, International Labour Organization, 2005, p.73, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_100775.pdf.

²⁴ On this subject, see the attached newspaper articles which describe the marginalisation of the “Pygmies”.

²⁵ Committee on the Rights of the Child, General Recommendation N° 11, CRC/C/GC/11, 12 February 2009.

²⁶ United Nations Declaration of the Rights of Indigenous Peoples, article 14.

²⁷ African Charter on Human and Peoples’ Rights, article 17.

States have a duty to provide free schooling for all without discrimination and to take measures to prevent and reduce school drop-out rates.²⁸ Lastly, the Protocol on the Rights of Women in Africa also protects girls against discrimination at school.²⁹

2) The law on marginalised populations conflicts with international law and denies the rights that attach to the status of indigenous people

24. In its report (at paragraph 81), the State explains that it has adopted several measures to protect the rights of marginal populations, including a commitment to draft a law to promote and protect marginal populations, for which a call for tenders to draft a bill was made in 2008. The following are classified by the State as marginal populations for these purposes: the “Pygmies”; the Mbororo; highland peoples such as the Mafa, Mada, Mandara, Zougrou, Ouldémé, Molko, Mbodko, Dalla and Guemdjek; and island and creek populations as well as cross-border populations.³⁰
25. First, to date, there has been minimal and inadequate participation by indigenous peoples and supporting NGOs in developing the draft bill. The work was commissioned by the Minister of Social Affairs and will be the basis for drafting a bill on marginalised populations.³¹ Little information has been made public about this process and various indigenous and other organisations are greatly concerned about the lack of transparency in the approach adopted thus far.
26. Second, the language generally used by the State is extremely confusing when it comes to defining the term “indigenous peoples”, and thus recognising in practice the rights guaranteed to them in international law.³² In the same way the new proposed legislation on “marginalised populations” creates a legal concept that is severely incompatible with the rights of indigenous peoples as guaranteed by international law, including under the Convention. This situation relates to Cameroon’s failure to understand and acknowledge the meaning of the term “indigenous peoples” under international law and to recognise the existence of indigenous peoples within its borders.
27. Although the Constitution of Cameroon explicitly protects the rights of indigenous peoples in its preamble by stating : *“the State shall ensure the protection of minorities and shall preserve the rights of indigenous populations in accordance with the law”*³³ the content of the parliamentary debate on amendments to the Constitution which took place on 18 January 1996 focuses on the idea of “indigenous” meaning natives of a particular area by contrast with outsiders or, elsewhere, by contrast with those who are not natives of the area in question. This colonial understanding of the term poses a great problem because it would mean that all Cameroonians are indigenous and the special protection granted to Baka, Bakola, Bagyéli and Bedzang would be void.³⁴

²⁸ African Charter on the Rights and Welfare of the Child, article 11.

²⁹ Protocol on the Rights of Women in Africa, article 12.

³⁰ Speech by Mrs Cathérine Bakang Mbock, Minister of Social Affairs, at the opening of the regional workshop on the rights of indigenous peoples in Central Africa, 15 April 2009, in Hôtel Mont Fèbé, Yaoundé.

³¹ Ministry of Social Affairs: “Étude en vue de l’Élaboration d’un Projet de Loi sur la Promotion des Droits des Populations Marginales”, Cabinet d’Experts Multidisciplinaires Associés-SARL (CEMA-SARL), Yaoundé, November 2008.

³² For example, in Law 94-1 of 20 January 1994 to lay down forestry, wildlife and fisheries regulations local communities are described as *“populations autochtones”* in articles 26 and 30, *“populations riveraines”* in articles 8 and 36, *“populations villageoises”* (“village populations”) in articles 7, 37, 67 and 68 and *“populations locales”* in article 29. All these terms are being employed to denote groups which could include “Pygmies”.

³³ Constitution of Cameroon of 1972, amended by Law No. 96-06 of 18 January 1996.

³⁴ National Assembly, 5th Legislature 1995/1996, Extraordinary session, December 1995, *Rapport présenté au nom de la Commission des Lois constitutionnelles, des Droits de l’Homme et des Libertés, de la législation et du règlement et de l’Administration et des forces armées, par l’honorable Etong Hilarion sur le projet de loi n° 590/PJL/ AN portant révision de la Constitution du 2 juin 1972*, December 1995, No 2205, p. 32.

28. In the context of developments in international and regional law concerning protection of the rights of indigenous peoples, some African States, including Cameroon, have expressed the view that all Africans are indigenous in relation to the European colonisation of Africa.³⁵ However, this position is inconsistent with the understanding of the term “indigenous” used by the African Union and the United Nations, including the Committee.
29. While accepting that, as stated by Rodolfo Stavenhagen, the former United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people,³⁶ the understanding of the term “indigenous peoples” varies from state to state and region to region, the African Commission on Human and Peoples’ Rights states that, in the case of Africa:

We should put much less emphasis on the early definitions [those that appeared in the 1980s with the United Nations Sub-Commission on the prevention of discrimination and protection of minorities (1982) and ILO Convention 169 (1989)] focusing on aboriginality, as indeed it is difficult and not very constructive (except in certain very clear cut cases like the San of Southern Africa and the pygmies of Central Africa) to debate this in the African context. The focus should be on the more recent approaches focusing on self-definition as indigenous and distinctly different from other groups within a state; on a special attachment to and use of their traditional land whereby their ancestral land and territory has a fundamental importance for their collective physical and cultural survival as peoples; on an experience of subjugation, marginalization, dispossession, exclusion or discrimination because these peoples have different cultures, ways of life or modes of production than the national hegemonic and dominant model.³⁷ [emphasis added.]

