The rights of indigenous peoples in Cameroon

Supplementary report submitted further to Cameroon’s third periodic report
54th ordinary session, October 2013, Banjul, Gambia

Presented to the African Commission on Human and Peoples' Rights, jointly
submitted by:
Centre for Environment and Development (CED)
Okani
Réseau Recherche Actions Concertées Pygmées (RACOPY ) [Research Network
for Planned Pygmy Actions]
Association pour le développement social et culturel des Mbororo
(MBOSCU'DA) [Association for the social and cultural development of the
Mbororo]
International Working Group for Indigenous Affairs (IWGIA)
Forest Peoples Programme (FPP)
Descriptions of the signatory 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.
Address: BP 3430 Yaoundé Cameroon, Tel.: +237 22 22 38 57, Fax: +237 22 22 38 59, Email: ced@cedcameroun.org

Okani was established in 2004. It is a local, indigenous NGO run by Baka people working to ensure the rights of indigenous peoples and promoting their sustainable development in the forests. This NGO is directly linked to community governance structures and is required to conduct monitoring of its activities with communities.
Address: BP 14 Yaoundé Cameroon, Tel.: +237 22 07 92 23, Email: associationokani@gmail.com

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 integration into political, economic, social and cultural life as citizens of the country. Its members 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.1
Address: BP 11 Yaoundé, Tel.: 00 237: 22 21 15 51, Fax: 00 237 22 21 11 44

The Association pour le développement social et culturel des Mbororo au Cameroun (MBOSCUDA) was established in 1987. It works to strengthen the capacities of the Mbororo with the aim of achieving fair and sustainable development, and of protecting the economic and social rights of the Mbororo.
Address: P.O. Box 221, Bamenda, Cameroon, Tel.: +237 33 36 1406, Fax.: +237 3336 1406, Email: info@mboscuda.org

IWGIA is an international human rights organisation founded in 1968. It supports the struggle of indigenous peoples for their human rights, self-determination, land rights, control of lands and resources, cultural integrity and the right to development.
Address: Classensgade 11 E, DK 2100 Copenhagen, Denmark
Tel.: (+45) 35 27 05 00, Fax: (+45) 35 27 05 07, Email: iwgia@iwgia.org

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

---
1 The members of RACOPY are: CEFAID (Yokadouma), AAFEBEN (Yokadouma), ORADER (Yokadouma), CADER (Akom II), FODER (AkomII), PERAD (Lomié), ASBAK (Lomié), ABAWONI (Mintom), OKANI (Bertoua), INADES FORMATION (Yaoundé), RADEPY (Yokadouma), FONDAF (Bipindi), CADDAP (Abong-Mbang), ABAGUENI (Djoum), CADEFE (Lomié), ASTRDHE (Lomié), ASEDEF (Lomié), ADEBAKA (Djoum), ADEBAGO (AkomII), GRIPE (Yokadouma), Plan Cameroun (Bertoua) and CED (Yaoundé).
Table of contents

Descriptions of the signatory organisations .............................................................................. 3

Introduction ................................................................................................................................. 5
  o Report overview ..................................................................................................................... 5
  o Field visits among the Baka, Bagyéli and Mbororo communities ........................................ 6

Section 1: Cameroon has still not integrated the rights of indigenous peoples into its national legislation ......................................................................................................................... 7

Section 2: The reform of forest laws does not take into account the rights of indigenous peoples ............................................................................................................................. 10
  A. Cameroon has failed to guarantee the effective participation of indigenous and forest peoples in the drafting of the new Forest Law. ........................................................................ 14
  B. The draft Forest Law fails to guarantee adequate protection for the right of indigenous peoples to own, use and control their lands, territories and resources. .................................................. 16
  C. The draft Forest Law fails to guarantee indigenous peoples’ rights to participate in, and consent to, decision making concerning their forest lands, territories and resources. .................. 18
  D. The draft Forest Law fails to guarantee access to justice for indigenous peoples impacted by violations of their rights to their forest lands, territories and resources. ........................................ 20

Section 3: The rights of indigenous peoples are undermined by land concessions, including oil palm plantations .................................................................................................................. 21

Section 4: The extreme vulnerability and marginalisation of indigenous women ..................... 25
  A. The right to the elimination of discrimination against women (article 2) ............................... 25
  B. Access to justice and equal protection before the law (article 8) ......................................... 27
  C. The right to participate in the political and decision-making process (article 9) ..................... 28
  D. The right to education and training (article 12): barriers to the education of indigenous girls 29
  E. Health and Reproductive Rights (article 14) ........................................................................ 32
  F. The right to natural resources, women’s right to a healthy, sustainable environment, and the right to sustainable development ................................................................. 32

Conclusions and Recommendations ........................................................................................ 35

Annex 1: Extract from the alternative report submitted by the signatory organisations in May 2010 providing a brief description of indigenous peoples in Cameroon ............................................. 37

Annex 2: Description of the Mbororo pastoralists in Cameroon .................................................. 40

Annex 3: Concluding observations of the African Commission adopted following examination of the Cameroon report in May 2010 ............................................................... 41

Annex 4: List of suggested questions .......................................................................................... 48

Annex 5: Committee on the Elimination of Racial Discrimination’s communication to Cameroon Government regarding the draft Forest Law, 1 March 2013 (available in French only) ........................................................................... 50
I. Introduction

   o Report overview

1. The indigenous peoples to whom this report refers are primarily Baka, Bagyéli, Bakola and Bedzang peoples. They are forest peoples. The report also refers to Mbororo peoples who are pastoralists. These groups find themselves in different situations. They face different problems on account of their way of life, geographical situation and cultural characteristics. This report presents the respective problems of these groups and considers them in terms of the international laws applicable to indigenous peoples. It shows that national legislation in Cameroon is in conflict with international law.

2. This alternative report provides supplementary information to the third periodic report of the State of Cameroon. It is respectfully submitted to the African Commission on Human and Peoples' Rights (hereafter the "African Commission") for consideration during its 54th session scheduled for October 2013. The report highlights the widespread, persistent and systematic human rights violations that are committed with regard to indigenous peoples living in Cameroonian territory. It also emphasises the violation of the rights of indigenous women.

3. The report cites the African Charter on Human and Peoples' Rights (hereafter "African Charter"), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (hereafter "Protocol on the Rights of Women"), and other international instruments on human rights protection. These show that the aforementioned violations are connected with the continued denial of the rights of the Baka, Bagyéli and Mbororo to own, control and enjoy their lands and natural resources in peace. The report thus shows that Cameroon does not protect these extremely vulnerable indigenous peoples. The State does not recognise their rights, which are linked to their status as indigenous peoples under international law.

4. In section 1, the report demonstrates that Cameroon has not accepted the international definition of the concept of "indigenous peoples". This is despite the clear and repeated recommendations issued by international human rights treaty bodies, including the African Commission. In section 2, the report explains that the reform of forest law does not take into account the rights of indigenous peoples. In section 3, the report presents the harmful consequences of large-scale industrial plantations, including those linked to oil palm plantations. It explains how the law on forest concessions discriminates against indigenous peoples. Section 4 presents the situation of indigenous women who are extremely marginalised.

5. This report is based on the final observations adopted by the African Commission during the previous examination of Cameroon's periodic report, and on the recommendations issued in recent years by other treaty bodies such as the United Nations Committee on the Elimination of Racial Discrimination (CERD) and the United Nations Committee on the Elimination of Discrimination against Women (CEDAW). It shows that Cameroon is violating international

---

2 Forest peoples are frequently also referred to as "Pygmies". This name is considered pejorative by various groups that prefer to call themselves Baka, Bakola, Bagyeli or Bedzang.
law by not implementing the numerous regulations that govern the rights of indigenous peoples, and by not taking the necessary measures to act on the recommendations of the Commission and other treaty bodies.

6. The signatory organisations are especially interested in gaining the support of the African Commission and its implementation mechanisms. Dialogue with Cameroon has been underway for some time. The aim is for that dialogue finally to make the rights of indigenous peoples a reality, both in the texts of national legislation and in their practical application. Cameroon is in the middle of a legislative reform process. It is high time that the international regulations relating to the rights of indigenous peoples were integrated into the country’s national legislation.

- **Field visits among the Baka, Bagyéli and Mbororo communities**

7. The field visits conducted within the framework of this supplementary report followed earlier visits conducted in 2010, during the compilation of the previous report. As such, the signatory organisations are engaged in the ongoing task of documenting cases of violation, and of implementing the recommendations of the African Commission and other treaty bodies, such as CEDAW, that are relevant to the rights of indigenous peoples in Cameroon. The following communities were consulted by the signatory organisations between 30 August and 12 September 2013:

   a. the Bagyéli communities of Namalandé, Maboang, Bissiang-Nzouli and Bidou in the department of Océan in the South Province of Cameroon;
   b. the Baka communities of Mayos, Nkolbikon, Youssouf, Mbang and Abong Mbang, Missoumé, Mbâlam (Mindourou); Cyrie; Ndibot (Abong Mbang), all in the department of Haut-Nyong in the East Province of Cameroon; and
   c. the Bétaré Mbororo, Garoua-Boulai and Belembé communities, all three in the department of Lom-et-Djérem; Bagno 2 – Mangoro; Mobé and Batouri in the department of Kadey.

8. Following an information gathering exercise in the field, and the compilation of the supplementary report, a validation workshop was organised in Yaoundé on 26 September 2013. It was attended by 26 persons representing the signatory organisations. The purpose was to comment on and expand the supplementary report submitted during the workshop. Five representatives of the signatory organisations will also participate in the 54th ordinary session of the African Commission. This will take place in October and November 2013.

9. A detailed description of the characteristics of indigenous peoples appeared in the alternative report submitted in 2010. As this information has not changed, the relevant section of the previous report is attached for reference.
Section 1: Cameroon has still not integrated the rights of indigenous peoples into its national legislation

10. In its report for examination during this session, Cameroon again refers to its Constitution in order to assert that the rights of indigenous peoples are protected in Cameroon. The discrepancy between international law and national law regarding indigenous peoples was considered during the 47th session of the Commission in May 2010. The Commission issued guidance to Cameroon on the regional regulations relating to the definition of indigenous peoples. In particular, it referred to the report of its Working Group on Indigenous Populations published in 2005. Cameroon has once again cited the text of its Constitution in claiming that the rights of indigenous peoples are protected. This is proof in itself that regional and international regulations on the protection of the rights of indigenous peoples have still not been accepted or integrated into national legislation.

11. On examining the previous report, during the 47th session in May 2010, the Commission recommended that Cameroon abandon the draft law on marginal populations and adopt instead a law on indigenous peoples. In doing so, the Commission was endorsing the recommendation of the CERD Committee. Since then, Cameroon has undertaken a study aimed at specifying identification criteria for indigenous peoples. The signatory organisations note that it is taking a long time to finish this study. They also deplore the fact that civil society and indigenous peoples themselves are not being properly consulted as part of the research process in which the Cameroon government is engaged. The signatory organisations maintain that greater transparency is necessary regarding the procedures in place. They assert that the effective participation of indigenous populations, and of those organisations that defend their rights, is an indispensable condition for the success of those procedures.

12. In its report, Cameroon also states that measures have been taken by various departments regarding both the civil and the economic and social rights of indigenous peoples. The signatory organisations recognise the importance of these types of rights for indigenous peoples. Nevertheless, they wish to emphasise that it is the right to land and to natural resources that is most important to indigenous peoples. It is this that should take priority. It is in this respect that international law has still not been integrated.

13. Indigenous peoples have property rights that persist despite legislative changes to land law. They have the right to the restitution of the territories that they traditionally owned. Article 28 of the United Nations Declaration on the Rights of Indigenous Peoples states that:

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

---

3 Concluding Observations, paragraph 38 iv).
4 CERD/C/CMR/CO/15-18
14. In 1997, the United Nations Committee on the Elimination of Racial Discrimination also dealt with the question of restitution in its General Recommendation XXIII. It called on States parties to:

recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories.

Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.\(^5\)

15. Furthermore, the signatory organisations wish to draw the Commission's attention to the explanation offered by Cameroon that "due to their way of life, their cultural identity, certain indigenous populations have not adapted to certain modern practices".\(^6\) Could it not be the case that those modern practices have not adapted to the ways of life and cultural practices of indigenous peoples? Discrimination does not have to be "intentional" in order to exist or present a problem requiring particular attention.\(^7\) Cameroon appears to be arguing that recognising the rights of indigenous peoples pursuant to international law would imply unjustified privilege for a group of persons.

16. This notion is misconceived. As the African Commission explains in the 2005 report of its Working Group on Indigenous Populations/Communities:

One of the misconceptions regarding indigenous peoples is that to advocate for the protection of the rights of indigenous peoples would be to give special rights to some ethnic groups over and above the rights of all other groups within a state. This is not the case. The issue is not special rights. As explained above, the issue is that certain marginalised groups are discriminated [against] in particular ways because of their particular culture, mode of production and marginalised position within the state. This is a form of discrimination which other groups within the state do not suffer from. It is legitimate for these marginalised groups to call for protection of their rights in order to alleviate this particular form of discrimination.\(^8\)

17. The African Commission goes further. It explains that there is also another misconception relating to the rights of indigenous peoples in which: "talking about indigenous rights will lead to tribalism and ethnic conflicts".\(^9\) The Commission answers this by saying that human rights favour multiculturalism and diversity, and that it is rather the concept of unity and

---


\(^6\) Paragraph 12 of the third periodic report of Cameroon.

\(^7\) The third periodic report of Cameroon states that there is no "conscious intention to discriminate against certain categories of citizens". [Unofficial translation]


\(^9\) Ibid.
assimilation that creates conflict. African countries should not worry that accepting the concept of indigenous peoples would create conflict within a country or divide its peoples.

