

# **Indigenous peoples' rights in Cameroon**

**Supplementary report  
submitted in connection with Cameroon's second periodic report**

**May 2010**

**Submitted to the African Commission on Human and Peoples' Rights  
by**

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



## Contents

<b>Executive Summary</b>	<b>1</b>
<b>I. Introduction</b>	<b>5</b>
<b>II. Brief description of the indigenous peoples of Cameroon</b>	<b>8</b>
<b>III. Violations of the rights of indigenous peoples in Cameroon</b>	<b>10</b>
<b>A. The right to education: equality and culture (article 17)</b>	<b>10</b>
<b>B. Cameroon’s use of the term “marginal populations” is contrary to international law and denies the rights of indigenous peoples</b>	<b>12</b>
<b>C. The Chad-Cameroon oil pipeline project has exacerbated the vulnerable situation of the indigenous peoples</b>	<b>17</b>
<b>D. Violation of the right to equal treatment before the law and access to the courts without discrimination</b>	<b>19</b>
<b>E. The right to respect for life and the integrity, liberty and security of the person (articles 4 and 6)</b>	<b>19</b>
<b>F. Violations of the right to property (article 14)</b>	<b>20</b>
a) The legislation on the land registration procedure is discriminatory	20
b) The legislation on access to forest resources is discriminatory	21
c) The legislation on community forests and community hunting grounds is discriminatory	22
d) Discrimination in accessing the annual forest tax	22
e) Discrimination in the creation of protected areas and the prohibitions associated with it	23
<b>G. The rights of indigenous women</b>	<b>24</b>
<b>IV. Recommendations</b>	<b>27</b>
<b>V. Annexes</b>	
Legislation:	
- Bilingual extracts from: <i>Loi n° 94-01 du 20 janvier 1994 portant régime des forêts, de la faune et de la pêche</i> (Law N° 94-01 of 20 January 1994 to lay down forestry, wildlife and fisheries regulations)	
- Extracts from: <i>Décret n° 95/466/PM du 20 juillet 1995 fixant les modalités d’application du régime de la faune</i> (Decree N° 95/466/PM of 20 July 1995 laying down regulations for implementing the wildlife system)	
- Extracts from: <i>Décret n° 95/531/PM du 23 août 1995 fixant les modalités d’application du régime des forêts</i> (Decree N° 95/531/PM of 23 August 1995 laying down regulations for implementing the forestry system)	
- Extracts from: <i>Ordonnance n° 74-1 du 6 juillet 1974 fixant le régime foncier</i> (Order N° 74-1 of 6 July 1974 laying down the land tenure system)	
- Extracts from: <i>Décret N° 2005/481 du 16 décembre 2005 portant sur les conditions d’obtention du titre foncier</i> (Decree N° 2005/481 of 16 December 2005 laying down the conditions for obtaining property titles)	
Maps:	
- “Ancestral areas of some of the Baka, Bagyéli and Bakola communities in Cameroon”	
- Areas of Cameroon where “Pygmies” live	

#### 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 members<sup>1</sup> 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 Fosseyway Business Centre, Stratford Road, Moreton-in-Marsh GL56 9NQ, United Kingdom. Tel: +44 1608 652893, Fax: +44 1608 652878.

Email: info@forestpeoples.org.

---

<sup>1</sup> 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), FONDAP (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 the Baka, Bakola, Bagyéli and Bedzang “Pygmy” indigenous peoples in Cameroon to the African Commission on Human and Peoples’ Rights (the “Commission”). Many treaty bodies, including the Committee on the elimination of racial discrimination (CERD) 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 African Charter on Human and Peoples’ Rights (the “African Charter”) and to other treaties promoting the protection of the rights of indigenous peoples. It has also signed the Protocol on the Rights of Women in Africa.

Cameroon’s failure to implement the rights of indigenous peoples 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, 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. This situation contravenes the right to education guaranteed in article 17 Of the African Charter.

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. The peoples included in the concept of “marginalised populations” are the “Pygmies”, the Mbororo, highland peoples such as the Mafa, Mada, Mandara, Zougrou, Ouldémé, Molko, Dalla and Guemdjek, and island, creek and cross-border peoples.<sup>2</sup> This supplementary report shows that Cameroon’s approach is clearly inconsistent with international law relating to indigenous peoples’ right to self-identification and with the approach taken by the Commission’s Working Group on Indigenous Populations/Communities. In February 2010, CERD recommended that Cameroon refrain from using the term “marginalised populations” and adopt a law that specifically protects the rights of indigenous peoples. We respectfully request that the Commission urges Cameroon to adopt legislative measures that conform to international law.

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 and violated their rights, in particular the right to own their ancestral lands and the right to freely dispose of their natural resources as set out in articles 14 (right to property) and 21 of the African Charter.

Fourth, the violation of the right to equality before the law 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

---

<sup>2</sup> 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.

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. We submit that this situation constitutes a violation of articles 2 and 3 of the African Charter.