30. Furthermore, and in accord with the view of the Special Rapporteur quoted in the preceding paragraph, the Committee, rather than develop or associate itself with a definition of “indigenous peoples”, in its 1990 General Recommendation VIII, formally stated that membership in a group “shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned.”³⁸ The Committee applies this self-identification principle to collectives as well as individuals and has reaffirmed this position on numerous occasions.³⁹ In its 2007 review of Indonesia, for instance, the Committee conveyed its concern about the lack of “appropriate safeguards guaranteeing respect for the fundamental principle of self-identification in the determination of indigenous peoples,” and recommended that Indonesia “respect the way in which indigenous peoples perceive and define themselves.”⁴⁰

³⁵ On this subject, see, in particular: Siegfried Weissner, “Indigenous Sovereignty : A Reassessment in Light of the UN Declaration on the Rights of Indigenous Peoples”, in *Vanderbilt Journal of Transnational Law*, October 1, 2008, p.1163.

³⁶ Stavenhagen, Rodolfo: 2001, “Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people”, United Nations Paper E/C1\1.412002/97, paragraph 92.

³⁷ “Rapport du groupe de travail d’experts de la Commission africaine des droits de l’homme et des peuples sur les populations/communautés autochtones”, African Commission on Human and Peoples’ Rights, African Union, 2005, p.103.

³⁸ General Recommendation VIII concerning the interpretation and application of article 1, paragraphs 1 and 4 of the Convention 1990. See, also, Venezuela, 01/11/2005, CERD/C/VEN/CO/18, at para. 15 (recommending that “the identity document for indigenous persons be based upon self-identification by the individual concerned”); and Finland: 10/12/2003, CERD/C/63/CO/5, at para. 11 (stating that the definition of Saami is too restrictive and suggesting that Finland “give more adequate weight to self-identification by the individual, as indicated in general recommendation VIII”).

³⁹ See, for instance, Denmark, 21/05/2002, CERD/C/60/CO/5, at para. 18 (concerning “denials by Denmark of the identity and continued existence of the Inughuit as a separate ethnic or tribal entity, and recalls its general recommendation XXIII on indigenous peoples general recommendation VIII on the application of article 1 (self-identification) and general recommendation XXIV concerning article 1 (international standard)”; and Algeria, 27/04/2001, CERD/C/304/Add.113, para. 9 (concerning the Amazigh and referring to General Recommendation VIII concerning the identification of members of particular racial and ethnic groups). See also Democratic Republic of Congo, 17/08/2007, CERD/C/COD/CO/15, para. 14; and Laos, 18/04/2005, CERD/C/LAO/CO/15, para. 17.

⁴⁰ Indonesia, 15/08/2007, CERD/C/IDN/CO/3, at para. 15.

31. The Committee has also rejected attempts by some states to label certain groups where it is clear that the group in question self-identifies otherwise. In the case of Japan, for example, it noted “with interest the recent jurisprudence recognizing the Ainu people as a minority people with the right to enjoy its unique culture,” but, nevertheless, recommended that Japan “take steps to further promote the rights of the Ainu, as indigenous people.”⁴¹ Perhaps believing that the difference in terminology was less relevant, it took a different approach in the case of Guyana. Noting that “the Amerindian Act of 2006 systematically refers to the indigenous peoples of Guyana as ‘Amerindians,’” the Committee recommended that Guyana,

*in consultation with all indigenous communities concerned, clarify whether “Amerindians” is the preferred term of these communities, that it consider the criteria laid down in article 1 of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, as well as in the Committee’s General Recommendation No. 8, in defining indigenous peoples, and that it recognize the specific rights and entitlements accorded to indigenous peoples under international law.*⁴²

32. More generally, the Committee’s General Recommendation XXIV observes that “a number of States parties recognize the presence on their territory of some national or ethnic groups or indigenous peoples, while disregarding others,” and that some states “decide at their own discretion which groups constitute ethnic groups or indigenous peoples that are to be recognized and treated as such.”⁴³ It continues that the Committee “believes that there is an international standard concerning the specific rights of people belonging to such groups” and; “that the application of different criteria in order to determine ethnic groups or indigenous peoples, leading to the recognition of some and refusal to recognize others, may give rise to differing treatment for various groups within a country’s population.”⁴⁴
33. The Committee has also raised concerns about indigenous peoples in Africa, including where the reporting state has refused to acknowledge that indigenous peoples are present in its territory.⁴⁵ In the case of the Democratic Republic of Congo in 2007, the Committee noted its regret at the “State party’s reluctance to acknowledge the existence of indigenous peoples in its territory.”⁴⁶ Referring to General Recommendation VIII on self-identification, it “remind[ed] the State party that the principle of non-discrimination requires it to take account of the cultural characteristics of ethnic groups;” and invited it “to review its position on indigenous peoples and minorities, and in that context to take into account the way in which such groups perceive and define themselves.”⁴⁷ The Committee then proceeded to refer to certain groups – the Pygmies (Bambuti, Batwa and Bacwa) – as indigenous peoples throughout the remainder of its concluding observations. The Committee used almost the same language and took the same approach in its 2006 observations on Botswana.⁴⁸
34. As noted above, Cameroon’s approach is consistent with that adopted by the African Commission on Human and Peoples Rights’ Working Group of Experts on Indigenous Populations/

⁴¹ Japan, 27/04/2001, CERD/C/304/Add.114, at para. 5 and 17.