18. It therefore appears that Cameroon has not yet accepted a definition of the concept of indigenous peoples that is in line with international law. This is despite the numerous recommendations of the Commission and the international human rights treaty bodies. 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", 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, Bagyeli and Bedzang would be void.

19. 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 pastoralists... 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.*

20. The signatory organisations call on the Commission to strengthen the support given to Cameroon during this crucial period in the development of its legislation on the rights of indigenous peoples. In particular, the organisations call on the Commission to recommend that Cameroon respect the principle of self-identification, as well as the right of indigenous peoples to own and control their ancestral lands and natural resources. The State should do

---

10 Constitution of Cameroon of 1972, revised by Law No 96-06 of 18 January 1996.
so by adopting and implementing legislative measures that fully recognise and guarantee the rights of indigenous peoples as specified in international law.

Suggested questions for the state party representative during examination:

- How does Cameroon intend to involve indigenous communities and civil society in developing its comprehensive legal programme or text regarding indigenous peoples?
- Does Cameroon recognise the right of ownership that indigenous peoples have over their ancestral lands? Have measures been taken for the purpose of the restitution of lands that traditionally belong to them?

Section 2: The reform of forest laws does not take into account the rights of indigenous peoples

21. Cameroon’s current forest law – Law No.94-1 of 20 January 1994 to lay down forestry, wildlife and fisheries regulations (the “1994 Forest Law”) – has been the subject of planned revision for several years. It was the hope of many civil society and community based groups that the new law would remedy the severe problems experienced during nearly two decades of implementation of the 1994 Forest Law, particularly in regard to the marked failure to respect and protect the human rights of indigenous peoples living in Cameroon’s forests – namely the Baka, the Bakola or Bagyéli, and the Bedzang (so called ‘Pygmies’) – who number some 30–50,000 people.

22. Similar expectations have been raised in view of the implementation of the Voluntary Partnership Agreement (“VPA”) between the European Union (“EU”) and Cameroon under the EU’s Forest Law Enforcement Governance and Trade (“FLEGT”) Action Plan, which entails a programme of legal and institutional reform associated with improving forest governance. A key plank of the governance reforms promised by this bilateral treaty is reform of Cameroon’s forestry laws and implementing legislation, as well as integrating international law into Cameroon’s domestic legal framework.

23. In common with other indigenous peoples living in Cameroon, the physical and cultural integrity of these peoples wholly depends on Cameroon’s forest lands and natural resources. As reported by the Special Rapporteur on the right to food in his 2012 mission to Cameroon:

Pygmies rely for their livelihood on hunting and gathering, as well as non-timber forest products (honey, wild yams, caterpillars, fruit, snails, etc.). They therefore rely directly on access to forests for their food, and forests are an integral part of their cultural identity. However, from his meetings with various groups of Pygmies,

---

14 See Voluntary Partnership Agreement between the EU and the Republic of Cameroon, du Cameroun between the European Union and the Republic of Cameroon on forest law enforcement, governance and trade in timber and derived products to the European Union (FLEGT), in particular Annex IX of the agreement relating to the schedule of implementation (page 114) and Annex X of the agreement on supporting measures and financial mechanisms (page 124). The annexes are an integral part of the agreement by virtue of Article 26 of the VPA.
the Special Rapporteur has concluded that, to date, the views of these communities have not been taken into account in decisions concerning the concession of territory on which they rely for their subsistence. Furthermore, these groups do not generally benefit in any way from the exploitation of their land by the forest industry.\textsuperscript{15}

24. Since the legislative purpose of the planned new Forest Law – as for its predecessor – is to provide the legal framework applicable to all aspects of Cameroon’s forest land ownership, management and use, it occupies a prominent place in the body of law relating to Cameroon’s land and natural resources, and has significant implications for the human rights of indigenous peoples’ living in Cameroon’s forests.

25. The submitting organisations wish to highlight to the Commission that both the process of reform to date, and the contents of the proposed final drafts of the forest law are racially discriminatory towards indigenous peoples and are inconsistent with numerous other rights protected by the African Charter and related international and regional law. The situation is urgent since the Government of Cameroon, principally the Ministry of Forests and Wildlife (“MINFOF”), has previously signalled its intention to bring the draft Forest Law into law as quickly as possible. From the perspective of the human rights of indigenous peoples, Cameroon’s forest law reform has included the following key failings on the part of the Government of Cameroon, summarised alongside the most relevant ACHPR-protected rights engaged:

   a. Cameroon has failed to guarantee the effective participation of indigenous and forest peoples in the drafting of the new Forest Law. (\textit{Articles 1 - 3, 9, 13, 14, 16, 17, 19 - 22 & 24})

   b. The draft Forest Law fails to guarantee adequate protection for the right of indigenous peoples to own, use and control their lands, territories and resources. (\textit{Articles 1 - 3, 14, 16, 17, 19 - 22 & 24})

   c. The draft Forest Law fails to guarantee indigenous peoples’ rights to participate in, and consent to, decision making concerning their forest lands, territories and resources. (\textit{Articles 1 - 3, 9, 13, 14, 16, 17, 19 - 22 & 24})

   d. The draft Forest Law fails to guarantee access to justice for indigenous peoples impacted by violations of their rights to their forest lands, territories and resources. (\textit{Articles 1 - 3, 7, 13, 14, 16, 17, 19 - 22 & 24})

26. Due to the urgent nature of these concerns, the issues raised above (and others) were communicated to the United Nations Committee on the Elimination of Racial Discrimination (CERD) under its urgent action and early warning procedures, at its session in February 2013. This provoked the Committee to request an urgent response from the Government of Cameroon by 31 July 2013. To the authors’ knowledge, the Government of Cameroon has still not responded to this request. The Committee’s full letter (only available in French), dated 1st March 2013 is included in Annex 5 of this report, as a reference for the Commission.

27. Authoritative international law bodies have raised numerous concerns in relation to the human rights impacts on indigenous peoples from forestry and other activities located in the forest lands and territories of indigenous peoples. Dispossession from land and natural

\textsuperscript{15} De Schutter, 2012, at para 18.
resources (including forests) is cited as a key threat to the human rights of indigenous peoples by the African Commission’s Working Group of Experts on Indigenous Populations/Communities.\(^{16}\) Threats identified by the Working Group as leading to the loss of lands and resources, and associated impoverishment and heightened vulnerability of indigenous peoples in the African region\(^{17}\) – including the establishment of protected areas\(^{18}\), logging\(^{19}\), mining\(^{20}\), pipeline construction\(^{21}\), and expansion of areas under crop production\(^{22}\) – (as well as other large-scale infrastructure projects such as railways and ports\(^{23}\)) are all evident in Cameroon’s forests including within the lands and traditional territories of indigenous peoples. Taken together, these activities as currently conducted threaten the very physical and cultural survival of indigenous peoples in Cameroon’s forests.

28. The African Commission has for some time concerned itself with structural discrimination against indigenous peoples in Cameroon, in respect of which legislative measures have been deemed necessary. In the Commission’s 2010 Concluding Observations concerns were raised about the lack of “any legislative or regulatory measures taken to protect the rights of indigenous populations and in particular to guarantee their economic, social and cultural rights”.\(^{24}\) The Commission recommended that the Government of Cameroon:\(^{25}\)

\[\text{Harmonize the national legislation with the regional and international standards on the rights of indigenous populations/communities.}\]

---


\(^{17}\) Id. Listed in respect of the regional level at page 18.

\(^{18}\) Id, (national parks) at page 21 regarding the “abolition” of Baka community rights by the creation of the 5,260km\(^2\) Dja Reserve in eastern Cameroon, and the superficial local community participation in planning and decision making with regard to the protected areas in Cameroon in general. See also concerns expressed by the CERD Committee concerning the abuse and assault suffered by indigenous peoples from civil servants and employees of protected areas (see CERD 2010, at para. 18).

\(^{19}\) Id, (logging) see page 25, documenting the impacts to natural forest lands and resources and associated harm to the human rights of the Baka and Bagyéli in Cameroon, including destruction of animals, trees and damage to plant life; lack of permanent employment; and the impacts of road construction generally opening up access to the forest which is facilitating the entry of infectious diseases, and whose overall impact has resulted in the fact that the “traditional life of the Pygmies is under severe threat from the arrival of the cash economy into the forest”. On this subject the CERD Committee has previously recommended that Cameroon “take all appropriate measures, particularly as regards deforestation that may harm such population groups” – see the Concluding Observations of the Committee on the Elimination of Racial Discrimination: Cameroon, UN Doc. CERD/C/304/Add.53, 20 March 1998, at para. 17. Concerns over the impacts on indigenous peoples’ cultural rights from industrial logging concessions were also expressed in the 2012 Concluding Observations of the Committee on Economic, Social and Cultural Rights (“the CESCR Committee”), who observed that indigenous groups such as the Baka had been displaced from ancestral lands which had been opened up to third party logging operations. Concluding Observations of the Committee on Economic Social and Cultural Rights: Cameroon, UN Doc. E/C.12/CMR/CO/2-3 2012, para. 33. (Hereinafter “CESCR, 2012”).


\(^{21}\) Id, (pipeline) See for example page 25, describing the threats to land rights and livelihoods of the Baka and Bagyéli ‘pygmies’ in Cameroon from the planned construction of the Chad-Cameroon oil pipeline funded by the World Bank, for which information provision and consultation were lacking, but in the course of which the Baka and Bagyéli were faced with the loss of their land in favour of Bantu ownership, and both the destruction of their traditional forest resource and a lack of access to compensation. Similar concerns have been expressed by the CERD Committee (see CERD 2010, at para. 18).

\(^{22}\) (Agricultural expansion) see Section 3 of this report (below)

\(^{23}\) (Infrastructure) see also Section 3 of this report (below)


\(^{25}\) Id, at paras. 33, 35 and 37.
Adopt as early as possible appropriate legislation for the protection of the rights of indigenous populations.

Harmonize the land laws and adopt special measures allowing the indigenous populations to fully enjoy all their rights, in particular their right to land, and to work towards the consideration of their cultural peculiarities including nomadism so as to prevent this factor from restricting the enjoyment of their rights....

29. Dense forest accounts for 41% of Cameroon’s entire surface area, with the proportion of forested land rising to nearly 60% when other forest types are included.\textsuperscript{26} The new Forest Law will directly impact on land ownership by ascribing private property rights over certain categories of forest lands e.g. state ownership of State, Municipal or Regional Forests. It is therefore respectfully submitted that the African Commission’s recommendations in relation to the revision of Cameroon’s land laws, apply equally to the proposed new Forest Code, as well as Cameroon’s other laws relating to land, natural resources and the environment.

30. The CERD Committee has also recognised the racial discrimination inherent in Cameroon’s land laws\textsuperscript{27} and made a number of recommendations, including that the State party:

(a) Establish in domestic legislation the right of indigenous peoples to own, use, develop and control their lands, territories and resources;

(b) Consult the indigenous people concerned and cooperate with them through their own representative institutions, in order to obtain their free and informed consent, before approving any project that affects their lands, territories or other resources, in particular with regard to the development, use or exploitation of mineral, water or other resources;

(c) Guarantee indigenous peoples just and fair compensation for lands, territories and resources that they traditionally own or otherwise occupy and use, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent;

(d) Ensure that the legal land registry procedure in force duly respects the customs, traditions and land tenure systems of the indigenous peoples concerned, without discrimination; ...

31. The four main heads of concern in relation to the revision of the forest law are dealt with in turn below.

\textsuperscript{26} Les Forêts du Bassin du Congo – Etat des Forêts 2008. Eds: de Wasseige C., Devers D., de Marcken P., Eba’a Ati, R., et Mayaux Ph., (Publications Office of the European Union, Luxembourg: 2009). Cameroon has 273,514 km\textsuperscript{2} of forest of which 168,761 km\textsuperscript{2} is classed as dense forest, out of a total national land area of 466,326 km\textsuperscript{2}.

\textsuperscript{27} CERD 2010, at para. 18, where the Committee states that it is “...concerned by the attacks on indigenous people’s land rights. It regrets that the land ownership legislation in force does not take into account the traditions, customs and land tenure systems of indigenous peoples, or their way of life”.

\textsuperscript{28} \textit{Id.} This reflects the wording of the CERD Committee’s General Recommendation XXIII, in particular para. 5. Likewise, the CESCR Committee has observed that Cameroon’s land tenure system “makes indigenous populations groups and small-scale farmers vulnerable to land grabs” and urged Cameroon “to speed up the process of land reform, to guarantee the right of indigenous populations groups and small-scale producers to ancestral and community lands and to ensure that obstacles to land ownership, in particular those faced by women, are removed”, CESCR, 2012 (supra at note 5) para. 24.
A. Cameroon has failed to guarantee the effective participation of indigenous and forest peoples in the drafting of the new Forest Law.

