

REPORT OF THE AFRICAN COMMISSION'S WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES

RESEARCH AND INFORMATION VISIT TO THE REPUBLIC OF GABON

15-30 September 2007



African Commission on
Human and Peoples' Rights



International Work Group
for Indigenous Affairs



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The African Commission on Human and Peoples' Rights adopted this report
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African Commission on
Human and Peoples' Rights
(ACHPR)



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**AFRICAN COMMISSION ON HUMAN
AND PEOPLES' RIGHTS (ACHPR)**
Kairaba Avenue - P.O.Box 673, Banjul, The Gambia
Tel: +220 4377 721/4377 723 - Fax: +220 4390 764
achpr@achpr.org - www.achpr.org



**INTERNATIONAL WORK GROUP
FOR INDIGENOUS AFFAIRS**
Classensgade 11 E, DK-2100 Copenhagen, Denmark
Tel: +45 35 27 05 00 - Fax: +45 35 27 05 07
iwgia@iwgia.org - www.iwgia.org

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TABLE OF CONTENTS

- ABBREVIATIONS6
- PREFACE7
- EXECUTIVE SUMMARY9
- MAP OF GABON.....9
- I. SOCIO-POLITICAL BACKGROUND IN GABON14
- II. EXISTING LEGAL FRAMEWORK AND INTERNATIONAL
COMMITMENTS OF GABON17
- III. DIFFERENT MEETINGS HELD
 - 1. MEETING WITH THE DEPUTY PRIME MINISTER FOR
FOREIGN AFFAIRS AND COOPERATION.....18
 - 2. VISIT TO TWO INDIGENOUS PYGMY COMMUNITIES
IN WOLLEN NTEM PROVINCE.....18
 - 3. MEETING WITH THE WWF CENTRAL AFRICA
PROGRAMME OFFICE19
 - 4. MEETING WITH THE WILDLIFE CONSERVATION
SOCIETY / GABON20
 - 5. MEETING WITH AN OFFICIAL FROM THE WORLD BANK21
 - 6. MEETING WITH THE UNITED NATIONS
DEVELOPMENT PROGRAMME21
 - 7. MEETING AT THE MINISTRY FOR THE FAMILY,
CHILD PROTECTION AND WOMEN’S PROMOTION22
 - 8. MEETING WITH THE PRESIDENT OF THE SENATE.....22
 - 9. MEETING WITH THE DIRECTOR OF THE ANTHROPOLOGY
LABORATORY (LEBAN) OF THE OMAR BONGO UNIVERSITY
IN LIBREVILLE.....23
 - 10. MEETING WITH THE DEPUTY PRIME MINISTER TO
THE PRESIDENCY OF THE REPUBLIC FOR REFORM,
HUMAN RIGHTS, COORDINATION OF LARGE WORKS
AND INDEPENDENCE DAY CELEBRATIONS23
 - 11. MEETING WITH THE MINISTER OF STATE, MINISTER
FOR SOCIAL AFFAIRS, NATIONAL SOLIDARITY,
WELL-BEING AND POVERTY REDUCTION.....24

12. MEETING WITH THE EUROPEAN UNION DELEGATION.....	24
13. MEETING WITH THE MINISTER OF JUSTICE, ATTORNEY-GENERAL.....	25
14. MEETING WITH THE PRESIDENT OF THE NATIONAL ASSEMBLY.....	26
15. MEETING WITH NGOS.....	26
16. MEETING WITH NATIONAL AND INTERNATIONAL PRESS: PRESS CONFERENCE.....	27

IV. OVERVIEW OF THE SITUATION OF INDIGENOUS PYGMY RIGHTS IN GABON

1. THE PRACTICE OF “PYGMIES’ MASTERS” OR PRACTICES SIMILAR TO SLAVERY.....	28
2. ACCESS TO HEALTH CARE.....	29
3. RIGHT TO EDUCATION.....	29
4. ABANDONMENT OF CHILDREN AND SEXUAL VIOLENCE AGAINST INDIGENOUS PYGMY WOMEN.....	30
5. RIGHT TO CITIZENSHIP, TO EQUAL ENJOYMENT OF RIGHTS AND TO PARTICIPATE IN THE RUNNING OF THE COUNTRY.....	30
6. INDIGENOUS LAND PROBLEM.....	31