⁴² Guyana, 04/04/2006, CERD/C/GUY/CO/14, at para. 10.

⁴³ *General Recommendation XXIV on Reporting of persons belonging to different races, national/ethnic groups, or indigenous peoples (Art. 1)*, 27/08/99, at para. 2-3.

⁴⁴ *Ibid.* at para. 3.

⁴⁵ See South Africa, 22/08/2006, CERD/C/ZAF/CO/3; Botswana, 04/04/2006, CERD/C/BWA/CO/16; Nigeria, 01/11/2005, CERD/C/NGA/CO/18; Uganda, 02/06/2003, CERD/C/62/CO/11; Gabon, 10/02/99, CERD/C/304/Add.58; and Cameroon, 20/03/98, CERD/C/304/Add.53.

⁴⁶ Democratic Republic of Congo, 17/08/2007, CERD/C/COD/CO/15, para. 14.

⁴⁷ *Ibid.*

⁴⁸ Botswana, 04/04/2006, CERD/C/BWA/CO/16, para. 9.

Communities (“ACHPRWGIP”),⁴⁹ which has determined that the concept of indigenous peoples is both valid and necessary in the African context, and that self-identification as indigenous is a “key principle” that should be adopted by and guide further deliberations of the ACHPR.⁵⁰ This is also consistent with the position adopted in the practice of the Advisory Committee on the European Framework Convention for the Protection of National Minorities⁵¹ and Articles 9 and 33(1) of the 2007 UN Declaration on the Rights of Indigenous Peoples.⁵²

35. Finally, the Committee has previously looked beyond the terminology employed and insisted that the applicable rights are recognised and respected. In its 2005 consideration of Laos, for instance, the Committee took “*note of the delegation’s explanations regarding the reluctance of the authorities to classify ethnic groups in the Lao People’s Democratic Republic as minorities or indigenous peoples*” and recommended that the state party “*recognize the rights of persons belonging to minorities and indigenous peoples as set out in international law, regardless of the name given to such groups in domestic law.*”⁵³ In doing so, however, the Committee also recommended that Laos “*take into consideration the way in which the groups concerned perceive and define themselves.*”⁵⁴
36. We urge the Committee to adopt the above approach when it considers Cameroon’s report at its 76th session. In particular, that it recommends that Cameroon fully respect the principle of self-identification in adopting and implementing legislative or other measures, and that, whatever the terminology it may decide to use, that it fully recognise and guarantee the rights of indigenous peoples as set out in international law in relation to so-called ‘Pygmy’ peoples. This is especially the case in relation to proposed legislation on marginalised communities.

3) The Chad-Cameroon oil pipeline project has exacerbated the vulnerable situation of the indigenous peoples

37. The Chad-Cameroon Petroleum Development and Pipeline Project entailed drilling oil wells in Chad and transport of the oil through a pipeline, built under the project, to the coastal port of Kribi in Cameroon. According to Cameroon’s report to the Committee, whenever a project has been damaging to the Baka or Bagyéli, a compensation plan has been provided and it cites the example of the route of the Chad-Cameroon pipeline in this respect. However, the State’s report is vague insofar as that is the only information it gives on the matter (paragraph 85).
38. Throughout the course of the project, indigenous peoples’ right to free, prior and informed consent has been flouted. Indigenous communities in the area covered by the project say that they had difficulties during meetings organised by the Consortium headed by Exxon Mobil: they were mainly held in French and complex documents were distributed without regard for their lack of schooling or for their oral traditions. Furthermore, the risks posed to them by the project were not

⁴⁹ *Report of the African Commission’s Working Group of Experts on Indigenous Populations/Communities*. Submitted in accordance with “Resolution on the Rights of Indigenous Populations/Communities in Africa” Adopted by the African Commission on Human and Peoples’ Rights at its 28th ordinary session. Copenhagen: AfCOM/IWGIA 2005, p. 86-103.

⁵⁰ *Ibid.* at p. 92-3, 101.

⁵¹ See, *inter alia*, *Views of the Advisory Committee on Norway*. ACFC/INF/OP/I(2003)003, at para. 9 (taking into account the views of the Saami Parliament with respect to self-identification as an indigenous people rather than as a national minority).

⁵² Articles 9 and 33(1) provide, respectively, that “Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned” and; “Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions.” See, also, *Proposed American Declaration on the Rights of Indigenous Peoples*, Article I(2) (as provisionally in March 2006), which provides that “Self-identification as indigenous peoples will be a fundamental criterion for determining to when this Declaration applies. The States should respect the right to self-identification as indigenous, individually and collectively, in keeping with the practices and institutions of each indigenous peoples.”

⁵³ Laos, 18/04/2005, CERD/C/LAO/CO/15, para. 17.