32. In relation to the special legislative measures necessary to address the discrimination and marginalisation indigenous peoples face in the exercise of their civil, political, economic and cultural rights (as identified by the African Commission and several UN treaty bodies29) the CERD Committee (with the express support of the African Commission) has urged Cameroon to enact a bill to protect and promote the rights of indigenous peoples and, crucially, to “ensure the participation of indigenous people and their representatives in the process of drafting the bill”.30

33. However, in the current absence of an indigenous peoples law as discussed in Section 1, and potentially even with such a law in place, indigenous peoples in Cameroon will remain vulnerable to the discriminatory effects of other laws and regulations in force. Where such laws are in the process of reform – as is the case with Cameroon’s Forest Law – the above recommendation by CERD to ensure participation of indigenous peoples in the reform processes would apply equally to those other reform processes whose subject matter impacts on indigenous peoples’ rights.31 This principle would be supported by the Charter-protected right to participation in government (Article 13), which has been identified by the African Commission’s Working Group of Experts on Indigenous Populations/Communities as engaged wherever there is a failure to achieve adequate political participation by indigenous peoples32 – as well as being a necessary procedural right for the realisation of the right to self-determination of peoples (Article 20) and a whole raft of other related rights protected by the African Charter.33

34. The forest law reform process itself can be broken down into the period before drafting commenced, and the period during which first, subsequent and final drafts were being developed. The Government failed to ensure adequate participation during this initial phase since: at no stage was there adequate information accessible to indigenous peoples on the existence of the planned reform, nor was there any structured timetable detailing what form the reform process would take and according to what timeline communicated to indigenous peoples, and; further, at no stage was there any government-led process for ensuring the meaningful participation and consultation of indigenous communities to learn lessons from

29 Id. at para. 15. Concerns of discrimination against indigenous peoples in the exercise of economic, social and cultural rights were also recently expressed in CESC, 2012, at para. 10.
30 CERD, 2010, para. 15. Our emphasis. The need for special legislative measures to protect indigenous peoples rights has also been recommended in the Concluding Observations of the African Commission on Human & Peoples’ Rights: Cameroon, 12-26 May 2010, para. 35. (Hereinafter “ACHPR, 2010”); Concluding Observations of the Committee on the Rights of the Child: Cameroon, UN Doc. CRC/C/CMR/CO/2 2010, para. 83 at (a). Similarly, in its 2012 Concluding Observations (supra, at note 5), the Committee on Economic Social and Cultural Rights urged Cameroon “adopt a consistent and comprehensive policy to promote the right of indigenous peoples to an adequate standards of living” (para. 10).
31 The right to non-discrimination in the context of political participation is also provided for by Article 5(c) of the International Convention on the Elimination of All Forms of Racial Discrimination (“the CERD Convention”). The CERD Committee has also recommended that state parties “Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent”, in General Recommendation XXIII Rights of indigenous peoples (Fifty-first session, 1997), U.N. Doc. A/52/18, annex V at 122 (1997), at para 4(d).
33 These include the following: rights to equality and non-discrimination (Articles 2, 19); property (Article 14), peoples’ freedom to dispose of wealth and natural resources/right not to be dispossessed from property (Article 21); development and a satisfactory environment favourable to development (Articles 22 and 24).
their experiences of previous Forest Law implementation.

35. The reform process subsequently accelerated rapidly in the course of 2012 with a consultant being instructed by the Ministry in or around July 2012 to compile a first draft of the new Forest Law within four months. The terms of reference for the consultant made no reference to consultations with communities. Civil society groups became aware of the existence of a first draft of the draft Forest Law (dated 5 October) during the course of October 2012. This followed a ‘Forest Law Review Workshop’ convened by MINFOF on 26–29 September 2012 with the principal aim of finalising a review and amended draft Forest Law.\(^3\)\(^4\) According to the participants list for the workshop, neither indigenous forest peoples nor their representatives were included in these discussions.\(^3\)\(^5\) The ad hoc nature of the reform process continued throughout November and December 2012 and into 2013, when further drafts were produced (at least three, possibly four or five). As such, the Government failed to ensure adequate participation of indigenous peoples during this drafting stage, since there was:

- no official publication and dissemination of any of these drafts to indigenous peoples;
- no consultation process for seeking the input of indigenous peoples on the content of these drafts, and;
- even if they were to have copies, most indigenous forest communities would not be able to read or understand it due to low literacy and education levels, and the fact that drafts are in French only and not in indigenous languages.

36. Despite this context it was understood that the Government was planning to submit the draft Forest Law to parliament for finalisation and enactment in March 2013. In the interim, it was understood that communication on the draft in the meantime was being limited to higher levels of Government including the Office of the Prime Minister and President, without further public participation. As a result, national and international civil society organisations intervened in making a submission to the CERD Committee under its urgent-action/early warning procedure. It is understood that although further drafts may have merged since this submission, no (or no adequate) consultation has taken place with indigenous peoples, and the delay in enacting the bill may only be the result of legislative elections following the close of the most recent legislative session in June 2013. Actions to date have served to further entrench the political marginalisation and discrimination of indigenous peoples in comparison to other more dominant ethnic groups. It has also compromised the legitimacy of any new law and its capacity to address the systemic factors discriminating against indigenous forest peoples living in Cameroon.

\[\textbf{Suggested question for the state party representative during examination:}\]

- What measures are being taken by the state party to recognise and implement the right of indigenous peoples to effective participation in the process of reforming Cameroon’s Forest Laws and all other legislative and policy reforms impacting on indigenous peoples, including through self-chosen representatives in accordance with their decision making processes and customs and in forms and languages accessible to those indigenous peoples?


\(^{3}\)\(^5\) \textit{Id.} at page 10–12.
B. The draft Forest Law fails to guarantee adequate protection for the right of indigenous peoples to own, use and control their lands, territories and resources.

37. An underlying and significant source of discrimination against indigenous forest peoples in Cameroon is the de jure dispossession of indigenous peoples from their lands and resources implied by Cameroon’s domestic law, of which the 1994 Forest Law is a key ingredient. The only rights of local forest populations provided for in the 1994 Forest Law are rights to use forest products for their personal use, and even these rights can be restricted or suspended on vaguely defined ‘public interest’ grounds. Provisions allowing for ‘Community Forests’ only provide forest management rights (not ownership) and procedurally inaccessible to indigenous peoples who have limited technical capacity. In essence, the draft Forest Law does little to improve on this situation, and continues to fail to recognise the right of indigenous peoples in Cameroon to own, use and control their forest lands and resources. Principal flaws include the following:

a. Indigenous peoples’ interests in land are derived from custom, and yet only private registered deeds are protected and enforceable under Cameroon’s laws. This situation is effectively unchanged by the draft new Forest Law, which gives recognition to the existence of customary law, but allows for this to be suspended by Government for reasons of public utility. The only procedural safeguard is consultation, which falls well short of the legal requirement for free, prior and informed consent.

b. The draft Forest Law states that the procedures for how the Government will exercise its discretion to suspend customary law as well as the procedures for payment of compensation in response, will be determined by further regulations. However it is the experience of the submitting organisations and evident from nearly two decades of implementation of the 1994 Forest Law, that the Government tends to prioritise those regulations that facilitate the forest industry, at the expense of regulations protecting community rights.

---

36 See 1994 Forest Law, Article 8.
37 See 1994 Forest Law, Articles 37 and 38. Art. 3(11) of Decree n° 95/531/PM defines a community forest as ‘a forest in the non-permanent forest domain, which is part of an agreement between a village community and the forestry administration’. Also relevant to community forests are Decree n° 466/1995, Decree n° 0518/MINEF/CAB and the ‘Manual of Procedures for the Attribution and Norms for the management of Community Forests’ (pursuant to Order 0252/A/CAB/MINEF of 20 April 1998 and Decision N° 253/D/MINEF/DF of the 20 April 1998 regarding adoption of the manual of procedures).
38 Article 6 of the draft Forest Law confirms that communities and indigenous peoples exercise all the rights resulting from ownership. However this is in the context where neither the draft Forest Code nor other provisions of domestic law provide recognition and protection for indigenous peoples’ rights to own their land and resources. Such a provision would be essential for the Forest Code to comply with international law. See See draft Forest Law, Article 6. ‘The State, decentralised territorial collectivities, local and indigenous populations and individuals exercise all rights resulting from property over their forests and agro-forest areas, subject to the restrictions stipulated in regulations in force’. NB. Articles from the draft Forest Law quoted in footnotes are unofficial translations. The articles from the draft Forest Law referred to in these submissions are included in the Annex to this submission unless indicated otherwise. A full copy of the draft Forest Law can be located on the Forest Peoples Programme website using the following link: http://tinyurl.com/aau91m5
39 Article 10 of the draft Forest Law.
40 Id. Article 10(2). Similar restrictions on the exercise of user and access and customary law are included in draft Forest Law at the following articles, principle among these is Article 6 providing for the restriction of the property rights of local populations and indigenous peoples in accordance with the regulations in force; which provides for the temporary or permanent suspension of the exercise of customary law for reasons of public interest, subject only to consultation of the populations concerned. Similar provisions can be found at Article 35(1); Articles 37(3) & (5); Article 59; and Articles 129 and 130.
41 Id. See Article 35(1) for providing for modalities for compensation to be fixed by degree.
c. Communities who want to sell forest products are restricted by the requirement for prior authorisation from government, such procedures being least accessible to indigenous peoples due to remoteness and educational capacity, and therefore discriminatory. Furthermore, the government is entitled to impose quotas by species of forest product, but there is no duty to consult with forest communities, for example on the impact such a quota would have on them.

d. Conversely, a number of provisions in the draft Forest Law have the practical effect of determining ownership of forest lands in a way that favours the state ownership to the detriment of indigenous peoples. For example, 30 per cent of Cameroon’s forest is classed as ‘permanent’ forest which is automatically classed as state property unless communities are able to navigate the procedurally inaccessible arrangements for setting up ‘Community Protected Areas’.

e. The only other options available for communities seeking protection of their forest lands is to satisfy the legal provisions relating to ‘Community Forests’, ‘Community hunting areas’, or ‘Hunting areas of interest to community-based management’. However none of these legal provisions provide communities with right of ownership over the land, and furthermore, they would require administrative hurdles beyond the resources and educational, technical and organisational capacity of most indigenous communities.

f. The draft new Forest Law also significantly curtails hunting rights of indigenous peoples, which are prohibited in State forests used for wildlife conservation or on the property of third parties. Such provisions do not contain the necessary procedural safeguards to avoid disproportionate and therefore discriminatory impacts from such provisions on indigenous peoples, who rely more than other groups on hunting for their subsistence.

Suggested questions for the state party representative during examination:

- What measures will the state part take to amend current draft Forest Law to ensure that the new Forest Law (and implementing legislation), when adopted, guarantee adequate protection for the right of indigenous peoples to own, use and control their lands, territories and resources?
- What steps are the state party taking to implement the participatory demarcation and restitution of indigenous peoples’ forest lands that have become the legal property of the State (and/or granted to third parties) without indigenous peoples’ free, prior and informed consent?

\[42\] Id. Article 9(2).
\[43\] Id. See Articles 31 – 33 and 38(1), 40(2) and 44(2). For provisions relating to ‘community protected areas’ see Articles 49 and 34(2). See also provisions providing for the residual ‘National forest estate’ category (in French, ‘Forets du domaine national’) in which forest products found are the property of the State – see Articles 58 & 59.
\[44\] Id. Articles 52 – 55.
\[45\] Id. Articles 60 – 63.
\[46\] Id. Articles 64 – 68.
\[47\] Id. Article 128.
C. The draft Forest Law fails to guarantee indigenous peoples’ rights to participate in, and consent to, decision making concerning their forest lands, territories and resources.

38. As outlined above, necessary for the full realisation of the African Charter-protected rights of indigenous peoples to own, use and control territories, land and resources is the right to participate in and consent to decisions about how those lands and resources are used and impacted. In turn, this right is closely connected to other key procedural safeguards necessary for protecting indigenous peoples’ unique relationship to land, including the need for prior and independent social, cultural and environmental impacts assessments, and the right to draw an equitable share in the benefit from development projects agreed to on indigenous peoples’ forest lands. To this end, participation and consent processes should also take place in a language and form appropriate to indigenous peoples, via their self-chosen decision-making processes or representatives, and should take every step possible to avoid coercion or force (whether deliberate or implied by the inevitable differences in educational and technical know-how between the parties).

39. The draft new Forest Law contains the following provisions on consultation and participation, all of which fall well short of the legal standards set out above for realising indigenous peoples’ right to participate and consent in decision-making impacting on their forest lands, territories and resources. The practical impacts on indigenous peoples are the continued encroachment and degradation of their forest lands and resources, and the lack of any reasonable benefit in return.48

a. The draft Forest Law refers to participation of actors concerned and interested parties in sustainable forest management, and states that indigenous peoples (included in the category of ‘vulnerable social groups’ alongside women and children) be “taken into account” during the allocation and exploitation of logging concessions and the redistribution of forest revenues,49 and “consulted” in relation to all aspects of forest access and management.50

b. The process for classifying ‘permanent’ forest areas, which crucially, confers a right to obtain land title, similarly provides that the social and economic environment of local communities be taken into account.51

c. The draft Forest Law sets out the provisions for holding ‘several’ consultation meetings with communities (including indigenous peoples) prior to the commencement of forest exploitation operations in all forest areas.52 However, it only refers to information and agreements on how logging operations will proceed, and does not provide indigenous peoples with the right to decide whether the logging operations happen at all on their lands.

48 Highlighting discrimination in the benefit sharing arrangements under the existing 1994 Forest Law and associated legislation under which indigenous peoples are overlooked and excluded in favour of dominant Bantu communities, the Special Rapporteur on the right to food has for example noted the following: “As for the distribution of forest royalties, it must be borne in mind that the sedentary Bantu communities do not represent the interests of all the local communities that may be affected by exploitation activities. The interests of the Pygmies deserve and require specific representation” (see De

49 Id. at Article 7(3).
50 Id. at Article 7(4).
51 Id. Article 35(1)
52 Id. Article 83.
d. Free, prior and informed consent should also be a right that is engaged whenever the Government seeks to limit or restrict indigenous peoples’ rights. However, the restrictions or limitations on the exercise of rights of usage and access, and customary law, provided for by the draft new law – as referred to above at (B) – do not contain this requirement, or contain other satisfactory safeguards for guaranteeing participation and consent.  