V. CONCLUSION AND RECOMMENDATIONS.....32

ANNEX 1: GEOGRAPHIC LOCATION OF INDIGENOUS PYGMY PEOPLES IN GABON:.....35

ABBREVIATIONS

ADCPPG	<i>Association pour le Développement de la Culture des Peuples Pygmées du Gabon</i> (Association for Development of the Culture of Pygmy Peoples of Gabon)
COMIFAC	Central Africa Forests Commission
EU	European Union
IP	Indigenous Peoples
MINAPYGA	<i>Mouvement des minorités indigènes, autochtones et pygmées du Gabon</i> (Movement of indigenous and Pygmy minorities of Gabon)
NGO	Non-governmental organisation
UNDP	United Nations Development Programme
WCS	Wildlife Conservation Society
WWF -CARPO	Worldwide Fund - Central Africa Programme Office

PREFACE

The African Commission on Human and Peoples' Rights (ACHPR or African Commission), which is the human rights body of the African Union, has been debating the human rights situation of indigenous peoples since 1999. Indigenous peoples are some of the most vulnerable and marginalized groups on the African continent, and their representatives have, since the 29th Ordinary Session of the African Commission in 2001, participated in the ACHPR's sessions. The indigenous representatives have given strong testimonies to their situation and the human rights violations they suffer from. Their message is a strong request for recognition and respect, as well as a call for improved protection of their civil, political, economic, social and cultural rights. It is also a request for the right to live as peoples and to have a say in their own future, based on their own culture, identity, hopes and visions. Indigenous peoples, moreover, wish to exercise these rights within the institutional framework of the nation state to which they belong. The African Commission has responded to this call. The African Commission recognizes that the protection and promotion of the human rights of the most disadvantaged, marginalized and excluded groups on the continent is a major concern, and that the African Charter on Human and Peoples' Rights must form the framework for this.

In order to achieve a better basis on which to advance discussions and formulate recommendations, the African Commission set up a Working Group on Indigenous Populations/Communities (Working Group) in 2001. The Working Group implemented its initial mandate by producing the comprehensive document "Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities" on the human rights situation of indigenous peoples and communities in Africa (the full report can be downloaded from <http://www.achpr.org>). The report was adopted by the African Commission in November 2003, and published in a book format in 2005. The report is the African Commission's official conceptualisation of indigenous peoples' human rights in Africa.

In 2003, the Working Group was given the mandate to:

- Raise funds for the Working Group's activities, with the support and cooperation of interested donors, institutions and NGOs;
- Gather information from all relevant sources (including governments, civil society and indigenous communities) on violations of the human rights and fundamental freedoms of indigenous populations/communities;
- Undertake country visits to study the human rights situation of indigenous populations/communities;
- Formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous populations/communities;
- Submit an activity report at every ordinary session of the African Commission;

- Co-operate when relevant and feasible with other international and regional human rights mechanisms, institutions and organisations.

On the basis of this mandate, the Working Group has developed a comprehensive activity programme. This programme includes undertaking country visits, organising sensitisation seminars, cooperating with relevant stakeholders and publishing reports, all with a view to protecting and promoting indigenous peoples' rights in Africa.

This report is part of a series of country-specific reports produced by the Working Group, and adopted by the African Commission on Human and Peoples' Rights. These country-specific reports emanate from the various country visits undertaken by the Working Group, all of which have sought to engage with important stakeholders such as governments, national human rights institutions, NGOs, intergovernmental agencies and representatives from indigenous communities. The visits have sought to involve all relevant actors in dialogue on indigenous peoples' human rights, and to inform them of the African Commission's position. The reports not only document the Working Group's visits but are also intended to facilitate constructive dialogue between the African Commission, the various African Union member states, and other interested parties.

To date, the Working Group has undertaken visits to Botswana, Burkina Faso, Burundi, Central African Republic, Democratic Republic of Congo, Gabon, Kenya, Namibia, Niger, Libya, Republic of Congo, Rwanda and Uganda. These country visits have been undertaken during the years 2005-2010, and the reports are published once adopted by the African Commission. Hopefully, the reports will contribute to raising awareness of indigenous peoples' situation in Africa, and prove useful for establishing dialogue and identifying appropriate ways forward for improving indigenous peoples' situation in Africa.