⁵⁴ *Ibid.*

clearly presented to these communities. It was thus impossible for them to participate in decision making and their characteristics and needs were not adequately taken into account in the pipeline and associated projects, including project components that purported to be only for the benefit of the affected indigenous peoples.⁵⁵

39. The section of the pipeline situated in Cameroon crosses land occupied by the Bagyéli and Bantu populations. A *Plan pour les Peuples Autochtones Vulnérables (PPAV)* (Plan for Vulnerable Indigenous Peoples), was drawn up in line with World Bank Operational Directive 4.20.⁵⁶ Under this plan, the rights of the Bagyéli, including their right to informed participation, should have been respected prior to the commencement of any activities that might affect their land.⁵⁷ In particular, the directive required the government and other borrowers involved in the project to take special measures to protect indigenous peoples' land rights and their security over resources.⁵⁸ As a consequence, the Bank and its borrowers were obliged not only to pay particular attention to traditional and customary land tenure systems but also to take special targeted measures to ensure that they were protected.
40. At the start of the project in 2001, the World Bank and Cameroon set up the Foundation for Environment and Development in Cameroon (FEDEC), which was tasked with granting long-term financial support for, *inter alia*, sustainable development and the affected indigenous peoples in the Mbam and Djerem regions. In 2008, almost eight years after the construction work started, a report prepared for the International Finance Corporation gave a rather pessimistic assessment of the situation, stating that the plan for indigenous peoples that had been proposed by the International Finance Corporation in 2006 had not been implemented and that the Bagyéli/Bakola had been left in ignorance about progress of the project.⁵⁹
41. Instead, the project has exacerbated the situation of the indigenous peoples. Communities have been displaced and very few Bagyéli have benefited from the compensation plan.⁶⁰ Most of the advantages available to communities under the compensation plan were not suited to the situation of indigenous communities who, therefore, failed to benefit from them: local recruitment measures (from which the Bagyéli were largely excluded because they lacked identity cards) and the compensation available for property only covered land which had agricultural value or was occupied by permanent buildings. This is incompatible with the lifestyle of the Bagyéli, who are not, for the most part, farmers, and whose traditional dwellings are not considered permanent in the sense employed by Cameroonian law.⁶¹

⁵⁵ J. Nouah et al., "Chad–Cameroon: Pushed by the Pipeline", in: *Extractive Industries and the World Bank*, (Baguio City, Philippines and Moreton-in-Marsh, UK, Tebtebba Foundations and Forest Peoples Programme: 2003).

⁵⁶ Operational directive 4.20 states that "*the strategy for addressing the issues pertaining to indigenous peoples must be based on the informed participation of the indigenous people themselves. Thus, identifying local preferences through direct consultation, incorporation of indigenous knowledge into project approaches, and appropriate early use of experienced specialists are core activities for any project that affects indigenous peoples and their rights to natural and economic resources*".

⁵⁷ World Bank Operational Directive 4.20 on Indigenous Peoples (no longer in use).

⁵⁸ *Ibid.* The relevant provisions of the directive specifically required Bank personnel and borrowers to take special action to protect the land rights and security of resources of indigenous peoples (OD 4.20: paragraphs 2, 9, 15c and 17).

⁵⁹ External Compliance Monitoring Group, Fourth Site Visit - Post Project Completion, June 2008, p. 53. Available at: [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/ecmg14_eng/\\$FILE/ECMG+June08+Mission+Final+Report.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/ecmg14_eng/$FILE/ECMG+June08+Mission+Final+Report.pdf); see also: International Advisory Group (IAG), Report of Mission to Chad and Cameroon, January 11-31, 2009, in which the IAG remarked: "*EDEC's financial situation, already alarming in June 2008, has continued to deteriorate*".

⁶⁰ *Report on the Bagyéli communities living along the pipeline route - Southern Cameroon, Bipindi – Kribi*, Planet Survey-Environnement et Développement Durable, Centre for Environment and Development, with the participation of Jeanne Nouah and Joachim Gwodog from the Bagyéli Community of Bipindi-Kribi, February-March 2003, available at: http://www.forestpeoples.org/documents/prv_sector/eir/eir_internat_wshop_cameroon_case_eng.pdf.

⁶¹ *Ibid.*; see also Anne Marie Tiani, George Akwah and Joachim Nguiébouri, "Women in Campo-Ma'an National Park. Uncertainties and Adaptations in Cameroon", in *The Equitable Forest*, sent by Rahayu Koesnadi, Center for

B. Article 5: The State's duty to ensure equality before the law and enjoyment of rights

1) Article 5 (a): The right to equal treatment before the tribunals and all other organs administering justice

42. The specific characteristics of indigenous peoples are not taken into account by Cameroon's customary courts and that constitutes a major obstacle to their enjoyment of their rights. Although the customary courts require the involvement of assessors – namely, notables who sit near the presiding judge in court during hearings and who are knowledgeable about the customs of one or other of the parties involved in the proceedings – in traditional courts in the areas where indigenous peoples live there is no provision to ensure the fair representation of all customs.⁶² To date, no assessors of Baka, Bakola/Bagyéli or Bedzang origin have been involved in customary courts. The courts also do not use the traditional languages of the Baka, Bakola/Bagyéli or Bedzang. As there is no interpreting service available in these courts, the parties are obliged to express themselves in Bantu languages in which many indigenous peoples are not conversant.⁶³

2) Article 5 (b): The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution

43. The right to security of person and protection against violence or bodily harm has been violated in the context of creating and protecting the Campo Ma'an National Park. As discussed below, these violations are particularly pronounced in connection with significant restrictions on indigenous communities' access to and use of their lands now enclosed in the national park, particularly by State-employed game wardens.⁶⁴ There was no consultation concerning the establishment or boundaries of the park and it was generally only as a result of searches by State game warden patrols that members of indigenous communities realised that they were not allowed to hunt or go into the park any longer.⁶⁵ As noted above, this park and others were all established without any regard for the rights of indigenous peoples, including their property right in and to their traditional lands enclosed by the parks.