53

e. The right to free, prior and informed consent also implies the right to meaningfully participate through representatives that indigenous peoples have chosen and in accordance with their own decision making processes and customs. Despite this right, a number of the provisions in the draft Forest Law do not comply with these requirements, and thereby discriminate against indigenous peoples.  

54

f. The ‘Community Protected Areas’ provisions are also discriminatory in this respect, since they stipulate that community representative institutions be those that are ‘legally recognised as chiefdoms by the territorial administration’.  

55

Again, this requirement clearly discriminates against indigenous peoples whose decision making processes and customs are less likely to have been formally recognised by the territorial administration.

g. Finally, the right to free, prior and informed consent should is absent in respect of key processes concerned with the development and implementation of forest development plans, cahiers de charge (which include the social specifications for the implementation of a logging concession), and benefit-sharing agreements.  

56

These management activities have the capacity to greatly influence the degree of protection for the rights of indigenous peoples to forest lands and resources, however the draft Forest Law fails to provide such protection, leaving indigenous peoples vulnerable to continued marginalisation and discrimination in these respects.  

57

40. This serves to perpetuate existing inequalities and discriminatory practices, to the detriment of indigenous peoples. These articles should clearly be amended to recognize the right of indigenous peoples to be represented through their own representatives and in accordance with their own decision making processes and customs.

53 See for example draft Forest Law, Articles 6, 9, 10(2), 35(1), 37(3) & (5), 59, 129, and 130.
54 See for example Article 7(5) which provides for the establishment of a representative structure in every village, and Article 10(1) which states that customary law is subject to the “the authority of traditional chiefs” despite that fact that the system of traditional chiefs is more appropriate to the dominant ethnic Bantu culture, whereas indigenous peoples frequently have less hierarchical decision making processes.
55 Id. Article 49(2).
56 As is the case for provisions relating to management plans, the provisions of the draft Forest Law in relation to cahiers de charge fail to involve let alone seek the consent of indigenous communities in the process of deciding the content and in the implementation of these key documents. The provisions of the draft Forest Law relating to cahiers de charge include Articles 70, 78, 82, 95, 117, 136, and 151. Although there is general reference to benefit-sharing from forest developments in the draft Forest Law (see Article 7) the Law contains no obligations on the State or third party operators to come to benefit sharing agreements with indigenous peoples, let alone in conformity with their right to free, prior and informed consent.
57 For example, Article 37 of the draft Forest Law provides that all activities taking place in a permanent forest must conform with management plans developed by the ‘competent authority’, however public participation is limited to ‘consultation of other stake-holders’ but not consent. Similarly, in the context of Community Protected Areas, the management plans are executed ‘under the control of the forests administration’ – see Article 49(3). The draft law also states that the exploitation of forest wildlife will be subject to a management plan elaborated by the forest administration, without reference even to consultation – see Article 139.
D. The draft Forest Law fails to guarantee access to justice for indigenous peoples impacted by violations of their rights to their forest lands, territories and resources.

41. Indigenous peoples’ access to justice is raised as an issue of concern by the CERD Committee in its 2010 concluding observations to Cameroon. Access to justice for indigenous peoples is also an issue of great concern in the development of Cameroon’s forest law and policy, including in the following respects:

a. The draft Forest Law contains no special complaints or grievance procedure that could be used by indigenous peoples aggrieved by previous, ongoing or future actions or omissions of the State or third parties impacting on their forest lands and resources. For instance, there is no provision in the draft Forest Law providing that complaints raised by indigenous peoples should lead to the suspension of business or other operations having a negative impact on lands and resources vital to indigenous peoples’ lives and cultures. As such, the draft Forest Law therefore does not give due weight to the irreversibility of certain violations of indigenous peoples’ rights in relation to their forest lands and resources.

b. Via the lack of adequate procedural rights such as the right to free prior and informed consent, in all aspects of decision making concerning forests, indigenous peoples are denied appropriate procedural opportunities through which they can represent their interests and seek enforcement of their rights. This renders indigenous peoples more vulnerable to having their rights to forest lands and resources abused by the State and third parties, e.g. in the creation and implementation of logging concessions, protected areas, forest-based infrastructure and agricultural concessions, and further limits their avenues for accessing justice.

Suggested question for the state party representative during examination:

- What measures will the state party take to ensure that all new Forest Laws will guarantee indigenous peoples’ rights to participate in, and consent to, decision making concerning their forest lands, territories and resources?

Suggested questions for the state party representative during examination:

- What steps will the state party take to amend the current draft Forest Law to ensure that the new Forest Law (and implementing legislation), when enacted, ensure that Cameroon’s Forest Laws guarantee access to justice for indigenous peoples impacted by violations of their rights to their forest lands, territories and resources perpetrated by the state or third parties, including accessible grievance procedures with appeal to the national court system, and access to fair and equitable compensation?

58 CERD 2010, at para. 17, in which the CERD Committee brings to the attention of Cameroon the “inequality in the access to justice of indigenous peoples. In particular, the obstacles to access to justice in traditional courts are that representation of indigenous customs and interpreting services are lacking, requiring indigenous peoples to refer to Bantu customs during proceedings that are in a language they may not understand or be able to speak.”
Section 3: The rights of indigenous peoples are undermined by land concessions, including oil palm plantations

42. As outlined above, agricultural expansion has been identified as a key threat to indigenous peoples’ rights by the African Commission’s Working Group of Experts on Indigenous Populations/Communities.59 In the report of his 2012 mission to Cameroon, the UN Special Rapporteur on the right to food outlines that over a million hectares of land has already been transferred, of which a significant portion is intended for palm oil production.60 Estimates are that six companies alone plan to develop a further million hectares of oil palm in concessions agreed with the state.61

43. By way of example, one such project is the planned 200,000ha palm oil project of Biopalm Energy Ltd. (understood to be a subsidiary of the Indian conglomerate, the SIVA Group) which was launched in 2011 and whose operations have commenced in the department of Océan, not far from the coastal town of Kribi, and including within the lands and territories of the Bagyéli indigenous people without their free, prior and informed consent. A Bagyéli community member in the area voiced their fear of the project in the following terms: “the forest is ours, they are going to come and tear it away from us”.

44. Other nearby communities from the Bagyéli people in the department of Océan have already experienced the disastrous effects of large-scale encroachment on lands and territories and associated forest resource loss as a result of the palm oil plantation established by SOCAPALM, which is understood to be expanding its existing plantation beyond existing operations (or have plans expand).62 This is in the context of a number of development-related projects in department of Océan which are also likely to entail the involuntary displacement of indigenous peoples and other communities (including a new deep sea port at Kribi, a railway of over 500 kilometres from the iron ore mine at Mbalam to this port, and a gas plant with transmission line), which are in addition to existing land use pressures already impacting on indigenous forest peoples in the department of Océan (including the Chad-Cameroon pipeline, the Campo Ma’an national, park seven logging concessions, at least six mining exploration permits and a number of forest reserves).63 The multiple and cumulative threats to the forests lands and territories of the Bagyéli, and the associated loss of hunting grounds, homes and villages, medicinal plants, cultural sites, and food sources, threatens the whole cultural and physical survival of the Bagyéli people.

45. Although Cameroon provides information in its third periodic report of the compensation paid to communities displaced by the construction of the Kribi industrial port complex and the Lom Pangar hydroelectric dam, the communities questioned by the signatory organisations of this report rarely received any compensation. Furthermore, the signatory organisations were told that of the six communities who lived on the site affected by the developed of the Kribi port, only two communities have been compensated. They have been moved to a place that has no resemblance to where they lived before, and the traditional value of their ancestral lands and natural resources has not been taken into account in the

59 Supra, at Section 2.
60 De Schutter, 2012, at para 42.
61 ‘Le développement du palmier à huile au Cameroun’ David Hoyle (WWF) et Patrice Levang (IRD/CIFOR), April 2012 (at http://awsassets.panda.org/downloads/developpmentpalmierhulecameroun.pdf)
62 See Freudenthal, E. Lomax, T. and Messe, V. The Biopalm oil palm project: A case study in the Département of Ocean, Cameroon (in the series Conflict or Consent? The Palm Oil Sector at a Crossroads), 2012, FPP (UK) & Okani (Cameroon), and associated media reports, for example at http://allafrica.com/stories/201305280349.html
63 Id. At pages 3-4.
compensation process.

46. In terms of plantation expansions, the 18,635 ha extension of the HEVECAM plantation agreed in 2012 is also having a significant impact on indigenous peoples, notably the Bagyeli. Land and resources have been granted to HEVECAM without communities’ free, prior and informed consent, and with regard to compensation, the amounts given have been variable; the compensation processes themselves have been unclear; and in some cases families have simply been given rice. The quality of the compensation process and the quantity of compensation has therefore been wholly inadequate and disproportionate to the value of the lost land and resources in terms of their importance for both cultural integrity and day-to-day survival. Encroachment by such companies also makes communities vulnerable to other human rights abuses, for example it was reported by communities that a HEVECAM guard had raped a Bagyeli indigenous woman; an incident which was reported to the company authorities.

47. Poor human rights outcomes are therefore emerging across Cameroon in relation to the palm oil agro-industry sector. The most high profile such case has been the land conflict caused by the US-based Herakles/SGSOC concession in the Southwest Region of Cameroon, where the human rights implications of land and forest loss have been accompanied by the arrests of environmental and human rights defenders by the military police, and the Divisional Officer’s suspension of the activities of an NGO working to support communities impacted by the Herakles/SGSOC plantation.

48. In summary, land acquisition for palm oil in particular, as well as other agricultural commodities (and for other purposes including logging, mining and related infrastructure) is therefore an emerging threat to indigenous peoples human rights in Cameroon, particularly since it is taking place in the context of a domestic law framework that fails to protect and respect ownership, use and control lands by indigenous peoples of their lands, territories and resources.

49. In addition to concerns about inadequate protection of indigenous peoples rights in Cameroon’s land tenure laws as raised by the African Commission and the CERD Committee (outlined above in Section 2), the CESCR Committee has noted that Cameroon’s land tenure system “makes indigenous populations groups and small-scale farmers vulnerable to land grabs”, and for this reason has urged Cameroon “to speed up the process of land reform, to guarantee the right of indigenous populations groups and small-scale producers to ancestral and community lands and to ensure that obstacles to land ownership, in particular those

64 See for example: Mousseau (2012) Understanding land investment deals in Africa - Massive deforestation portrayed as sustainable development: The Deceit of Herakles Farms in Cameroon, Oakland Institute, USA; Nelson & Lomax (2013) “They want to take our bush”: An independent assessment of processes employed by Herakles/SGSOC to obtain the Free, Prior and Informed Consent of communities to be affected by their palm oil development in South West Cameroon John Nelson and Tom Lomax (Forest Peoples Programme: Moreton-in-Marsh, UK)

65 See for example the arrest and detention of the Director of the NGO ‘Struggle to Economize the Future’ (SEFE) based in Mundemba (Southwest Cameroon) who was arrested on November 14th 2012 by members of the national military police and detained on military police premises in Mundemba (seeNguiffo/Schwarz, Press release: ‘Director of an NGO opposed to the HERAKLES Farms project in Cameroon arrested with 3 of his colleagues’, 2012 (CED/RELUF, Cameroon) – see http://www.recoftc.org/site/uploads/wysiwyg/Press%2orelease%2oon%20Nasako%2oarrest_EN.pdf; See the suspension of the activities of the NGO ‘Nature Cameroon’ by the Divisional Officer of Nguti Subdivision, in light of its work with communities in the Herakles/SGSOC plantation area, for which see: Achobang, C. D.O. Nguti Suspends Activities Of Nature Cameroon September 2013, as at http://www.modernghana.com/news/490068/1/do-nguti-suspends-activities-of-nature-cameroon.html
faced by women, are removed”.

50. The Special Rapporteur on the right to food has also identified inadequacies in the legal framework that risk preventing access to adequate food particularly for indigenous peoples, including the fact that only the property rights of private registered land-holders are recognised by law, and that only ‘developed’ customary land can be protected by law (unlike land used for hunting and gathering that will not be considered developed). If legal steps are not taken to address this systemic discrimination in the legal framework relating to land and natural resources, the outlook for indigenous peoples is bleak. In the words of the Special Rapporteur on the right to food:

> If appropriate measures are not taken to protect their rights, development projects such as forest exploitation and large-scale plantations will further marginalize the Pygmies, instead of improving their situation. Therefore, particularly when it comes to regulating protection for users of the land, account must be taken of the fact that Pygmies have a nomadic existence and do not practise agriculture. Thus, they cannot prove that they rely on a given zone.

communities that depend for their living on shifting agriculture or hunting or gathering are not sufficiently protected. Article 14 of Order No. 74-1 provides that unregistered land that is neither State-owned public or private property nor the property of other public bodies is national State property. This land may be ceded by the State, notably in the form of a concession or a lease. However, while, in principle, protection is provided for land that is occupied under the customary tenure system and effectively developed, the same does not apply to land considered to be “free of any form of effective occupation”, including land used for hunting and gathering by certain groups. This explains why the groups concerned, namely the Mbororo and the Pygmies, are face with relentless encroachment on the land on which they depend for their livelihood, in violation of both the Declaration on the Rights of Indigenous Peoples and the right to food.

51. The Special Rapporteur goes on to recommend a full review of the land tenure system “with a view to guaranteeing the rights of land users, including indigenous groups” and that due account is taken of principles elaborated by the Special Rapporteur on ensuring human rights compliance in large-scale agricultural investments. These include the requirement that shifts in land use only take place with the free, prior and informed consent of communities, which he identifies as especially important for indigenous peoples due to the discrimination and marginalisation they have historically experienced.