Fifth, rights to the life, integrity, dignity and security of the person as set out in articles 4, 5 and 6 of the African Charter have clearly been violated, as shown by the examples of state-employed game wardens who have assaulted and terrorised indigenous peoples in protected areas located in the region of the Campo Ma'an National Park and the areas around Ancien. This situation is also an example of Cameroon's failure to implement international human rights law and basic information rights. 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' right to property is violated by several of Cameroon's legislative provisions, which discriminate against indigenous peoples by denying them access to property ownership. In its report, the State expresses the view that "Pygmy" peoples do not enjoy the right to own property because they are nomadic.<sup>3</sup> We explain that the State's justification is clearly discriminatory and that it is unjust to blame their special characteristics. The law should be adapted to these characteristics and allow them access to property on a genuine footing of equality with other Cameroonians. In practice this is not the case, for:

- 1) the legal requirement concerning "*man's clear control of the land and evident development*"<sup>4</sup> 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 forests affected by land rights lie within the non-permanent forest domain. However, indigenous peoples are generally prevented from exploiting customary land rights on such land because these portions of territory do not correspond to their ancestral lands;
- 4) The distribution of a share of the "annual forest tax" is also discriminatory, being distributed to Bantu chiefs but inaccessible to indigenous peoples, who are considered an integral part of Bantu villages.<sup>5</sup> No specific measures have been taken to ensure that this tax is distributed fairly so that part of it reaches indigenous peoples, who are usually excluded from the management committees established in Bantu villages to manage such funds, as they are not regarded 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 also violates their right to property. Without having changed the nature or location of their activities in any way at

---

<sup>3</sup> Second periodic report of Cameroon to the African Commission, paragraph 455.

<sup>4</sup> Article 15 (1) of Order No 74-1 of 6 July 1974 laying down the land tenure system.

<sup>5</sup> Albert Barume (2005), *Étude du cadre légal pour la protection des peuples indigènes et tribaux au Cameroun*, Genève, Organisation Internationale du Travail, p. 66.

all, they have found themselves, arbitrarily and without prior warning, to be breaking the law simply by remaining on the lands they inhabit. They have been evicted from the Dja reserve, Boumba Bek National Park and Campo Ma'an National Park.<sup>6</sup>

Seventh, the issue of the rights of indigenous women is of particular concern. We denounce the fact that Cameroon has yet to ratify the Protocol on the Rights of Women in Africa. We point out that article 18(3) of the African Charter and several rights protected by the Protocol on Women's Rights in Africa, such as the right to the elimination of discrimination against women, reproductive health rights, the right to food security and the State's duty to provide special protection for women in distress, are not guaranteed, while indigenous women are particularly vulnerable and doubly marginalised and discriminated against because of their sex and ethnic origin.

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

- To call on 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, to bring national legislation in line with international and regional standards and to adopt, as recommended by the Committee on the Elimination of Racial Discrimination, a specific law on the protection of the rights of indigenous peoples;
- 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 the Baka, Bakola, Bagyéli and Bedzang indigenous peoples 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 formally recognise the land rights of indigenous peoples in order to prevent the recurrence of such violations during the negotiation and execution of projects financed by the World Bank and other institutions or investors that may 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;

---

<sup>6</sup> Samuel Nguiffo, " Cameroun– La Réserve de faune du Dja. Une seule forêt pour deux rêves : les contraintes des Baka de Miatta face à la Réserve de faune du Dja " dans *Les peuples autochtones et les aires protégées en Afrique : du principe à la pratique*, Forest People Programme, Moreton-in-Marsh, 2003 ; Joseph Claude Owono, " Cameroun – Campo Ma'an. Le degré d'implication des Pygmées Bagyéli dans le plan d'aménagement et de gestion de l'UTO Campo Ma'an ", dans *Résumé de l'étude de cas donné lors de la conférence organisée par le CAURWA en collaboration avec le FPP : Les peuples autochtones et les aires protégées en Afrique : Du principe à la pratique Kigali, Rwanda, septembre 2001*, disponible sur : [http://www.forestpeoples.org/documents/africa/fpproj\\_cameroon\\_campo\\_maan\\_summ\\_fr.shtml](http://www.forestpeoples.org/documents/africa/fpproj_cameroon_campo_maan_summ_fr.shtml).

- 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 urge the State to guarantee the protection of women's rights, in particular by ratifying the Protocol on Women's Rights in Africa and, when implementing it, by taking concrete measures to protect particularly vulnerable and doubly marginalised indigenous women.