44. There is a pattern of excessive repression and ill-treatment inflicted on indigenous peoples by game wardens. For instance, a case study published in 2001 reports numerous clashes between game wardens and the Bagyéli in Campo Ma'an National Park.⁶⁶ It explains that the national park guards do not take action against all hunters, but that the most vulnerable, such as the Bagyéli, who are hunting to meet their own basic subsistence needs, are not spared. The types of action taken against the Bagyéli include burning down their houses and camps inside the park, which are described by the report as displaying "incomparable zeal".⁶⁷

International Forestry Research (CIFOR), www.cifor.org; see also *Indigenous peoples & protected areas in Africa - from principles to practice*, Editors: John Nelson and Lindsay Hossack, FPP, September 2003.

⁶² See article 10 (2) of Decree No 69/DF/544 of 19 December 1969 laying down judicial organisation and the procedure to be followed in the traditional courts of eastern Cameroon (amended by Decree No 71/DF/607 of 3 December 1971).

⁶³ Samuel Nguiffo and Nadine Mballa, "*Les dispositions constitutionnelles législatives et administratives relatives aux populations autochtones au Cameroun*", 2009, p. 32.

⁶⁴ These are State officials (the Ministry of the Environment and Forests is responsible for supervising Campo Ma'an National Park) who keep watch over the forests. They are also known as eco-guards or forest guards.

⁶⁵ Nguiffo Samuel, "Cameroon – Dja Wildlife Reserve" in *Indigenous Peoples and Protected Areas in Africa: From principles to practice*, Forest Peoples Programme, Moreton-in-Marsh, 2003, p. 209.

⁶⁶ Joseph Claude Owono, "The extent of Bagyéli Pygmy involvement in the development and Management Plan of the Campo Ma'an UTO", Case Study No 8, July 2001, in *Indigenous Peoples and Protected Areas in Africa: From principles to practice*, Forest Peoples Programme, Moreton-in-Marsh, 2003, pp 251-252 available at:

http://www.forestpeoples.org/documents/africa/cameroon_campo_maan_eng.pdf.

⁶⁷ *Ibid.*.

45. Newspaper reports from July and August 2009 also cite violent repressive acts towards indigenous peoples by a game warden named Bekir Cem Canturk in the areas around Ancien,⁶⁸ Boumba and Ngoko. These areas correspond to the Cynegetic Interest Zone No 40, which has been managed by this hunting guide and his team since 2002.⁶⁹ Many complaints were made by local and indigenous communities in the area, who say that to date, they have had no meetings with the hunting guide and that therefore they are unaware of the boundaries of his area of operations, his terms of reference or the dates of his hunting periods. Members of communities in the area of Ancien have been living in a climate of permanent fear since he arrived in their villages because they are regularly ill-treated by the hunting-guide team.⁷⁰
46. Reports also indicate that another incident occurred at the end of 2007 when several members of the community of Som Ancien (Baka and Bantu), who had gone into the forest to pick wild mangos, were discovered by the hunting guide and his team. The situation quickly deteriorated because the hunting guide fired numerous shots in the air in anger. Two pregnant Baka women fell over several times after stumbling over tree trunks when running away from the shooting. As a result, they both miscarried, the first one that evening and the other the next day. The hunting guide and his team seriously manhandled six members of the Som community, including the village chief. He put them in chains, took them to his camp and only released them that night. To date, the community members have received no compensation for the many losses and harm they suffered.⁷¹

3) Article 5 (d): Other civil rights: the right to own property (article 5 (d) v)

a) The legislation on the land registration procedure is discriminatory

47. Since 1974, registration is the only means of gaining recognition of land ownership in Cameroon.⁷² Land law invites customary communities that were occupying or using land at the time of the 1974 order to obtain property titles in accordance with the law in order to carry on occupying or using them.⁷³ This law, together with related legislation, discriminates against indigenous peoples because of the conditions that they are obliged to meet in order to have their customary rights recognised.

⁶⁸ An area which includes, among others, Ngatto Ancien, Zoulabot Ancien, Som Ancien, Maléa Ancien and Gribé.

⁶⁹ *Arrêté n° 1211/MINEF/DFAP/SIF/KJA du 31 Janvier 2002 portant classement des zones d'intérêt cynégétique dans la province de l'Est* (Order No 1211/MINEF/DFAP/SIF/KJA of 31 January 2002 on the classification of areas of cynegetic interest in the eastern province).