---

66 CESC, 2012 (supra at note ???) para. 24.
68 Art. 14 of Order no 74/1 of 6 July 1974 places all land in Cameroon (including unoccupied land and customary land) under state control as ‘national land’, unless it is private registered land, or the public or private property of the State. Communities and individuals can only register private land ownership of lands that are ‘occupied with houses, farms and plantations and grazing lands manifesting human presence and development’ – See articles 15(1) and 17(2) of Order no 74/1.
70 Id. At para 44.
71 Id. At para 48.
72 Report of the Special Rapporteur on the right to food, Oliver De Schutter, Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge, 28 November 2009, UN Doc. A/HRC/13/33/Add.2, see for example Principle 2, page 16.
52. Cameroon is at a critical juncture in relation to its land and natural resource laws. The Government has commenced reform of Cameroon’s Land Tenure Law (as well as the legal framework relating to the environment and its forest laws – the latter dealt with in detailed in Section 2). These reform processes present real opportunities to address the discriminatory effects of Cameroon’s domestic law towards indigenous peoples. Participatory legal reforms of Cameroon’s land and land/natural resource-related laws, where indigenous peoples’ voices and interests are represented and fully addressed in the text and implementing processes of new laws, are essential for the urgent task of eliminating the structural causes of discrimination faced by indigenous peoples living in Cameroon.

53. Despite this clear need for revised land and resource laws and participatory reform processes, it has become evident from high-profile statements that Government intent behind Cameroon’s Land Tenure Law reform includes facilitating “second-generation” (i.e. large and medium-scale industrial) agriculture. Similarly, it is understood that one of the current intentions behind the reform of Cameroon’s environment laws is to facilitate the Government’s much vaunted programme of ‘grands réalisations’ – large infrastructure and extractive industry development projects such as dams, mines, ports and railways. These intentions neglect the need to address the above-mentioned discrimination and marginalisation of indigenous peoples in Cameroon’s legal framework. Furthermore they indicate that Government priorities are the development of the very kinds of projects whose impacts, according to well-documented current practices, are often most gravely prejudicial to indigenous peoples rights and survival.

Suggested questions for the state party representative during examination:

- What measures will be taken by Cameroon to ensure that all land concessions that are planned or already operate on indigenous peoples’ land and territories (in particular concessions for the large-scale production of agricultural products such as palm oil, extractive industries like mining and logging, and the establishment of protected areas) only operate if they obtain the free, prior and consent of indigenous peoples?

- What measures will Cameroon take to revise the legal framework relating to land and land ownership, in order to eliminate the discrimination and marginalisation of indigenous peoples, in particular by ensuring that indigenous peoples’ property rights of their lands, territories and resources enjoy the same protection as private land titles in accordance with national law?

---

73 legal reform was announced by the President of the Republic of Cameroon on the occasion of his opening speech of the ‘Agro-Pastoral Comice’ held in Ebolowa, Cameroon, in January 2011 (See Cérémonie d’ouverture de comice agro-pastoral d’Ebolowa, Discours du Président de la République, S.E. Paul Biya, 17 January 2011). As indicated by the President of the Republic in his speech, the reform would be directed towards increasing agricultural output including by facilitating second-generation agricultural development, i.e. agro-industrial firms and large-scale plantations requiring mechanization, as opposed to small-holder rural development (in the words of the President, ‘…to favour the emergence of “second generation” production units, that is to say, units of medium and large-scale that respect the environment.’) (Unofficial translation)

Section 4: The extreme vulnerability and marginalisation of indigenous women

54. Indigenous women face multiple forms of discrimination, amongst other because of their gender and ethnic origin. They are part of a group of extremely vulnerable and marginalised people whose rights are often flouted. These rights are guaranteed by various regional and international legal instruments such as the International Convention on the Elimination of All Forms of Discrimination Against Women (hereafter CEDAW), which Cameroon ratified in August 1994, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Protocol), ratified in December 2012. This report alleges that several of the rights protected by the Protocol have been violated.

55. Full and effective protection of indigenous women's rights involves not only the implementation of the instruments that protect women’s rights, but also of those designed to protect the rights of indigenous peoples. Numerous consultations with indigenous peoples in Cameroon and other countries show that indigenous women want their human rights to be recognised as being inextricably linked to the collective nature of indigenous peoples’ rights; violations of their human rights thus need to be examined in the context of the collective rights of indigenous peoples to land and natural resources.

56. According to the UN Declaration on the Rights of Indigenous Peoples, States shall take “effective measures and, where appropriate, special measures to ensure continuing improvement of indigenous peoples’ economic and social conditions”. Particular attention shall be paid to the rights and special needs of indigenous “elders, women, youth, children and persons with disabilities”. States shall also take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

A. The right to the elimination of discrimination against women (article 2)

57. The CEDAW Committee defines "discrimination against women" as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”. The CEDAW Committee also recognised, some years ago, that the multiple forms of discrimination to which indigenous women are subjected “limit their de facto enjoyment of their human rights and full participation in all spheres of life.” It recommended that States parties take concrete, targeted measures to speed up improvements of the conditions of indigenous women in all spheres of life, to ensure that indigenous women have access to land, education and health services, and to guarantee their participation in the decision-making process.

---

76 Ibid, article 21.
77 Ibid, article 22.
78 Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, article 1.
79 Concluding comments of the Committee on the Elimination of All Forms of Discrimination against Women: Nicaragua. CEDAW/C/NIC/CO/6, 2 February 2007, paragraph 31.
80 For some of the recently adopted concluding comments on this point, see Mexico CEDAW/C/MEX/CO/7-8, 7 August 2012, paragraphs 34 and 35; New Zealand CEDAW/C/NZL/CO/7, 27 July 2012, paragraphs 35 and 36; Guyana CEDAW/C/GUY/CO/7-8, 27 July 2012, paragraphs 36 and 37; Republic of Congo CEDAW/C/COG/CO/6, 23
58. The Committee on the Elimination of Racial Discrimination’s General Recommendation No. 25 addresses the gender related dimension of racial discrimination and notes that “racial discrimination does not always affect men and women equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than a man.”

59. With regard to African legal instruments, the African Charter states that “every person shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex …” Article 2 of the Protocol reaffirms this entitlement by requiring States parties to combat “all forms of discrimination against women through appropriate legislative, institutional and other measures”.

60. Furthermore, an African Commission resolution on indigenous women notes the persistence of the violence and various forms of discrimination and marginalisation faced by indigenous women in all areas of society. The African Commission has also expressed concern over the vulnerability of indigenous women, who are subjected to a twofold form of discrimination based on gender and ethnic origin, and has recommended that Cameroon take special measures to guarantee the protection and implementation of indigenous women’s rights due to their extreme vulnerability and the discrimination to which they are subjected.

61. There was a palpable level of discrimination against indigenous women in several of the communities consulted by the signatory organisations. Bagyeli women living in Namalandé, for example, testified that they were treated as inferior to the men, and that neighbouring, non-indigenous ethnic majority communities regarded them as objects. Indigenous women also regarded the impossibility of inheriting land as a major problem.

62. Discrimination against indigenous women is also evident from the violations of various rights (equal access to justice, participation in public life, education and training, health and reproductive rights, a healthy environment) as described in this section of the report. Such violations constitute clear evidence of discrimination against indigenous women and occur because indigenous peoples’ rights to land are not respected. Indigenous women are thus faced with various forms of discrimination because of their status as indigenous people and because of their gender.

63. Large-scale industrial concessions (such as those covered in more detail in section 3 of this report) create conditions of insecurity for indigenous women, both in terms of land tenure and in the physical sense. For example, some Mbororo communities reported that 14-year-old girls were abducted from their schools or homes by a man named Baba Ahmadou.

---

81 Committee for the Elimination of Racial Discrimination, general recommendation No. 25: Gender Related Dimensions of Racial Discrimination, 56th session, A/55/18, 2000, annex V.
82 African Charter on Human and Peoples’ Rights, article 2.
85 Information obtained from an interview, arranged by the signatory organisations, with members of the Bagyeli community of Namalandé (entrance to Campo Ma’an National Park), Océan department, in August 2013.
86 Information obtained from interviews, arranged by the signatory organisations with members of the Bagyeli community of Bidou, Océan department, and members of the Baka community of Youssouf, Dimako.
Danpullo, an agro-industrial billionaire. Danpullu allegedly imprisoned these girls in his residence for up to eight years, used them as sex slaves and then abandoned them on the street, where they had little choice but to turn to prostitution in order to survive.87

---

**Suggested questions for the state party representative during examination:**

- What measures does the Cameroon government intend to adopt to guarantee protection and respect for the right of indigenous peoples, and in particular indigenous women, to their ancestral lands, territories and resources?

- What measures is Cameroon taking to protect extremely vulnerable and doubly marginalised indigenous women? Will Cameroon, besides creating programmes aimed at women in general, create specific programmes for the implementation of indigenous women’s rights?

---

**B. Access to justice and equal protection before the law (article 8)**

64. Article 8 of the Protocol guarantees access to justice and equal protection before the law; States parties are urged to take “all appropriate measures to ensure effective access by women to judicial and legal services, including legal aid”. Women from the communities consulted informed signatory organisations that in practice this right is not respected. Some women, victims of sexual assault or marital violence, testified that they were reluctant make a formal complaint not simply because they were unaware of their rights, but because they believed they would not receive equal treatment from judicial authorities. Baka women from the Mballam community88 described the discrimination they experienced at the customary court. This court was run by a Bantu assessor who tended to take the side of the accused whenever a “Pygmy” woman claimed to have been raped by a Bantu man. Similarly, at Ndibot,89 a complaint was made to the police station following the rape of a Baka girl by a group of Bantu men: as the suspects had disappeared, the investigation was suspended. Some women from these communities, and from Nkolbikon90 and Mayos,91 raised the issue of corruption, stating that court officials would not listen to them unless they were given money.

65. Various organisations have repeatedly expressed concern over indigenous women’s unequal access to justice. The CEDAW Committee, for example, has urged Cameroon to “remove any impediments faced by women and girls in gaining access to justice and recommends that legal aid be made available to all victims of violence including through the establishment of legal aid clinics in rural areas”.92 The Committee on the Elimination of Racial Discrimination

---


88 Information obtained from an interview, arranged by the signatory organisations, with members of the Baka community of Mballam, Mindourou commune, Haut-Nyong department, in September 2013.

89 Information obtained from an interview, arranged by the signatory organisations, with members of the Baka community of Ndibot, Haut-Nyong department, in September 2013.

90 Information obtained from an interview, arranged by the signatory organisations, with members of the Baka community of Nkolbikon, Dimako commune, in September 2013.

91 Information obtained from an interview, arranged by the signatory organisations, with members of the Baka community of Mayos, Dimako commune, Haut-Nyong department, in September 2013.

92 CEDAW/C/CMR/CO/3, paragraph 27.
has also called on Cameroon to ensure that indigenous peoples enjoy equal access to justice.93

**Suggested question for the state party representative during examination:**

- What measures will the Cameroon government take to ensure that indigenous peoples, and in particular indigenous women, enjoy equal access to justice?

### C. The right to participate in the political and decision-making process (article 9)

66. Article 9 of the Protocol guarantees women the right to participate in the political and decision-making process and calls on States parties to take “specific positive action to promote participative governance and the equal participation of women in the political life of their countries.”94 Moreover, the African Commission has urged Cameroon to promote “the creation of indigenous women’s associations and provide them with the necessary resources for training, as well as financial resources to strengthen their human rights promotion activities.”95

67. CEDAW has also recommended that Cameroon:

   a. undertake national awareness-raising campaigns about the importance of women’s participation in public and political life, particularly in rural areas;
   b. step up its efforts to increase the participation of women in decision-making positions as well as in the public life of the country;
   c. promote gender equality among political parties and strengthen its efforts to increase women’s participation in political and public life, including at international level.96

68. In reality, very few indigenous women are involved in decision-making processes or in the general running of administrative life. For example, the signatory organisations have pointed out that at Mandjou, Mbororo people constitute 95% of the total population of 20,000, but only five of the 25 municipal representatives are Mbororo. Moreover, one of the indigenous women interviewed at Badouri, a candidate in the municipal elections, mentioned the many difficulties she had faced because of social prejudices against women and indigenous peoples.97

69. Committees have been created in order to promote dialogue between logging companies and the indigenous communities affected by their activities. This has occurred, for example, in some of the Baka communities consulted during the writing of this report.98 Few indigenous women contribute to such processes; their participation should be encouraged and

---

93 CERD/C/CMR/CO/15-18, paragraph 17.
95 Report of the Joint Mission of the Mechanisms of the Special Rapporteur on the Rights of Women in Africa and the Committee on the Rights of People Living with HIV, and Those at Risk, Vulnerable to, and Affected by HIV to the Republic of Cameroon, 4-14 September 2012.
96 CEDAW/C/CMR/CO/3, paragraph 33.
97 Information obtained from an interview, arranged by the signatory organisations, with members of the Mbororo community of Badouri in September 2013.
98 One example being the Baka community of Mballam, Mindourou commune, Haut-Nyong department (consulted in September 2013).
enhanced. In addition, the consultations on the current round of forestry reforms (see sections 2 and 3 of this report) should involve more indigenous people and also ensure that indigenous women are properly represented.

**Suggested questions for the state party representative during examination:**

- What measures does the Cameroon government intend to adopt in order to ensure the effective participation of indigenous peoples, and in particular indigenous women, in legal reform processes (including land and forest reforms) that may affect their right to land, territories and resources?

- What measures will the Cameroon government adopt to promote the participation of indigenous peoples, and in particular indigenous women, in decision-making bodies and administrative life?