## I. Introduction

1. This report supplements the information provided in Cameroon's second periodic report (CERD/C/CMR/19) and is respectfully submitted to the African Commission on Human and Peoples' Rights (the "African Commission") for consideration at its 47th session in May 2010. It sheds light on pervasive, persistent and systematic violations of the African Charter on Human and Peoples' Rights (the "African Charter") with regard to the indigenous peoples living on Cameroonian territory. These indigenous peoples, often referred to as "Pygmies"<sup>7</sup>, comprise the Baka, Bagyéli, Bakola and Bedzang peoples.
2. The breaches of the African Charter described in this report can be all traced back to two interrelated problems 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 African Charter that are raised in this report.
3. This report critiques the measures described by the State as actions to implement the Convention. In the first instance, it explains violations linked to the right to education. 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 "marginal/marginalised populations" Cameroon includes the "Pygmies"; the Mbororo; highland peoples such as the Mafa, Mada, Mandara, Zoglou, Ouldémé, Molko, Mbodko, Dalla and Guemdjek; and island and creek populations as well as cross-border populations.<sup>8</sup> The report explains why this is contrary to international law.
4. In its second periodic report to the Commission, Cameroon states that *"In Cameroon, certain categories of the population such as the Pygmies (Baka, Bakola/Bagyeli and Bedzang), the Mbororo and other ethnic groupings referred to by the United Nations as 'Indigenous Peoples' or 'indigenous and tribal Peoples' on account of their way of life, their socio cultural values based on their ancestral traditions, the use of the terminology 'marginal peoples', as a result of their departure from the socio cultural identity of the majority of their fellow citizens"*. (paragraph 342).
5. When CERD considered the State's report in Geneva in February 2010, it recommended that Cameroon *"refrain from using the term 'marginal population groups', which is contrary to the spirit of the Convention [on the elimination of all forms of racial discrimination] as it stigmatises the minorities referred to and prevents the specific characteristics of indigenous people from being taken into consideration"*.<sup>9</sup> CERD also deplored the fact that Cameroon's drafting of legislation on the rights of indigenous peoples had yet to be adopted and recommended the adoption of such a law.<sup>10</sup>

---

<sup>7</sup> The term "Pygmy/Pygmies" has been put in inverted commas because it can have pejorative connotations and is used here for 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.

<sup>8</sup> 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 Félé, Yaoundé.

<sup>9</sup> CERD/C/CMR/CO/15-18, paragraph 15.

<sup>10</sup> CERD/C/CMR/CO/15-18, paragraph 15.

6. 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. Also, 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.
7. Finally, this report also raises the specific issue of indigenous women as doubly marginalised and extremely vulnerable people. Preliminary consultations conducted by the submitting organisations in the communities of Kilombo, Nimedjoh, Bandévouri and Payo in Cameroon in March 2010 revealed that women suffer specific problems due to their sex and ethnic origin. Cameroon has yet to ratify the Protocol on the Rights of Women in Africa and does not guarantee the rights set out in that instrument.<sup>11</sup> More particularly, discrimination against women, reproductive health rights (article 14), the right to food security, and the duty of states to provide special protection to women in distress, are all of serious concern.
8. Following its previous consideration of Cameroon's periodic report, the Commission's concluding observations expressed concern over the situation of vulnerable groups in general, including indigenous peoples.<sup>12</sup> This report shows that the Commission'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.
9. By means of this report, the submitting organisation respectfully request that the Commission 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 for all activities that are likely to affect indigenous peoples' right to land;
  - 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;

---

<sup>11</sup> As noted below, Cameroon signed the Protocol on the Rights of Women in Africa in February 2010, but has yet to ratify it.

<sup>12</sup> African Commission on Human and Peoples' Rights, concluding observations, 39th session, Banjul, Gambia, November 2005.

- **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;**
- **ratify the Protocol on the Rights of Women in Africa and take all measures necessary to protect particularly vulnerable and marginalised indigenous women;**

## II. Brief description of the indigenous peoples of Cameroon

10. According to historians, the “Pygmies” were the first occupants of the Congo Basin. Nowadays in Cameroon they inhabit the eastern, central and southern regions 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 cent<sup>13</sup> of the population, with over half being the Baka people. This amounts to approximately 8,000 persons.
11. 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 km<sup>2</sup> 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.<sup>14</sup> 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.<sup>15</sup>
12. 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.<sup>16</sup>
13. 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.<sup>17</sup>

---

<sup>13</sup> 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>.

<sup>14</sup> 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](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>.

<sup>15</sup> 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](http://www.ecologie-humaine.eu/DOCUMENTS/SEH_Cabane/Cabane_15_Dounias&Bahuchet.pdf).

<sup>16</sup> *Ibid.*

<sup>17</sup> 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](http://www.forestpeoples.org/documents/africa/cameroon_land_rights_study_09_eng.pdf).

14. 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, other extractive industries' activities and climate change. The creation of national parks and other protected areas, also a consequence of the loss of biodiversity, equally resulted in indigenous peoples being dispossessed of their lands. 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.<sup>18</sup> 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.<sup>19</sup>
15. 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.
16. 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).<sup>20</sup> 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.

---

<sup>18</sup> 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](http://www.forestpeoples.org/documents/africa/foreword_and_intro_eng.pdf).

<sup>19</sup> Sévérin Cécile Abéga, *Pygmées Baka Le Droit à la Différence*, Inades Formation, Cameroon 1998.

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

### III. Violations of the rights of indigenous peoples in Cameroon

#### A. The right to education: equality and culture (article 17)

17. Cameroon's second periodic report contains a large amount of information on the way the education system functions. However, it provides no disaggregated data on indigenous peoples. The organisations responsible for the present report wish to inform the Commission that the level of education among indigenous children in general, and especially among girls, is extremely poor. A large number of children are several years behind in primary school and very few reach secondary or higher education.<sup>21</sup> To the best of our knowledge, there are no indigenous adolescents enrolled at university. 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.
18. Cameroon pleads that the country's laws on orientation and education<sup>22</sup> 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*".<sup>23</sup>
19. 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.
20. 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.<sup>24</sup> These sums are excessive for indigenous peoples, who largely live in extreme poverty, and thus these fees render education inaccessible for them.
21. 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

---

<sup>21</sup> "Des écoles sans enseignants", *Le jour*, 3 August 2009, p.3.