⁷⁰ "Békir Cem Canturk – guide de chasse et bourreau des pygmées": *Le Jour*, Wednesday, 29 July 2009; "Békir Cem Cantürk : le safari aux vellétés esclavagistes", *Le Messager*, No 2909, Friday, 31 July 2009.

⁷¹ *Ibid.*

⁷² *Ordonnance n° 74/1 du 6 juillet 1974 fixant le régime foncier, article 8* (Order No 74-1 of 6 July 1974 laying down the land tenure system, article 8).

⁷³ This is pursuant to the combined effects of articles 15 and 17 of Order No 74/1 of 6 July 1974 laying down the land tenure system:

Article 17: Appurtenances of the national domain shall be allocated by means of concession, lease or allocation under the terms determined by decree. However, customary communities, their members and any other person of Cameroonian nationality who, at the date this order enters into force, occupies or exploits appurtenances listed in the first category laid down in article 15, shall continue to occupy or exploit them. They may, at their request, obtain property titles for them in accordance with the provisions of the decree envisaged in article 7. With regard to the regulations currently in force, their right to hunt and gather on appurtenances listed in the second category laid down in article 15 is also recognised as long as the State has not allocated those lands for a specific purpose.

Article 15: Appurtenances of the national domain are classified in two categories:

1°/ Housing land, farmland, planting land, pasture land and grazing land on which occupation is shown by man's clear control of the land and evident development.

2°/ Land that is free from any effective occupation. [Unofficial translation.]

48. Indeed, the law – in line with the requirement for land to be developed – requires it to have been “exploited” and/or “occupied” and makes requests for the registration of land that is free from any form of occupation or exploitation inadmissible.⁷⁴ Development is achieved by means of either occupation or exploitation. Buildings, dwellings and outbuildings, sheds and other structures meet the requirement of occupation while plantations and farming or grazing areas meet the requirement of exploitation.
49. But the requirement concerning “*man’s clear control of the land and evident development*”⁷⁵ is incompatible with the way of life of indigenous peoples whose dwellings are temporary and who live from activities which, by contrast with permanent agriculture, leave no marks on the land, such as hunting, collecting and gathering. It is, therefore, impossible for the indigenous peoples to register their property by meeting the requirements laid down in law with regard to land tenure.

b) The legislation on access to forest resources is discriminatory

50. The 1994 law to lay down forestry, wildlife and fisheries regulations recognises certain logging rights in some areas of forest for communities who have customary land rights but limits the exercise of such logging rights by restricting them to personal use. In addition, within State forests, the related 1995 regulations limit the use of forest products such as bamboo, raffia, palms, rattan and foodstuffs as well as restricting firewood to personal use and forbidding its sale.⁷⁶
51. This is a serious problem for indigenous peoples whose way of life relies predominantly on forest products and whose survival depends on the sale or exchange of those products. Since it is illegal for forest products to be sold, indigenous people have no choice but to risk selling them illegally or remain in poverty and resort to begging. The limited access that indigenous people have to the vital natural resources found on their ancestral lands is particularly discriminatory and takes no account of the specific needs of the groups in question.

c) The legislation on community forests and community hunting grounds is discriminatory

52. The legislation on community forests⁷⁷ and community hunting grounds⁷⁸ set in place under the 1994 forestry law in order to combat poverty in rural areas has also proved to be unsuited to the way of life of indigenous people. First, the maximum permitted area of 5,000 hectares for both community forests and community hunting grounds is smaller than the area they traditionally cover when out collecting in the forest.⁷⁹ However, what is even more problematic is that community forests must be located in the non-permanent forest domain, in other words, stretches of land over which indigenous peoples usually do not have customary land rights because they have not come under their traditional ownership.

⁷⁴ See article 11, paragraph 3, of Decree No 2005/481 of 16 December 2005 amending and supplementing certain provisions of Decree No 76/165 of 27 April 1976 laying down the conditions for obtaining property titles.

⁷⁵ Article 15 (1) of Order No 74-1 of 6 July 1974 laying down the land tenure system.

⁷⁶ Law No 94-01 of 20 January 1994 to lay down forestry, wildlife and fisheries regulations, articles 8 and 154; Decree No 95/531/PM of 23 August 1995 laying down regulations for implementing the forestry system, article 26.

⁷⁷ A community forest is a stretch of State forest that is free from logging rights and which covers a maximum area of 5,000 hectares, management of which is granted to a village community by the State. The State retains ownership of the land but hands over management of forest resources for a 25-year period that is renewable. The agreement between the State and the benefiting community is accompanied by a simple management plan with which all activities undertaken in that area must comply. See articles 37, 38 and 95 of the 1994 forestry law.

⁷⁸ Hunting grounds located in the non-permanent forest domain which are subject to management agreements between the State and local village communities. See article 2(19) of the 1995 Decree on the wildlife system.

⁷⁹ Article 27(4) of Decree No 95/531/PM of 23 August 1995 laying down regulations for implementing the forestry system.

53. Moreover, the procedure for obtaining a community forest or community hunting ground is unsuited to the reality of the lives of indigenous peoples. In order to obtain title, the applicants are required to establish themselves as a legal entity and to draw up a map of the desired area, as well as a forest management plan setting out activities for a five-year period, all of which carry significant procedural costs that are beyond the means of indigenous peoples.⁸⁰

d) Discrimination in accessing the annual forest tax

54. According to current legislation on the management and use of income from logging, ten per cent (10%) of the forest taxes paid by loggers goes to the State coffers to benefit local village communities, in order to fund development projects in the areas where wood production takes place.⁸¹ According to the State report (paragraph 86), the 1994 forestry law also authorises a share of the annual forest and wildlife taxes, amounting to 12 per cent (12%) to be reassigned to resident “Pygmy” and Bantu populations.