**D. The right to education and training (article 12): barriers to the education of indigenous girls**

70. The Protocol to the African Charter on the Rights of Women (article 12) protects girls from discrimination at school and States parties must take “specific positive action to promote the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women who leave school prematurely”. The UN Committee on the Rights of the Child has issued General Recommendation No. 11, according to which States parties shall take measures to eliminate discrimination in education and ensure that indigenous children have access to education on an equal footing with non-indigenous children. There is evidence, outlined below, to suggest that discrimination against indigenous children takes various forms.

71. To begin with, Cameroon is not collecting disaggregated data on the education of indigenous girls and children despite repeated calls to do so from various UN treaty bodies. While the Cameroon government’s third periodic report contains a lot of information about the way the school system functions, it provides no disaggregated data on indigenous peoples. Signatory organisations have informed the Commission that the level of education amongst indigenous children in general, and girls in particular, is very low. The data collected shows that in the eastern part of Cameroon, only 50% of Mbororo girls attend primary school; 10% go to secondary school and 1% to university. Many children at primary level are several years behind; very few reach secondary or higher level.

72. Second, this situation is exacerbated by the distance between the sites of indigenous communities and the schools their children attend. This factor also increases the risk of physical and/or sexual assault on the journey to school, especially for indigenous girls. For some communities the nearest primary school is more than ten kilometres away, which

---

99 Committee on the Rights of the Child, general recommendation No 11, CRC/C/GC/11, 12 February 2009.
100 See for example, the Committee on the Elimination of Racial Discrimination (CERD) and the Permanent Forum on Indigenous Peoples CERD/c/cmr/co/15-18, 16 March 2010.
101 Data collected by MBOSCUDA.
102 “Des écoles sans enseignants” [Schools without Teachers], *Le jour*, 3 August 2009, p. 3.
103 This is the situation, for example, in the Baka community of Mballam, Mindourou commune, Dja district, according to information obtained from an interview, arranged by the signatory organisations, with members of the community in September 2013.
renders education inaccessible, particularly for the youngest children, some of whom do not start school until they are much older.

73. Third, the right of indigenous girls to an education is hindered by the practice of early marriage. In several of the Mborororo communities consulted for this report, early marriage puts a stop to young girls’ education; parents fear for their daughters’ future and will sometimes arrange for them to be married at the age of thirteen.\(^{104}\) Article 6 of the Protocol calls on States parties to enact “appropriate national legislative measures to guarantee that (a) no marriage shall take place without the free and full consent of both parties; and that (b) the minimum age of marriage for women shall be 18 years”. The African Commission has recommended that the government raise the minimum age of marriage for girls and put in place mechanisms for the prevention and reporting of forced and early marriages.\(^{105}\) The Committee for the Elimination of All Forms of Discrimination against Women has also urged Cameroon to ensure that the minimum age of marriage for women is raised to 18, in accordance with article 16 of the Convention and the Committee’s general recommendation No. 21.\(^{106}\)

74. Fourth, indigenous peoples also face discrimination because they have few financial resources; given that they generally live below the poverty threshold, the cost of education represents a considerable burden. The African Charter on the Rights and Welfare of the Child affirms the duty of States parties to provide every child with free and compulsory basic education and to take measures to encourage regular attendance at schools and the reduction of drop-out rates.\(^{107}\) The UN Committee on Economic, Social and Cultural Rights has called on the Cameroon government to “ensure that education is free of charge and equally accessible to all” and to “offer financial assistance to low-income families to cover education-related expenses”.\(^{108}\) In its concluding observations of February 2010, the CERD Committee called on Cameroon to guarantee indigenous children’s access to all levels and all forms of State education, without discrimination, in particular by guaranteeing free access to primary schools and the availability of the birth certificates necessary for enrolment.\(^{109}\) If the Cameroon government is committed to providing free education, it should also initiate special measures, focused on positive discrimination, to ensure that it meets all education-related expenses for children from indigenous communities and/or those living below the poverty threshold.

75. A final but extremely important point concerns the school curriculum. The current curriculum ignores the specificities of indigenous peoples and provides no scope for the nurturing and practice of their traditions. A number of international law treaty bodies have emphasised that indigenous peoples’ right to education should be read in conjunction with the right to an existence free from all forms of discrimination and to participate in the

---

\(^{104}\) Information obtained from an interview, arranged by the signatory organisations, with members of the Mbororo communities of Bétaré, Garoua-Boulai and Belembé in Lom-et-Djérem department, in September 2013.


\(^{106}\) CEDAW/C/CMR/CO/3, paragraph 17.


traditional cultural life of their communities.\textsuperscript{110} Moreover, the African Commission has recommended that the facilitation of indigenous peoples’ access to education, especially that of women, should take into consideration their way of life.\textsuperscript{111} The UN Declaration on the Rights of Indigenous Peoples also affirms the right of indigenous children to pursue an education that is free from all forms of discrimination as well as indigenous peoples’ right, “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”.\textsuperscript{112} In its concluding observations of February 2010, the CERD Committee urged Cameroon to take the necessary steps to adapt the education system to the way of life and culture of indigenous peoples, to develop education programmes that address their special needs, including the ORA (Observe, Reflect, Act)\textsuperscript{113} teaching method and combat violence against indigenous children in schools.\textsuperscript{114} According to the signatory organisations, these recommendations have yet to be integrated into the educational system.

\textbf{Suggested questions for the state party representative during examination:}

- Does Cameroon intend to collect disaggregated data on the participation of indigenous children and girls at all levels of education?

- What programmes does the Cameroon government plan to establish in order to guarantee that indigenous children, and in particular girls, have access to education, and to eliminate all causes of discrimination, not least the distance between home and school, early marriages and the cost of schooling?

- What measures does the Cameroon government intend to adopt in order to ensure that indigenous children, and in particular indigenous girls, have access to an education that is appropriate to their way of life and culture, and which also implements article 14 of the UN Declaration on the Rights of Indigenous Peoples, the right to establish and control educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning?

\textsuperscript{110} African Charter on Human and Peoples’ Rights, article 17 (1) and (2) together with article 2.

\textsuperscript{111} Report of the Joint Mission of the Mechanisms of the Special Rapporteur on the Rights of Women in Africa and the Committee on the Protection of the Rights of People Living with HIV, and Those at Risk, Vulnerable to and Affected by HIV in the Republic of Cameroon.

\textsuperscript{112} UN Declaration on the Rights of Indigenous Peoples, article 14.


\textsuperscript{114} Concluding observations of the Committee on the Elimination of Racial Discrimination. CERD/C/CMR/CO/15-18, 16 March 2010.
**E. Health and Reproductive Rights (article 14)**

76. Although article 14 of the Protocol guarantees health and reproductive rights, in 2011 the African Commission expressed its concern over the high rate of maternal mortality of indigenous women and cases of illnesses affecting them, which could have been prevented if they had access to proper health care facilities. On the issue of health care, the Special Rapporteur on the rights of women recommended “increasing the number of health centres in remote areas of the country, providing them with qualified personnel and adequate equipment, and ensuring maternal and child health”.

77. Baka, Bagyéli and Mbororo women experience particular problems because of their gender and ethnic origin. They inhabit remote areas and find it very difficult to gain access to state-run health services. For example, for the Baka of Mballam and the Mbororo of Mobé, the nearest facility is a poorly equipped health centre more than 11 kilometres away. The Baka and Bagyéli women interviewed for this report also claimed to have lost access to the natural resources they need to provide medical care for their communities. As there is no financial aid programme for indigenous peoples, many sick people and pregnant women tend to stay at home rather than seek treatment at a hospital. This can cause complications during childbirth as well as illnesses that could have been avoided. Some indigenous women, especially those from the Mbororo community, say they face discrimination because they are forced to pay more for drugs and medical treatment than the rest of the population.

---

**Suggested question for the state party representative during examination:**

- What measures does the government of Cameroon intend to take to ensure that indigenous peoples have equitable and affordable access to health care, and in particular access to reproductive health care for indigenous women, including access to their traditional pharmacopoeia?

---

**F. The right to natural resources, women’s right to a healthy, sustainable environment, and the right to sustainable development**

78. The African Charter affirms the right of all peoples to freely dispose of their wealth and natural resources. In case of spoliation, the dispossessed have the right to lawful recovery of their property and adequate compensation (article 21). The African Commission has expressed concern that the “expropriation of indigenous peoples’ lands and the prohibition of their access to the natural resources on these lands has a particularly serious impact on the lives of indigenous women”.

---

117 Information obtained from an interview, arranged by signatory organisation, with members of the Baka community of Mballam, Mindourou commune, Dja district in September 2013.
118 Information obtained from an interview, arranged by the signatory organisations, with the members of the Mbororo community of Mobé in September 2013.
119 Reported by members of MBOSCUDA in September 2013.
79. The Protocol to the Charter guarantees women rights to adequate housing (article 16), a healthy, sustainable environment (article 18), and sustainable development (article 19). Articles 19 c) and 15 affirm that States parties shall: promote women’s access to and control over productive resources such as land and guarantee their right to property; provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food. Article 21 affirms the right to inheritance.

80. The Committee on Economic, Social and Cultural Rights\(^{121}\) noted with concern that the system of land tenure in the State party is out of step with the country’s economic and cultural situation, and that it makes some indigenous population groups and small-scale farmers vulnerable to land grabs. It also expressed concern over obstacles such as prohibitive land transactions fees that bar the way to land ownership, particularly by women. The Committee has therefore urged Cameroon to speed up the process of land reform, to guarantee the right of indigenous peoples and small-scale producers to ancestral and community lands and to ensure that impediments to land ownership, in particular those faced by women, are removed.

81. The Committee on the Elimination of Discrimination against Women has called on Cameroon to take appropriate measures to eliminate all forms of discrimination against rural women with respect to ownership of land. It has also urged Cameroon to establish awareness-raising programmes amongst women, especially rural women, to increase their knowledge of their land and property rights and to familiarise them with the law\(^ {122}\).

82. As previously discussed, the dispossession of ancestral lands has disastrous consequences for the rights of all indigenous peoples. These consequences, however, are particularly disastrous for indigenous women, preventing them from exercising traditional activities which are vital for the well-being of their families and which form the very basis of their culture\(^ {123}\). This issue featured prominently in the Declaration of the International Forum of Indigenous Women\(^ {124}\).

83. First, the inability to engage in the traditional activities these groups value so highly – and which form the basis of their cultural systems – represents a serious threat to the preservation of their culture. Baka and Bagyéli women collect wood, honey, wild yams, caterpillars, fruits, oils and other foods and materials. Indigenous women also practice weir fishing and usually hunt the smaller forest animals such as porcupine, tortoise and rat. The forest is the setting in which they pass on their vast stock of knowledge to their children.

84. Second, when deprived of access to their ancestral lands and forest resources, indigenous women face the constant threat of food insecurity; they struggle to cover their basic needs and those of their families. Women from the community of Bissiang Nzouli, near Kribi, complained that the HEVECAM rubber company’s operations in the area now prevented them from gaining access to the trees they had used in the past, and had forced them to

---

121 E/C.12/CMR/CO/2-3, paragraph 25.
122 CEDAW/C/CMR/CO/3, paragraph 43.
travel further afield.\textsuperscript{125} A similar problem exists at Mayos, in Dimako commune, where SFID is continuing its logging operations.\textsuperscript{126}

85. Third, industrial logging and the denial of rights to land and natural resources have a direct impact on indigenous women’s ability to engage in income-generating activities such as the production of moabi oil.

86. Fourth, forest resources are essential to indigenous women as they play a key role in maintaining family health. Indigenous peoples traditionally use moabi oil for its nutritional and medicinal qualities.\textsuperscript{127} Their traditional pharmacopoeia also relies on several other forest resources. When denied access to these resources, indigenous women reluctantly resort to modern health centres, facilities which they had not needed in the past.

\begin{center}
\textbf{Suggested questions for the state party representative during examination:}
\begin{itemize}
\item What measures does the Cameroon government intend to adopt in order to guarantee the right of indigenous peoples, and in particular indigenous women, to health? What measures will it take to ensure that they have access to forest resources in order to: preserve their traditional knowledge, combat food insecurity, promote their economic activities and guarantee their access to the traditional medicinal plants essential to their health?
\end{itemize}
\end{center}

\textsuperscript{125} Information obtained from an interview, arranged by the signatory organisations, with the Bagyéli community of Bissiang Nzouli in the HEVÉCAM – UFA 09026 extension zone, Océan department, in September 2013.

\textsuperscript{126} Information obtained from an interview, arranged by the signatory organisations, with members of the Baka community of Mayos, Dimako commune, in September 2013.