<sup>22</sup> Law No 98/004 of 14 April 1998 and Law No 2001/005 of 16 April 2001 on orientation and education.

<sup>23</sup> Periodic reports of Cameroon to the Committee on the Elimination of Racial Discrimination, 11 November 2008, CERD/C/CCM/15-18, March 2009.

<sup>24</sup> 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.

indigenous families face considerable problems in even obtaining this sort of official document.<sup>25</sup> 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.<sup>26</sup>

22. 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.<sup>27</sup> 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.
23. 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.<sup>28</sup> This situation is consistent with the generalised discrimination and marginalisation affecting the Baka, Bakola, Bagyéli and Bedzang populations that is rife within Cameroonian society.<sup>29</sup>
24. The education rights of indigenous children are guaranteed in several international instruments. 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.<sup>30</sup> The African Charter on the Rights and Welfare of the Child also affirms that States have a duty to provide free schooling for all without discrimination and to take measures to prevent and reduce school drop-out rates.<sup>31</sup> Lastly, the Protocol on the Rights of Women in Africa also protects girls against discrimination at school.<sup>32</sup>
25. At the international level, the Committee on the Rights of the Child recently issued General Comment No 11,<sup>33</sup> 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

---

<sup>25</sup> 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](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_100775.pdf).

<sup>26</sup> *Ibid.*; see also "Des écoles sans enseignants", *Le jour*, 3 August 2009, p.3.

<sup>27</sup> 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/Resources/Publications/lang--fr/docName--WCMS\\_118170/index.htm](http://www.ilo.org/indigenous/Resources/Publications/lang--fr/docName--WCMS_118170/index.htm).

<sup>28</sup> 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](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_100775.pdf).

<sup>29</sup> On this subject, see the attached newspaper articles which describe the marginalisation of the "Pygmies".

<sup>30</sup> African Charter on Human and Peoples' Rights, article 17.

<sup>31</sup> African Charter on the Rights and Welfare of the Child, article 11.

<sup>32</sup> Protocol on the Rights of Women in Africa, article 12.

<sup>33</sup> Committee on the Rights of the Child, General Recommendation N° 11, CRC/C/GC/11, 12 February 2009.

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”.<sup>34</sup> CERD and the Committee on Economic, Social and Cultural Rights have also adopted recommendations containing similar language.

26. CERD has also adopted recommendations containing similar language. Following its consideration of Cameroon's report, its concluding observations of February 2010 recommended that Cameroon guarantee indigenous children's access to primary education, in particular through free access to primary schools and the availability of the birth certificates necessary for enrolment; adapt the education system to indigenous peoples' way of life and culture; develop education programmes that address their special needs, including the ORA teaching method; and combat violence against indigenous children in schools.<sup>35</sup>

*Suggested question: What measures will Cameroon take to ensure that indigenous peoples have access to a type of education that is adapted to their way of life and culture?*

## **B. Cameroon's use of the term “marginal populations” is contrary to international law and denies the rights of indigenous peoples**

27. Cameroon is currently drafting a bill on the promotion and protection of marginal populations.<sup>36</sup> In its second periodic report to the African Commission, Cameroon explains its use of the term “marginal populations”:

*In Cameroon, certain categories of the population such as the Pygmies (Baka, Bakola/Bagyeli and Bedzang), the Mbororo and other ethnic groupings referred to by the United Nations as “Indigenous Peoples” or “indigenous and tribal Peoples” on account of their way of life, their socio cultural values based on their ancestral traditions, the use of the terminology “marginal peoples”, as a result of their departure from the socio cultural identity of the majority of their fellow citizens.<sup>37</sup>*

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.<sup>38</sup>

28. 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.<sup>39</sup> Little information has been made public about this process and various indigenous and other

<sup>34</sup> United Nations Declaration of the Rights of Indigenous Peoples, article 14.

<sup>35</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/CMR/CO/15-18, 16 March 2010.

<sup>36</sup> Periodic reports of Cameroon to the Committee on the Elimination of Racial Discrimination, 11 November 2008, CERD/C/CCM/15-18, 11 March 2009, paragraph 81.

<sup>37</sup> Second periodic report of Cameroon to the African Commission, paragraph 342.

<sup>38</sup> 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.

<sup>39</sup> 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.

organisations are greatly concerned about the lack of transparency in the approach adopted thus far.

29. Second, CERD's concluding observations of March 2010 recommended that Cameroon refrain from using the term marginal populations and instead adopt a law on indigenous peoples:

*The Committee strongly recommends that the State party complete the adoption of the bill on the rights of indigenous people and seek technical assistance and cooperation to that end from the Office of the United Nations High Commissioner for Human Rights and the International Labour Organisation. In particular, the Committee recommends that the State party, bearing in mind its general recommendation No. 23 (1997) on the rights of indigenous peoples, include in the aforementioned bill the definition of indigenous peoples as contained in the United Nations Declaration on the Rights of Indigenous People. It also recommends that the State party refrains from using the term "marginal population groups", which is contrary to the spirit of the Convention, as it stigmatises the minorities referred to and prevents the special characteristics of indigenous peoples from being taken into consideration. Finally, the Committee recommends that the State party ensures the participation of indigenous people and their representatives in the process of drafting the bill.<sup>40</sup>*

30. It is also important to note that 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.<sup>41</sup> 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.
31. 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*"<sup>42</sup> 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.<sup>43</sup>
32. 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.<sup>44</sup> However, this

---

<sup>40</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/CMR/CO/15-18, 16 March 2010, paragraph 15.