55. The “annual forest tax” is not, however, available to indigenous communities for at least two reasons. First, the 1994 law does not define the term “*communautés villageoises riveraines*” (“local village communities”) and “encampments” of indigenous peoples are considered by Bantu chiefs to be an integral part of Bantu, not indigenous, villages.⁸² No specific measures have been taken to ensure that the annual forest tax is distributed fairly and reaches indigenous peoples. They are generally excluded from the management committees established in Bantu villages for the management of such funds, which means that indigenous groups are not recognised as having resident status. Secondly, collection of the annual forest tax is usually centralised at local council level in the areas being logged, which impedes access to these funds.

e) Discrimination in the creation of protected areas and the prohibitions associated with it

56. In Cameroon, the incentive for creating protected areas has been the goal of covering 30 per cent of national territory by protected areas by 2010.⁸³ This represents a specific threat for indigenous peoples. For example, protected area management systems generally prohibit hunting⁸⁴ as well as settlement and other human activities.

57. Protected areas are created and their limits determined without the free, prior and informed consent of indigenous peoples. Indeed, members of indigenous communities state that they were only informed of the creation of such areas after the event. Their specific characteristics have not been taken into account and many communities, without having changed the nature or location of their activities in any way, have found themselves arbitrarily and without prior warning to be breaking the law. That was the case for the evictions from the Dja Reserve, Boumba Bek National Park and Campo Ma’an National Park.⁸⁵ It should be noted that this contravenes the provisions of

⁸⁰ Articles 27 to 32 of Decree No 95/531/PM of 23 August 1995 laying down regulations for implementing the forestry system.

⁸¹ Finance laws relating to tax years 1994-1995 to 2001-2002, joint MINEFI/MINAS order of 29 April 1998 establishing the procedures for using the income received from logging and intended for local village communities.

⁸² Albert Barume (2005), *Étude du cadre légal pour la protection des peuples indigènes et tribaux au Cameroun*, Geneva, International Labour Organization, p. 66.

⁸³ This goal is in line with the goals of the Convention on Biological Diversity to which Cameroon is a party, see articles 1, 6 and 8, and is part of a framework of international initiatives concerning the management of biodiversity.

⁸⁴ Except within the framework of development operations approved by the Minister responsible for forests.

⁸⁵ Samuel Nguiffo, “Cameroon – Dja Wildlife Reserve. One forest and two dreams: the constraints imposed on the Baka in Miatte by the Dja Wildlife Reserve” in *Indigenous peoples and protected areas in Africa: From principles to practice*, Forest People Programme, Moreton-in-Marsh, 2003; Joseph Claude Owono, “The extent of involvement of Bagyéli Pygmies in the management and development plan of the UTO Campo Ma’an”, Cameroon, in *Summary of case study presented at the CAURWA/FPP conference: Indigenous Peoples and Protected Areas in Africa: From Principles to*

article 26 of the 1994 forestry law which states that “[t]he instrument classifying a state forest shall take into account the social environment of the local population, who shall maintain their logging rights”.

58. With respect to the establishment and management of national parks in indigenous peoples’ territories, the Committee has articulated two main inter-related rules, neither of which has been complied with in law or practice in Cameroon. First, in 2002, the Committee held that “no decisions directly relating to the rights and interests of members of indigenous peoples be taken without their informed consent” in connection with a nature reserve in Botswana.⁸⁶ Second, with regard to a national park in Sri Lanka, the Committee called on the state to “recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.”⁸⁷ More generally, the Committee has recognised that indigenous peoples have a right to restitution of their traditional territories and resources, which in principle also applies to nature reserves, stating that (as recognised in its general recommendation 23 on the rights of indigenous peoples) “where they [indigenous peoples] have been deprived of their lands and territories traditionally owned, or such lands and territories have been otherwise used without their free and informed consent, the Committee recommends that the State party take steps to return those lands and territories.”⁸⁸
59. Likewise, in 2007, the Committee expressed its concern “about the consequences for indigenous groups of the establishment of national parks in the State party and their ability to pursue their traditional way of life in such parks (article 5 (c), (d) and (e) of the Convention).”⁸⁹ The corresponding recommendation states that:

In the light of its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party provide, in its overdue report, information on the effective participation of indigenous communities in the decisions directly relating to their rights and interests, including their informed consent in the establishment of national parks, and as to how the effective management of those parks is carried out.

The Committee also recommends that the State adopt all measures to guarantee that national parks established on ancestral lands of indigenous communities allow for sustainable economic and social development compatible with the cultural characteristics and living conditions of those indigenous communities.