\textsuperscript{127} Information obtained from interviews, arranged by the signatory organisations, with members of the Baka communities of Abong Mbang and Ndibot, Haut-Nyong department, in September 2013.
Conclusions and Recommendations

86. The signatory organisations respectfully suggest that the African Commission on Human and Peoples’ Rights should ISSUE THE FOLLOWING RECOMMENDATIONS IN ORDER TO URGE THE STATE OF CAMEROON TO:

a. RECOGNISE the right of indigenous peoples to own their ancestral lands;

b. TAKE the necessary measures for authorising the restitution of lands that traditionally belong to indigenous peoples under the principles of international law;

c. CONSULT AND ENSURE the effective participation of indigenous peoples, including indigenous women, in the process of reforming the forest law of Cameroon, and in any other legislative or policy reforms that have consequences for indigenous peoples, specifically through the representatives that indigenous peoples themselves appoint, by means of their own decision-making processes and customs, using their own methods and in languages accessible to them;

d. TAKE appropriate and effective measures to revise the current draft forest law in order to ensure that the new forest law, and its enacting legislation, once adopted, will provide adequate protection for the right of indigenous peoples to own, use and control their lands, territories and resources, as well as to participate in, and give their consent to, decisions that concern their forest resources, lands and territories;

e. IMPLEMENT participatory demarcation and restitution of indigenous peoples’ forest lands that have become the legal property of the State, and/or been assigned to third parties, without the free, prior and informed consent of the indigenous peoples;

f. ENSURE that all land concessions, planned or developed, on the lands and territories of indigenous peoples may only be developed in those areas in which such projects have received the free, prior and informed consent of the indigenous peoples concerned; this refers especially to those concessions intended for large-scale production of agricultural staples such as oil palm, for extractive industries such as mining and logging and their associated infrastructures, and for the establishment of protected areas;

g. REVIEW the legal framework pertaining to land and land ownership in order to eliminate discrimination and marginalisation in respect of indigenous peoples, especially by ensuring that indigenous peoples' rights of ownership over their lands, territories and resources enjoy the same status and same protection as the rights of ownership of privately owned lands, in accordance with national law;

h. GUARANTEE protection and respect for the right of extremely vulnerable and doubly-marginalised indigenous women to their ancestral lands, territories and resources;

i. ESTABLISH specific programmes for the enforcement of indigenous women's rights, rather than relying exclusively on programmes intended for women in general;

j. ENSURE equal access to justice for indigenous peoples, especially indigenous women;
k. FOSTER the effective participation of indigenous peoples, and especially indigenous women, in decision-making bodies and in administrative life;

l. ENGAGE in disaggregated data collection on the participation of indigenous children and girls in all levels of education;

m. GUARANTEE access to education at all levels for indigenous children, particularly indigenous girls, thereby eliminating all causes of discrimination, especially distance from educational establishments, early marriages and school fees;

n. ENSURE that indigenous children, especially indigenous girls, have access to an education that is adapted to their way of life and culture, thereby implementing Article 14 of the United Nations Declaration on the Rights of Indigenous Peoples;

o. ENSURE fair and affordable access to health-care services for indigenous peoples, in particular access to reproductive health-care services for indigenous women, including access to their traditional remedies;

p. GUARANTEE the right of indigenous peoples, and especially indigenous women, to health and ensure that they have access to forest resources in order to safeguard their traditional knowledge, combat food insecurity, boost their economic activities and ensure access to their traditional medicinal plants that are essential to their health.

87. The signatory organisations also respectfully suggest that the AFRICAN COMMISSION SHOULD UNDERTAKE THE FOLLOWING ACTIONS:

a. INSTRUCT its two working groups (1) on the environment, the extractive industries and human rights violations, and (2) on the rights of indigenous peoples/communities to undertake a country visit to Cameroon in order to study the issues regarding land concessions for the exploitation of natural resources in Cameroon, especially in the case of industrial oil palm plantations;

b. COMMIT its two special mechanisms: (1) the Special Rapporteur on the Rights of Women in Africa and (2) the Working Group on the Rights of Indigenous Populations/Communities to give specific support to the State of Cameroon in implementing the Protocol on the Rights of Women in Africa, and to do so in a way that is compatible with the rights of indigenous peoples as guaranteed in the African Charter on Human and Peoples' Rights and other instruments of international law pertaining to the protection of the rights of indigenous peoples.
Annex 1: Extract from the alternative report submitted by the signatory organisations in May 2010 providing a brief description of indigenous peoples in Cameroon

1. 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 of the population, with over half being the Baka people. This amounts to approximately 8,000 persons.

2. The Baka live mainly in the eastern and southern regions of Cameroon. The Bakola and the Bagyéli live in an area covering approximately 12,000 km² in southern Cameroon, mainly in the Subdivisions of Akom II, Bipindi, Kribi and Lolodorf. Lastly, the Bedzang live in the centre of the country, to the north-west of Mbam in the region de Ngambè Tikar. 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.

3. 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.

4. 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


131 Ibid.
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.\textsuperscript{132}

5. 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.\textsuperscript{133} 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.\textsuperscript{134}

6. 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.

7. 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).\textsuperscript{135} The map entitled “Ancestral areas of some of


\textsuperscript{134} Séverin Cécile Abéga, \textit{Pygmées Baka Le Droit à la Différence}, Inades Formation, Cameroon 1998.

\textsuperscript{135} Law 94-1 of 20 January 1994 to lay down forestry, wildlife and fisheries regulations, article 24.
the Baka, Bagyéli and Bakola communities in Cameroon”, which is attached below, shows how lands that form part of the State’s permanent forest domain are imposed over indigenous peoples’ ancestral lands and territories.
Annex 2: Description of the Mbororo pastoralists in Cameroon

The Mbororo pastoralists, or what the British called the Peul nomads, are a sub-group of Peuls and are one of the biggest ethnic groups in Eastern and Central Africa. They live in at least eighteen African countries including Nigeria, Niger, Guinea, Senegal, Mali, Cameroon, the Central African Republic, Chad, Mauritania and Benin. For most of the last millennium, they have travelled across west Sudan, between the Sahara and the forest in search of grazing land for their livestock.

They are largely nomadic or now semi-nomadic. The Mbororo are commonly thought of as those who have rejected, or are hostile to, modern life and continue to roam from one place to another.

In the second half of the 19th century, the Mbororo nomad population was concentrated in the region of Djafoun, near Kano. From 1875, and even earlier, until 1910 this concentration of Mbororo nomads started to disperse. Families and clans followed their respective leaders and moved in two main waves, the first to the east towards Borno and the second to the south-east towards Jos, Wase and Bauchi. Only a few people stayed in Djafoun. Many factors provoked this split, the most important being the psychological cornerstone of all nomadism: the hatred of all forms of mental and physical restrictions.

The Mbororo of Cameroon are mainly originally from Mali and Nigeria and settled in the Northern, Adamawa and North West Regions of Cameroon at the start of the 1920s.

Over 1 million Mbororo people live in Cameroon, which makes up around 12% of Cameroon’s population. The Mbororo live along the borders with Nigeria, Chad and the Central African Republic. Three groups of Mbororo live in Cameroon: the Wodaabe in the Northern Region; the Jafun, who live primarily in the North West, West, Adamawa and Eastern Regions; and the Galegi, popularly known as the Aku, who live in the East, Adamawa, West and North West Regions.

Annex 3: Concluding observations of the African Commission adopted following examination of the Cameroon report in May 2010

CONCLUDING OBSERVATIONS ON THE SECOND PERIODIC REPORT 2003-2008 OF THE REPUBLIC OF CAMEROON

Adopted at the 47th Ordinary Session of the African Commission held from 12 to 26 May 2010 in Banjul, The Gambia
I- INTRODUCTION


2. The African Commission takes note of the fact that the State of Cameroon was represented by a delegation led by His Excellency Mr. Sébastien Foumane, Secretary General at the Ministry of Foreign Affairs and comprised Mrs. Helen Galega FEH, Deputy Director of International Cooperation in the Ministry of Justice, Mrs. Hermine Kembou, Head of Studies Division, Assistant in the Human Rights Division in the Ministry of Justice, Mr. Owono Zang Gabriel, Head of Department in the African Affairs Division in the Ministry of Foreign Affairs.

3. The present concluding observations take into account not only the information contained in the above mentioned Report, but also the questionnaire prepared and sent to the State Party. They also take into account the discussions and the dialogue engaged by the State Party and the members of the ACHPR during the examination of the Report.

4. The present concluding observations consist of four parts, namely:
   - The positive factors;
   - The negative factors or factors hindering the enjoyment of human rights;
   - The areas of concern and
   - The recommendations;

II- THE POSITIVE FACTORS

5. The African Commission lauds the efforts deployed by the State Party in the preparation and presentation of its Report. It congratulates it for its commitment with regard to Article 62 of the Charter and for the regularity in the submission of its Reports.

6. It notes with satisfaction that Cameroon signed the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa on the 20th May 2009, and urges it to pursue the deposit of the instruments of ratification of the said Protocol.

7. It notes with appreciation Cameroon’s initiative in having organized a Seminar of the Rights of Indigenous Populations from 13 to 16 September 2006 in Yaoundé, and for having considered this Seminar as a positive step forward in the context of the struggle to protect the rights of indigenous populations.

8. It welcomes, with satisfaction, the fact that the State Party is getting more and more involved in the combat against corruption and impunity, in particular in the management of public funds.
9. The African Commission is happy with the putting in place of a green number in Cameroon for the benefit of women in difficulty and victims of abuse.

10. It also underscores, as a positive element, the introduction of human rights in the school curricula in Cameroon, notably women’s rights and issues linked to abuse against women.

11. It is also pleased with the fact that at the normative level there are provisions which guarantee the right to a fair hearing, in particular the right to demand and obtain the immediate release of detainees and the dropping of the case where proceedings are not instituted within the timeframe provided for by the law.

12. It observes that the State Party has put in place professional training programmes specialized in computer science for the physically disabled.

13. The Commission expresses satisfaction with the constructive dialogue that it has engaged with the Republic of Cameroon in general and more particularly in the context of the presentation of this second Periodic Report.

III- THE FACTORS HINDERING THE ENJOYMENT OF HUMAN RIGHTS IN CAMEROON

14. The African Commission has identified several factors which hinder the enjoyment of human rights in the Republic of Cameroon:

   i. The African Commission notes that the persistence of traditional practices and customs could constitute an obstacle for the realization of human rights in Cameroon.

   ii. Cameroon is affected by the economic recession and the food crisis which has struck all the African countries.

IV- THE AREAS OF CONCERN

The following points constitute a matter of concern for the African Commission:

15. The Report does not take into account the concluding observations adopted at the 39th Ordinary Session by the African Commission following the presentation by Cameroon of the last Periodic Report.

16. There is no reference to the conditions under which the Report was prepared and to the involvement of civil society in the drafting of the said Report.

17. The Report gives no information whatsoever about the various special mechanisms which are developing within the African Commission.

18. Articles 27, 28, 29 of the African Charter do not constitute a subject of concern in the Report;

19. The Commission points out that the terminology used to designate the indigenous populations in Cameroon responds neither to the principle nor to the regulations of general international law, or regional law on the rights of the indigenous populations. This concept does not facilitate the guaranteeing of the rights of these target groups.
20. The Report does not indicate any legislative or regulatory measure aimed at protecting the indigenous populations and at protecting the economic, social and cultural rights of these populations, in this instance, their rights to landownership.

21. The Report does not provide sufficient information in relation to the measures put in place by the State Party to guarantee free and transparent elections within the context of the imminent elections to be held in the country.

22. The State Party is still maintaining the Criminal Law which qualifies acts of libel as a crime in contempt of the declaration of principles on the freedom of expression in Africa which urges the State Parties to reform the laws that provide for criminal sanctions to punish libel and slander.

23. The ACHPR is concerned about the situation of the Journalists in Cameroon in view of the violations of the rights of the Journalists that it has registered.

24. The Report does not highlight the information that can facilitate the analysis of the situation of women’s rights, in particular in the areas such as maternal and reproductive health, the conditions of detention for women and the measures taken to improve this situation; the political representation of women in decision making positions; the situation of women in the informal sector; the prevalence of harmful practices such as female genital mutilation and forced marriages.

25. The Report does not speak about the measures taken in the context of the control of poverty, notably in the areas linked to the access by women to housing, to employment, to loans, to free medical care, to education and to revenue generating activities.

26. The Report refers to the process of the review of the Family Code embarked upon in Cameroon but does not detail out either the improvements envisaged for women’s rights or the measures taken for the implementation of the African Union’s Solemn Declaration on Gender Equality.

27. The Commission also notes that several legislative measures relative to women’s rights are under preparation, but few mechanisms actually protect these rights.

28. The Commission is moreover concerned about the fact that there is no programme in Cameroon on Gender and on Quotas and that the indigenous women there are extremely vulnerable and suffer double discrimination based on gender and on their ethnic origin.

29. The Commission is worried by the fact that Cameroon still maintains the death penalty in its national legal arsenal and does not envisage abolishing it, despite the Resolutions adopted by the African Commission on moratorium and on the abolition of the death penalty.

30. The Commission notes with concern the numerous social and salary related demands which are calling for the effective implementation of the social and economic rights of workers in Cameroon.

31. The Report does not contain any information on the measures taken by the State Party for the implementation of the Robben Island Guidelines adopted by the African Commission in 2002 and it does not appear to be interested in this instrument for the combat against Torture, cruel, inhuman and degrading punishment.
32. The Report does not provide sufficient disaggregated statistics on the prisons and conditions of detention.

33. The Report does not highlight the measures taken by the State Party to guarantee the independence of the Judiciary.

34. The situation of elderly persons is not developed in the Report.

35. The Report gives no information on the rights of physically disabled persons, notably the statistics on motivating measures for their access to the job market, and those relative to their protection and enjoyment of medical and social care.

36. The Commission is concerned about the considerable number of reports it has received of cases of violations of the rights of human rights defenders in Cameroon.

37. The Commission is concerned about the implementation of the right to food and observes that a large part of the funding received by Cameroon is not made available to the populations for agricultural purposes.

38. Furthermore, the Report is silent on the measures taken by the Republic of Cameroon regarding the ratification of the Protocol establishing the African Court on Human and Peoples’ Rights and the Declaration of Article 34(6) of the said Protocol.

39. The Commission finally notes with concern that Cameroon has not ratified the African Charter on Democracy, Elections and Governance.