<sup>41</sup> 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".

<sup>42</sup> Constitution of Cameroon of 1972, amended by Law No. 96-06 of 18 January 1996.

<sup>43</sup> National Assembly, 5<sup>th</sup> 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.

<sup>44</sup> 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.

position is inconsistent with the understanding of the term “indigenous” used by the African Union and the United Nations, including the Committee.

33. 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,<sup>45</sup> the understanding of the term “indigenous peoples” varies from state to state and region to region, the working Group on Indigenous Populations/ Communities of 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.<sup>46</sup> [emphasis added.]*

34. In Communication 276 of 2003 - *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, which was decided in 2009, the African Commission also referred to the efforts of the Working Group of Experts on Indigenous Populations/Communities to clarify the concept of indigenous peoples and set out the criteria for identifying indigenous peoples:

*The African Commission through its Working Group of Experts on Indigenous Populations/Communities has set out four criteria for identifying indigenous peoples. These are: the occupation and use of a specific territory; the voluntary perpetuation of cultural distinctiveness; self-identification as a distinct collectivity, as well as recognition by other groups; an experience of subjugation, marginalisation, dispossession, exclusion or discrimination. The Working Group also demarcated some of the shared characteristics of African indigenous groups:... first and foremost (but not exclusively) different groups of hunter-gatherers or former hunter-gatherers and certain groups of pastoralist... A key characteristic for most of them is that the survival of their particular way of life depends on access and rights to their traditional land and the natural resources thereon.<sup>47</sup>*

35. As noted above, Cameroon’s approach is incompatible with that adopted by the African Commission on Human and Peoples Rights’ Working Group of Experts on Indigenous Populations/ Communities (“ACHPRWGIP”),<sup>48</sup> which has determined that the concept of

---

<sup>45</sup> Stavenhagen, Rodolfo: 2001, “Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people”, United Nations Paper E/C11.412002/97, paragraph 92.

<sup>46</sup> “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.

<sup>47</sup> Communication 276 of 2003 at paragraph 150 and Report of the African Commission’s Working Group of Experts on Indigenous Populations/Communities (adopted at the Twenty-eighth Session, 2003).

<sup>48</sup> *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 28<sup>th</sup> ordinary session. Copenhagen: AfCOM/TWGIA 2005, p. 86-103.

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.<sup>49</sup> 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 Minorities<sup>50</sup> and Articles 9 and 33(1) of the 2007 UN Declaration on the Rights of Indigenous Peoples.<sup>51</sup>

36. Furthermore, and in accord with the view of the Special Rapporteur Stavenhagen quoted here above, CERD, 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.*”<sup>52</sup> CERD applies this self-identification principle to collectives as well as individuals and has reaffirmed this position on numerous occasions.<sup>53</sup> In its 2007 review of Indonesia, for instance, CERD 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.*”<sup>54</sup>
37. CERD 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.*”<sup>55</sup> 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,’*” CERD 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*

---

<sup>49</sup> *Ibid.* at p. 92-3, 101.

<sup>50</sup> 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).

<sup>51</sup> 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.”

<sup>52</sup> 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”).

<sup>53</sup> 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.

<sup>54</sup> Indonesia, 15/08/2007, CERD/C/IDN/CO/3, at para. 15.

<sup>55</sup> Japan, 27/04/2001, CERD/C/304/Add.114, at para. 5 and 17.

*specific rights and entitlements accorded to indigenous peoples under international law.*<sup>56</sup>

38. More generally, CERD'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."<sup>57</sup> It continues that CERD "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."<sup>58</sup>
39. CERD 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.<sup>59</sup> In the case of the Democratic Republic of Congo in 2007, CERD noted its regret at the "State party's reluctance to acknowledge the existence of indigenous peoples in its territory."<sup>60</sup> 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."<sup>61</sup> CERD then proceeded to refer to certain groups – the Pygmies (Bambuti, Batwa and Bacwa) – as indigenous peoples throughout the remainder of its concluding observations. CERD used almost the same language and took the same approach in its 2006 observations on Botswana.<sup>62</sup>
40. Finally, CERD 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 CERD 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."<sup>63</sup> In doing so, however, CERD also recommended that Laos "take into consideration the way in which the groups concerned perceive and define themselves."<sup>64</sup>
41. We urge the Commission to adopt the above approach when it considers Cameroon's report at its 47th 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 decided 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 the proposed legislation on marginalised communities.

---

<sup>56</sup> Guyana, 04/04/2006, CERD/C/GUY/CO/14, at para. 10.

<sup>57</sup> *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.

<sup>58</sup> *Ibid.* at para. 3.

<sup>59</sup> 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.

<sup>60</sup> Democratic Republic of Congo, 17/08/2007, CERD/C/COD/CO/15, para. 14.

<sup>61</sup> *Ibid.*

<sup>62</sup> Botswana, 04/04/2006, CERD/C/BWA/CO/16, para. 9.