60. Cameroon has clearly failed to comply with the above-mentioned norms. Not only has it completely disregarded indigenous peoples’ property and participation rights in relation to national parks and other protected areas, it has forcibly displaced some indigenous peoples from these areas and is actively excluding some indigenous peoples from even entering these areas for their basic subsistence, cultural and spiritual needs. These policies are backed by force as government park guards have physically assaulted indigenous persons and burned down their houses. Moreover, the State is failing to protect indigenous peoples from concessionaires who have excluded indigenous peoples from their concessions, including through the use of live ammunition that lead to two miscarriages after pregnant indigenous women were forced to flee from gunfire in one hunting concession. We respectfully request that the Committee reiterates and emphasises its prior jurisprudence on indigenous peoples and protected areas when it reviews Cameroon and

Practice, Kigali, Rwanda, September 2001, available at:

http://www.forestpeoples.org/documents/africa/fpproj_cameroon_campo_maan_summ_eng.shtml.

⁸⁶ *Botswana* : 23/08/2002. UN Doc. A/57/18, paras.292-314, at 304.

⁸⁷ *Sri Lanka* : 14/09/2001. UN Doc. A/56/18, paras.321-342, at 335.

⁸⁸: *Guatemala* : 15/05/06. UN Doc. CERD/C/GTM/CO/11, 15 May 2006, at para. 17.

⁸⁹ *Ethiopia*: 20/06/2007. UN Doc. CERD/C/ETH/CO/15, at para. 22.

recommends that their rights be secured and respected in accordance with Cameroon's international obligations.

C. Article 7: The State's duty to adopt immediate and effective measures in the field of teaching, education, culture and information and to promote understanding and tolerance

61. In its 1998 concluding observations on Cameroon, the Committee said that “[w]ith respect to the implementation of article 7 of the Convention, the information provided on measures to ensure equal treatment for ethnic groups regarding teaching, culture and information and to develop human rights training for law-enforcement agents is inadequate”.⁹⁰ Despite this, it is our view that the Cameroonian Government is still not taking the necessary steps to eliminate racial discrimination against indigenous peoples.
62. Existing policies and projects are far more intent on settling indigenous peoples or assimilating them into the dominant ways of life without taking any account of their way of life or culture. Moreover, in its 1997 report to the Committee, Cameroon noted that “State action is also aimed at the Pygmies in the eastern and southern provinces, who are covered by the ‘Socio-economic integration of the Baka/Bakola’ project. The strategy is to: Stabilize the Pygmies in their camps; Introduce them to own-account agricultural work;...”.⁹¹ The use of the terms “integration” and “stabilize” shows that the State’s strategy for eliminating racial discrimination involves actually changing the ways of life and culture of indigenous peoples, which is in itself a form of racial discrimination unless undertaken with indigenous peoples’ consent. Such consent has not been obtained and the Committee’s observation cited above remains generally valid today.

IV. Recommendations

Given the above, we respectfully request the Committee:

- To ask the State to take all necessary measures to eliminate racial discrimination in the educational sphere and to effectively implement the right to education for indigenous peoples, in particular by guaranteeing the principle of free schooling for these populations and by favouring teaching systems, such as the ORA method, which are representative and inclusive of the culture and language of indigenous peoples and, to the extent possible, determined, administered and controlled by them. This includes providing State support for those institutions that currently employ the ORA method on an equal footing with other educational institutions;
- To urge the State to guarantee the protection of the rights of “indigenous peoples” as defined by the international and regional bodies whose treaties it has ratified and to bring national legislation in line with international and regional standards;
- To urge the State to respect the principle of free, prior and informed consent for indigenous peoples when it comes to drafting legislation that concerns them and especially when involving such populations in the steps taken to draft the bill on “marginal populations”, by making sure that their views and concerns are taken into account, thereby ensuring that indigenous peoples participate fully and effectively in the drafting of legislation that concerns them;
- To urge the State to provide adequate compensation for violations of the right to land and free, prior and informed consent for the Bagyéli peoples who have been affected by the implementation of the Chad-Cameroon oil pipeline project and to take all necessary measures to prevent such

⁹⁰ CERD/C/304/Add.53, paragraph 14.

⁹¹ Fourteenth periodic report by Cameroon. CERD/C/298/Add.3, paragraph 39.

violations from occurring when negotiating and carrying out projects funded by the World Bank and other institutions and investors which are likely to affect indigenous peoples' right to land;

- To remind the State of its duty to guarantee indigenous peoples equal treatment before the courts, especially with regard to the need to provide interpreting services in the languages spoken by indigenous peoples and the use of assessors who are representatives of the culture of indigenous peoples;
- To urge the State to take all immediate and effective measures necessary to ensure the security of indigenous peoples who are located in the region of the Campo Ma'an National Park and the areas around Ancien and to conduct serious investigations so that those responsible for physical violence and other abuses can be brought to justice;
- To urge the State to take all necessary measures to guarantee the right of indigenous peoples to own property and to rectify any legislative provisions that discriminate against indigenous peoples, especially those that concern the land registration procedure; access to forest resources; the establishment of community forests and community hunting grounds; and distribution of the annual forest tax;
- To urge the State to guarantee the right of indigenous peoples to restitution and other forms of reparation for any violations of their customary land rights over ancestral lands that may result from the creation of protected areas;
- To remind the State of its duty to take all immediate and necessary measures to combat racial discrimination against indigenous people, not by "integrating" and "stabilizing" them but by effectively implementing regional and international standards and promoting the culture of indigenous peoples with their full and effective participation.

We remain at the disposal of the Committee should further details be required.