IV - RECOMMENDATIONS

40. The Commission recommends to the Government of the Republic of Cameroon to:

i. Put in place a permanent team which should collaborate with the National Human Rights Commission, the members of civil society and all the actors involved in the promotion of human rights in Cameroon for the preparation of Periodic Reports from conception to conclusion;

ii. Take all the necessary steps for the presentation of the next Periodic Report in 2012;

iii. Take the legislative and other measures for the effective implementation of all the rights prescribed in the African Charter, including Articles 27, 28 and 29 of the African Charter;

iv. Take the required measures to act on the African Commission’s recommendations outlined in the concluding observations following the presentation of the preceding Report and in the current concluding observations;

v. Provide the disaggregated statistics allowing the illustration of the state of implementation of the rights prescribed by the African Charter and the evaluation of the progress made and the challenges which still remain;

vi. Harmonize the national legislation with the regional and international standards on the rights of indigenous populations/communities;
vii. Invite the Working Group on Indigenous Populations to undertake a promotional visit to Cameroon to pursue the dialogue on the theme and to find lasting solutions for the effective implementation of the rights of these populations;

viii. Adopt as early as possible appropriate legislation for the protection of the indigenous populations’ human rights, in particular their rights relating to landownership, their right to citizenship, and their economic, social and cultural rights;

ix. Abandon the use of the term « marginal populations », as recommended by the United Nations Committee for the Elimination of Racial Discrimination in its final observations CERD/C/CMR/CO/15-18;

x. Harmonize the land laws and adopt special measures allowing the indigenous populations to fully enjoy all their rights, in particular their rights to land, and to work towards the consideration of their cultural peculiarities including nomadism so as to prevent this factor from restricting the enjoyment of their rights;

xi. Take all the necessary measures to guarantee to all political parties free and fair electoral campaigns in the context of the imminent elections in Cameroon;

xii. Harmonize the national legislative with the Declaration of Principles on the Freedom of Expression in Africa, notably by decriminalizing libel and adopting a law on the access to information;

xiii. Take all the necessary measures to make effective the right to freedom of expression and to guarantee for Journalists all the security required in the exercise of their professional activities in Cameroon.

xiv. To reinforce the programmes and policies adopted in the area of reproductive health in order to raise the level of access by women and adolescents to family planning and to accessible and good quality health services and to reduce maternal and infant mortality rates;

xv. Embark on the collection and analysis of disaggregated data on the situation of women’s rights in Cameroon in all fields, and in particular on women’s maternal and reproductive health, HIV/AIDS, the female population in detention centres, women’s political representation, women’s situation in the informal sector, the prevalence of detrimental practices such as female genital mutilation and the measures taken by the State to allow access by women to housing, to employment, to credit, to basic social services, health services, education and economic, social and cultural rights in general;

xvi. Accelerate the adoption process of the legislative measures initiated as stipulated in the State Party’s Periodic Report; in this case the reform of the Criminal Code which provides for the inclusion of punitive clauses relative to violence against women and to put in place appropriate measures and programmes for the eradication of all forms of violence against women including the training of Judges, Lawyers and Judicial Police Officers;

xvii. Take the necessary measures to give full effect to the African Union’s Solemn Declaration on Gender Equality, starting notably with the submission of annual Reports to the African Union on the situation of the rights of women in Cameroon;
xviii. Put in place a policy of gender representation in the decision making positions, in particular the adoption of the quota of 50% regarding the political representation of women;

xix. Take special measures to guarantee the protection and implementation of indigenous women’s due to their extreme vulnerability and the discrimination to which they are subjected;

xx. Take the required and urgent measures for the abolition of the death penalty in Cameroon by taking into account the international standards and the Resolutions of the African Commission on the abolition of the death penalty;

xxi. Guarantee to workers the full and total exercise of all their social and economic rights in order to avoid the infernal cycle of strike action which is liable to paralyse the country’s economy;

xxii. Collaborate with the African Commission for the implementation of the Robben Island Guidelines which carry provisions relative to Torture and cruel, inhuman and degrading punishment, notably by inviting the Commission to carry out a sensitization mission to Cameroon on this tool for the protection of human and peoples’ rights;

xxiii. Provide disaggregated statistics on the prisons and conditions of detention in Cameroon;

xxiv. Guarantee the independence of the Judiciary and provide practical and adequate information in the next Periodic Report;

xxv. Give detailed information on the living conditions of the elderly as well as on the measures put in place to guarantee their rights;

xxvi. Provide detailed information on the living conditions of the physically disabled and on the measures put in place to guarantee their rights;

xxvii. Guarantee security in the exercise of their activities for the human rights defenders and this in conformity with the United Nations Declaration on Human Rights Defenders and with the Principles prescribed by the African Charter;

xxviii. Establish reliable statistics and strengthen the policies and plans promoting the enjoyment of economic, social and cultural rights, in particular the right to food, the access to clean drinking water, to housing and to electricity;

41. Take the necessary measures to:

i. Ratify the African Charter on Democracy, Elections and Governance;

ii. Ratify the Protocol to the African Charter establishing the African Court on Human and Peoples’ Rights, and to make the Declaration stipulated in Article 34(6) of the said Protocol;

iii. Deposit the instruments of ratification of the Protocol to the African Charter on the Rights of Women in Africa in the earliest possible time.

**Adopted in Banjul, The Gambia, 26 May 2010.**
Annex 4: List of suggested questions

- How does Cameroon intend to involve indigenous communities and civil society in developing its comprehensive legal programme or text regarding indigenous peoples?

- Does Cameroon recognise the right of ownership that indigenous peoples have over their ancestral lands? Have measures been taken for the purpose of the restitution of lands that traditionally belong to them?

- What measures are being taken by the state party to recognise and implement the right of indigenous peoples to effective participation in the process of reforming Cameroon’s Forest Laws and all other legislative and policy reforms impacting on indigenous peoples, including through self-chosen representatives in accordance with their decision making processes and customs and in forms and languages accessible to those indigenous peoples?

- What measures will the state party take to amend current draft Forest Law to ensure that the new Forest Law (and implementing legislation), when adopted, guarantee adequate protection for the right of indigenous peoples to own, use and control their lands, territories and resources?

- What steps are the state party taking to implement the participatory demarcation and restitution of indigenous peoples’ forest lands that have become the legal property of the State (and/or granted to third parties) without indigenous peoples’ free, prior and informed consent?

- What measures will the state party take to ensure that all new Forest Laws will guarantee indigenous peoples’ rights to participate in, and consent to, decision making concerning their forest lands, territories and resources?

- What steps will the state party take to amend the current draft Forest Law to ensure that the new Forest Law (and implementing legislation), when enacted, ensure that Cameroon’s Forest Laws guarantee access to justice for indigenous peoples impacted by violations of their rights to their forest lands, territories and resources perpetrated by the state or third parties, including accessible grievance procedures with appeal to the national court system, and access to fair and equitable compensation?

- What measures will be taken by Cameroon to ensure that all land concessions that are planned or already operate on indigenous peoples’ land and territories (in particular concessions for the large-scale production of agricultural products such as palm oil, extractive industries like mining and logging, and the establishment of protected areas) only operate if they obtain the free, prior and consent of indigenous peoples?

- What measures will Cameroon take to revise the legal framework relating to land and land ownership, in order to eliminate the discrimination and marginalisation of indigenous peoples, in particular by ensuring that indigenous peoples’ property rights of their lands, territories and resources enjoy the same protection as private land titles in accordance with national law?
➢ What measures does the Cameroon government intend to adopt to guarantee protection and respect for the right of indigenous peoples, and in particular indigenous women, to their ancestral lands, territories and resources?

➢ What measures is Cameroon taking to protect extremely vulnerable and doubly marginalised indigenous women? Will Cameroon, besides creating programmes aimed at women in general, create specific programmes for the implementation of indigenous women’s rights?

➢ What measures will the Cameroon government take to ensure that indigenous peoples, and in particular indigenous women, enjoy equal access to justice?

➢ What measures does the Cameroon government intend to adopt in order to ensure the effective participation of indigenous peoples, and in particular indigenous women, in legal reform processes (including land and forest reforms) that may affect their right to land, territories and resources?

➢ What measures will the Cameroon government adopt to promote the participation of indigenous peoples, and in particular indigenous women, in decision-making bodies and administrative life?

➢ Does Cameroon intend to collect disaggregated data on the participation of indigenous children and girls at all levels of education?

➢ What programmes does the Cameroon government plan to establish in order to guarantee that indigenous children, and in particular girls, have access to education, and to eliminate all causes of discrimination, not least the distance between home and school, early marriages and the cost of schooling?

➢ What measures does the Cameroon government intend to adopt in order to ensure that indigenous children, and in particular indigenous girls, have access to an education that is appropriate to their way of life and culture, and which also implements article 14 of the UN Declaration on the Rights of Indigenous Peoples, the right to establish and control educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning?

➢ What measures does the government of Cameroon intend to take to ensure that indigenous peoples have equitable and affordable access to health care, and in particular access to reproductive health care for indigenous women, including access to their traditional pharmacopoeia?

➢ What measures does the Cameroon government intend to adopt in order to guarantee the right of indigenous peoples, and in particular indigenous women, to health? What measures will it take to ensure that they have access to forest resources in order to: preserve their traditional knowledge, combat food insecurity, promote their economic activities and guarantee their access to the traditional medicinal plants essential to their health?
Annex 5: Committee on the Elimination of Racial Discrimination’s communication to Cameroon Government regarding the draft Forest Law, 1 March 2013 (available in French only)

Référence: CERD/204/CH/COM/SW

Le 1er mars 2013

Excellence,

Je vous écris pour vous informer qu’au cours de sa 82e session, le Comité pour l’Élimination de la Discrimination Raciale a examiné, dans le cadre de sa procédure d’action urgente et d’alerte rapide, les renseignements concernant le projet de Loi relatif à la Forêt, portant révision de la Loi N° 94/01 sur le régime des forêts et de la faune, adoptée le 20 janvier 1994 par l’Assemblée Nationale camerounaise.

Selon les renseignements reçus par le Comité, le Ministre camerounais des Forêts et de la Faune a l’intention de soumettre le projet de Loi relatif à la Forêt, à l’Assemblée nationale pour adoption en mars 2013. Les organisations ayant soumis la requête ont fait valoir que le Gouvernement du Cameroun n’a pas informé les populations autochtones concernées au sujet de ce projet de Loi et n’a assuré ni leur participation ni leur consultation lors du processus d’élaboration de ce projet de Loi.

Selon les organisations ayant soumis la requête, le projet de Loi n’est pas conforme aux normes internationales relatives à la promotion et la protection des populations autochtones, notamment parce qu’il ne garantit pas: une protection adéquate des droits des populations autochtones à posséder, utiliser et à contrôler leurs terres traditionnelles, territoires et ressources ; leur droit à participer aux processus de décision portant sur leurs terres forestières, territoires et ressources et à donner leur consentement libre, préalable et éclairé sur toute décision prise à ce sujet ; et l’accès à la justice pour les populations autochtones affectées par de possibles violations de leurs droits à leurs terres forestières, territoires et ressources.

A cet égard, le Comité rappelle sa Recommandation Générale No. 23 sur les droits des populations autochtones, qui appelle les États parties à la Convention pour l’Élimination de toutes les formes de Discrimination Raciale, à assurer aux populations autochtones des conditions pour un développement économique et social durable qui soit compatible avec leurs particularités culturelles. La Recommandation Générale appelle également les États parties à s’assurer qu’aucune décision liée directement aux droits et intérêts de populations autochtones ne soit prise sans leur consentement éclairé.

Soni Excellence
Monsieur Anatole Fabien Marie NKOU
Ambassadeur Extraordinaire et Plénipotentiaire
Représentant Permanent
Mission Permanente de la République du Cameroun auprès de l’Office des Nations Unies et des institutions spécialisées en Suisse
e-mail: mission.cameroun@bluewin.ch
Le Comité tient également à rappeler les paragraphes 15 et 18 de ses observations finales (CERD/C/CMR/CO) adoptées le 30 mars 2010 suite à l’examen des rapports périodiques de l’État partie, dans lesquels le Comité recommande à l’État partie de faire aboutir ses efforts visant à adopter le projet de loi sur les droits des populations autochtones et de prendre des mesures urgentes et adéquates pour protéger et renforcer les droits des populations autochtones à la terre.

Le Comité demande à l’État partie de lui fournir des renseignements sur le processus d’élaboration du projet de Loi relatif à la Forêt, son stade actuel et, si possible, de lui fournir le texte du projet.

Le Comité demande également à l’État partie de lui fournir des informations sur les mesures prises afin d’organiser des consultations significatives avec les populations autochtones concernées qui reconnaissent et mettent en œuvre les droits des populations autochtones à une participation effective et à un consentement préalable, libre et éclairé, notamment par le biais de représentants choisis par ces populations elles-mêmes, conformément à leur processus de prise de décisions et leurs coutumes et dans des formes et les langues accessibles à ces populations.

Enfin, le Comité requiert de l’État partie qu’il revoie le contenu du projet de Loi relatif à Forêt afin de déterminer s’il est conforme aux normes internationales des droits de l’homme pertinentes et relatives aux droits des populations autochtones et, si nécessaire, d’y apporter des amendements.

Conformément à l’article 9 (1) de la Convention et l’article 65 de ses Règles de Procédure, le Comité invite l’État partie à soumettre les renseignements demandés avant le 31 juillet 2013 et de soumettre, sans délai, ses dix-neuvième, vingtième et vingt-unième rapports périodiques, en retard depuis le 24 juillet 2012.

Permettez-moi, Excellence, d’exprimer le désir du Comité de poursuivre un dialogue constructif avec le gouvernement du Cameroun, afin de procéder à votre gouvernement l’assistance du Comité pour une mise en œuvre effective de la Convention.

Je vous prie d’agréer, Excellence, l’expression de mes sentiments distingués,

[Signature]

Alexei Avtonomov
Président
Comité pour l’Élimination de la Discrimination Racialem