<sup>63</sup> Laos, 18/04/2005, CERD/C/LAO/CO/15, para. 17.

<sup>64</sup> *Ibid.*

*Suggested questions: Can the State provide details on the stage at which the drafting of the bill on "marginal populations" is? Is Cameroon considering revising the title and subject of the bill in order to specifically and adequately protect the rights of indigenous peoples, as recommended by the Committee on the Elimination of Racial Discrimination? What steps has Cameroon taken, and what will it do in future, to ensure that the drafting of the bill guarantees the participation of indigenous peoples and the principle of self-identification?*

### **C. The Chad-Cameroon oil pipeline project has exacerbated the vulnerable situation of the indigenous peoples**

42. 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. Cameroon's second periodic report to the Commission states that the rights of the Baka and Bagyéli constitute a national priority and that every time a project has infringed the rights of these peoples a compensation plan has been provided. 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).<sup>65</sup>
43. 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 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.<sup>66</sup>
44. 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.<sup>67</sup> 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.<sup>68</sup> 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.<sup>69</sup> 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.

<sup>65</sup> Cameroon's second periodic report submitted to the African Commission, paragraphs 453-454.

<sup>66</sup> 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).

<sup>67</sup> 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*".

<sup>68</sup> World Bank Operational Directive 4.20 on Indigenous Peoples (no longer in use).

<sup>69</sup> *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).

45. 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.<sup>70</sup>
46. 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.<sup>71</sup> 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.<sup>72</sup>
47. Moreover, Cameroon's report to the Commission explains that any breach of "Pygmy" peoples' land rights that does occur "*is simply because of their nomadism*".<sup>73</sup> We maintain that the government's attitude is contrary to international human rights law and to the rights of indigenous peoples. National law should recognise and integrate the property rights of indigenous peoples, which existed before the adoption of the aforementioned laws and the State of Cameroon itself, instead of using the special characteristics (nomadism in this instance) of the indigenous peoples on its territory to justify the denial of their land rights. Cameroon should ensure that its legislation is adapted to the rights and special characteristics of these peoples.

*Suggested question: What measures will Cameroon take to redress the violations of indigenous peoples' rights that occurred during the construction of the Chad-Cameroon oil pipeline, and to ensure that the free, prior and informed consent of indigenous peoples is respected during the implementation of similar ongoing and future projects?*

<sup>70</sup> 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/SFILE/ECMG+June08+Mission+Final+Report.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/ecmg14_eng/SFILE/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*".

<sup>71</sup> *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](http://www.forestpeoples.org/documents/prv_sector/eir/eir_internat_wshop_cameroon_case_eng.pdf).

<sup>72</sup> *Ibid.*; see also Anne Marie Tiani, George Akwah and Joachim Nguiebouri, "Women in Campo-Ma'an National Park. Uncertainties and Adaptations in Cameroon", in *The Equitable Forest*, sent by Rahayu Koesnadi, Center for International Forestry Research (CIFOR), [www.cifor.org](http://www.cifor.org); see also *Indigenous peoples & protected areas in Africa - from principles to practice*, Editors: John Nelson and Lindsay Hossack, FPP, September 2003.

<sup>73</sup> Second periodic report of Cameroon to the African Commission, paragraph 455.

#### **D. Violation of the right to equal treatment before the law and access to the courts without discrimination**

48. 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.<sup>74</sup> 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.<sup>75</sup>

#### **E. The right to respect for life and the integrity, liberty and security of the person (articles 4 and 6)**

49. 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.<sup>76</sup> 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.<sup>77</sup> 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.

50. 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.<sup>78</sup> 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*".<sup>79</sup>

51. 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,<sup>80</sup> Boumba and Ngoko. These areas correspond to the Cynthetic Interest Zone No 40, which has been managed by

---

<sup>74</sup> 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).

<sup>75</sup> Samuel Nguiffo and Nadine Mballa, "*Les dispositions constitutionnelles législatives et administratives relatives aux populations autochtones au Cameroun*", 2009, p. 32.

<sup>76</sup> 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.

<sup>77</sup> 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.

<sup>78</sup> 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](http://www.forestpeoples.org/documents/africa/cameroon_campo_maan_eng.pdf).

<sup>79</sup> *Ibid.*

<sup>80</sup> An area which includes, among others, Ngatto Ancien, Zoulabot Ancien, Som Ancien, Maléa Ancien and Gribé.

this hunting guide and his team since 2002.<sup>81</sup> 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.<sup>82</sup>

52. 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.<sup>83</sup>

*Suggested question: Has Cameroon taken measures to ensure the security of the victims and to prosecute the perpetrators of violence against indigenous peoples?*

## F. Violations of the right to property (article 14)

### a) The legislation on the land registration procedure is discriminatory

53. Since 1974, registration is the only means of gaining recognition of land ownership in Cameroon.<sup>84</sup> 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.<sup>85</sup> 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.

<sup>81</sup> 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).

<sup>82</sup> "Békir Cem Cantürk – 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.

<sup>83</sup> *Ibid.*

<sup>84</sup> 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).

<sup>85</sup> 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.]

54. 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.<sup>86</sup> 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.
55. But the requirement concerning “*man’s clear control of the land and evident development*”<sup>87</sup> 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.
56. As explained above, Cameroon justifies the violation of indigenous peoples’ land rights on the grounds that such people are nomadic.<sup>88</sup> However, this argument cannot be used to justify the absence of concrete measures to remedy the violation of the rights that indigenous peoples have held over their ancestral lands since well before the colonial period. Cameroon’s legislation therefore unjustly violates indigenous peoples’ right to property. Cameroon says it is “studying” the most effective ways and mechanisms by which to resolve these problems.<sup>89</sup> We respectfully request that the Commission urges Cameroon to take urgent measures to fully and effectively recognise the land rights of indigenous peoples.

**b) *The legislation on access to forest resources is discriminatory***

57. 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.<sup>90</sup>
58. 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.

---

<sup>86</sup> 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.

<sup>87</sup> Article 15 (1) of Order No 74-1 of 6 July 1974 laying down the land tenure system.

<sup>88</sup> Second periodic report of Cameroon to the African Commission, paragraph 455.

<sup>89</sup> Second periodic report of Cameroon to the African Commission, paragraph 455.

<sup>90</sup> 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.

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

59. The legislation on community forests<sup>91</sup> and community hunting grounds<sup>92</sup> 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.<sup>93</sup> 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.
60. 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.<sup>94</sup>

**d) *Discrimination in accessing the annual forest tax***

61. 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.<sup>95</sup> 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. This is the only factor mentioned in Cameroon's second periodic report in response to allegations that it has violated the rights of indigenous peoples.<sup>96</sup>
62. 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.<sup>97</sup> 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.

---

<sup>91</sup> 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.

<sup>92</sup> 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.

<sup>93</sup> Article 27(4) of Decree No 95/531/PM of 23 August 1995 laying down regulations for implementing the forestry system.

<sup>94</sup> Articles 27 to 32 of Decree No 95/531/PM of 23 August 1995 laying down regulations for implementing the forestry system.

<sup>95</sup> 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.

<sup>96</sup> Second periodic report of Cameroon to the African Commission, paragraph 454.

<sup>97</sup> Albert Barume (2005), *Étude du cadre légal pour la protection des peuples indigènes et tribaux au Cameroun*, Geneva, International Labour Organization, p. 66.

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

63. 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.<sup>98</sup> This represents a specific threat for indigenous peoples. For example, protected area management systems generally prohibit hunting<sup>99</sup> as well as settlement and other human activities.
64. 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.<sup>100</sup> It should be noted that this contravenes the provisions of 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”.
65. With respect to the establishment and management of national parks in indigenous peoples' territories, CERD has articulated two main inter-related rules, neither of which has been complied with in law or practice in Cameroon. First, in 2002, CERD 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.<sup>101</sup> Second, with regard to a national park in Sri Lanka, CERD 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.”<sup>102</sup> More generally, CERD 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.”<sup>103</sup>
66. Likewise, in 2007, CERD 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).”<sup>104</sup> 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*

<sup>98</sup> 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.

<sup>99</sup> Except within the framework of development operations approved by the Minister responsible for forests.

<sup>100</sup> 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 Practice*, Kigali, Rwanda, September 2001, available at:

[http://www.forestpeoples.org/documents/africa/fpproj\\_cameroon\\_campo\\_maan\\_summ\\_eng.shtml](http://www.forestpeoples.org/documents/africa/fpproj_cameroon_campo_maan_summ_eng.shtml).

<sup>101</sup> *Botswana* : 23/08/2002. UN Doc. A/57/18, paras.292-314, at 304.

<sup>102</sup> *Sri Lanka* : 14/09/2001. UN Doc. A/56/18, paras.321-342, at 335.

<sup>103</sup> : *Guatemala* : 15/05/06. UN Doc. CERD/C/GTM/CO/11, 15 May 2006, at para. 17.

<sup>104</sup> *Ethiopia*: 20/06/2007. UN Doc. CERD/C/ETH/CO/15, at para. 22.

*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.*

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

*Suggested question: What measures is Cameroon taking to reform its land laws in order to redress the imbalance and discriminatory effects on the rights of indigenous peoples to land ownership? Does Cameroon intend to take special measures to this effect?*

## **G. The rights of indigenous women**

68. The issue of indigenous women's reproductive health has been raised by members of the community of Kilombo, situated 18 km from Kribi in the South Cameroon region. The women say that they were formerly accustomed to using their traditional knowledge to give birth in the forests and care for the baby; there was no need to attend a hospital. Despite their lack of money, they are now obliged to attend a hospital and accept new treatments which they do not understand, and are gradually losing their traditional skills. As a Bagyéli woman explains:

*In the past, when Bagyeli women gave birth in the forest, they delivered the baby, wrapped it in a leaf, got up and went back to their work. These days, they must keep making visits or they lose their children. They must have anti-tetanus injections, which they never had in the past. They have problems because they have to keep going to the hospital when they are pregnant. In the past, a Bagyéli woman took her machete or a bamboo and cut the umbilical cord after giving birth in the forest. Now we are told to go to the hospital even though we have no money. So we are forced to hide our pregnancies and avoid the prenatal visits. We no longer have our tree bark medicines to prevent difficult births, infant illnesses ... everything is expensive these days, they tell us about layettes and other things we don't know anything about.*

69. Access to health services is also difficult for the Baka of Nomedjoh. The nearest clinic is more than 17 km away and its infrastructure is minimal. In general, Nomedjoh has very little infrastructure at all. As there is no piped drinking water, the women are forced to travel long distances to fetch

water and sometimes stay out late into the night, exposing themselves to various risks such as being bitten by snakes, which occurs frequently.

70. Traditionally, the Baka and Bagyéli women consulted in Kilombo, Nomedjoh, Payo and Bandévouri gather wood, honey, wild yams, caterpillars, fruits, oils, etc; they also operate fish traps and hunt small animals such as porcupines, tortoises and rats. They explain that their traditional activities are becoming increasingly difficult as forest products become scarcer. They say that logging and industrial plantations are depleting the products of the forest, including animals, fruits, foliage and insects. This situation curbs income-generating activities such as the production of moabi oil, which indigenous peoples traditionally use as a food and for medicinal purposes. The women of the Bandévouri communities claim that there are few bubinga trees left in the forests in which they exercise their rights of usage. Medicines derived from moabi and bubinga trees can relieve a wide variety of illnesses. The loss of these resources contributes to food insecurity, the decline of traditional knowledge of their uses and an obligatory transition to modern medicine.
71. The African Charter affirms the right of peoples to freely dispose of their wealth and natural resources and, in the event of spoliation, the right to the lawful recovery of their property and adequate compensation (article 21). The cases submitted by the communities of Kilombo, Nimedjoh, Bandévouri and Payo reveal that the Baka and Bagyéli indigenous communities of these regions do not enjoy such rights. Women are especially affected because they are no longer able to pursue the traditional activities cherished by such groups, activities which form the basis of their cultural systems.
72. African Union documents on the ratification status of treaties show that on 2 February 2010, Cameroon signed but has yet to ratify the Protocol to the African Charter on the Rights of Women in Africa. This instrument, even if not directly applicable in Cameroon's national legislative system at present, should serve as a guide to the implementation of women's rights in Cameroon. According to the Vienna Convention on the Law of Treaties, once States have signed a treaty they have an "[o]bligation not to defeat the object and purpose of a treaty prior to its entry into force".<sup>105</sup> The Protocol affirms:
- a. The right to the elimination of discrimination against women (article 2)
  - b. The right to health and reproductive rights (article 14)
  - c. The right to food security (article 15)
  - d. The duty of States to ensure the special protection of women in distress (article 24).

The information provided by Baka and Bagyéli women demonstrates that these rights are not respected and that the state affords them no effective protection.

73. In effect, Baka and Bagyéli women are afflicted with particular problems because of their sex and ethnic origin. They inhabit distant regions and have great difficulty in accessing state health services, they face discrimination and their general health, including reproductive health, is fragile (articles 3 and 14 of the Protocol). They say they have lost access to the natural resources essential to medicinal care within their communities. There is a considerable gulf between modern health services and traditional medicine, which draws upon ancestral lore. The Baka women say the modern system does not suit them; they did not choose it, nor did they participate in its development. The distance from health centres and the costs involved also prevent Baka women from access to health services, including reproductive health services.

---

<sup>105</sup> Vienna Convention on the Law of Treaties, Article 18.

74. The right of Baka and Bagyéli women to food security (article 15 of the Protocol) is also being flouted. Given the depletion of natural resources, their traditional hunting and gathering activities are no longer adequate to meet the communities' food needs. As explained above, the Baka and Bagyéli indigenous communities in Cameroon have been dispossessed of their ancestral lands, while the current system is discriminatory as it does not allow them to claim their customary rights to ancestral lands (see part III (F) of this report on the right to property). Baka and Bagyéli women suffer particularly from the consequences of this negation of indigenous peoples' right to land in the sense that they cannot pursue their traditional activities.
75. The Protocol also affirms the duty of states to ensure the special protection of women in distress (article 24). Baka and Bagyéli women form part of a population category that is strongly marginalised and, as they explain it, the conditions in which they live render them highly vulnerable to disease and poverty. Cameroon should therefore take special measures to ensure their protection.

*Suggested questions: What measures is Cameroon taking now that it has signed the Protocol on the Rights of Women in Africa, and does it intend to ratify the Protocol in the near future? What measures is Cameroon taking to protect extremely vulnerable and doubly marginalised indigenous women?*

## IV. Recommendations

Given the above, we respectfully request the Commission:

- 1) To call on 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;
- 2) 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, to bring national legislation in line with international and regional standards and to adopt, as recommended by the Committee on the Elimination of Racial Discrimination, a specific law on the protection of the rights of indigenous peoples;
- 3) 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 aimed at the Baka, Bakola, Bagyéli and Bedzang indigenous peoples, 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;
- 4) 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 formally recognise the property rights of indigenous peoples in order to prevent such violations during the negotiation and execution of projects financed by the World Bank and other institutions or investors which may affect the land rights of indigenous peoples;
- 5) 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;
- 6) 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;
- 7) 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;
- 8) 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;

- 9) **To urge the State to ensure the protection of women's rights, in particular by ratifying the Protocol on the Rights of Women in Africa and by implementing concrete measures to protect particularly vulnerable and doubly marginalised indigenous women;**

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