It is hoped that, via our common efforts, the critical human rights situation of indigenous peoples will become widely recognized, and that all stakeholders will work to promote and protect indigenous peoples' human rights in their respective areas.

Commissioner Musa Ngary Bitaye
Chairperson of the African Commission's Working Group
on Indigenous Populations/Communities

EXECUTIVE SUMMARY

The research and information visit to the Republic of Gabon was conducted from 15 to 30 September 2007. Mr Zéphyrin Kalimba, member of the Working Group on Indigenous Populations / Communities, was accompanied by the sociologist, Mr Loamba Moke, President of the *Association pour les Droits de l'Homme et l'Univers Carcéral* (ADHUC).

MAP OF GABON



The mission's objectives were:

- To inform the Gabonese government, the local and regional authorities, national human rights institutions, the media, civil society organisations, development agen-

- cies and other stakeholders about the African Commission on Human and Peoples' Rights' report and efforts in relation to indigenous peoples;
- To gather information on the human rights situation of indigenous peoples in the Republic of Gabon with a view to providing a report to the African Commission on Human and Peoples' Rights via its Working Group on Indigenous Populations / Communities;
 - To discuss the implementation of the United Nations Declaration on the Rights of Indigenous Peoples adopted on 13 September 2007;
 - To distribute the African Commission on Human and Peoples' Rights' report on indigenous peoples to targeted institutions and individuals.

In order to achieve these objectives, the mission met several of the country's political representatives, particularly the Office of the Senate, the National Assembly, along with a number of Ministers and other senior officials within the Gabonese state. The mission also met university researchers, various representatives from international, inter-governmental and non-governmental organisations, including the European Union, the UNDP and local NGOs active in the areas of environment and indigenous peoples' rights, along with communities self-identifying as indigenous within Gabon, namely the Bakas, the Akowa (Bakowa), the Bekui, the Babinga, the Bambongo and the Barimba, these groups representing as a whole the Pygmies of Gabon.

In addition to a Constitution that prohibits all forms of discrimination and provides for equality between communities, Gabon has ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of all forms of Racial Discrimination and the African Charter on Human and Peoples' Rights.

The Republic of Gabon has recently adopted a law on national parks and, with funding from UNICEF's sub-regional office, is implementing "The National plan for the integrated development of the Pygmy environment" involving all ministerial departments. The law aims to define the general principles that must underpin the national policy on the management of national parks and participation of local populations in this regard.

Although the mission was able to note the efforts that the government is making, the situation of indigenous peoples in Gabon remains worrying in some areas related to human rights. The indigenous Baka, Bakowa (Akowa), Bambongo, Barimba, Bekui, and Babinga are suffering from a lack of access to basic services (health, education, justice...), and high levels of illiteracy, despite the efforts of various stakeholders. In Gabon, indigenous peoples, often Pygmy women, are subjected to violence and sexual abuse, and HIV/AIDS has now penetrated their living environment. Moreover, they do not enjoy the same citizenship rights as the rest of the Gabonese population.

The mission furthermore noted that "Pygmies" are under the control of "Bantu masters" and do not possess land to settle on or cultivate. The land they occupy belongs to the Bantu and they can thus be expelled. The indigenous people from Minvoul are in this situation.

We met with some Ministers that defined themselves as Pygmies. However, since Pygmies are a marginalized minority in Gabon, they have in general fundamental difficulties in organizing in political parties or associations and consequently in being represented in the legislative, local and municipal elections.

The Gabonese public authorities promised the mission that they would implement the UN Declaration on the Rights of Indigenous Peoples, adopted on 13 September 2007. This would

be done through the integrated development project being implemented in the Pygmy environment, and the media should be instrumental in raising awareness within the population.

Whilst aware of its derogatory nature, this report uses the term “Pygmy” for lack of any suitable alternative.

The structure of this report is as follows:

- **Executive summary**
- **Socio-political background**
- **Legal framework**
- **Summary of the different meetings**
- **Overview of indigenous people rights’ situation**
- **Conclusions and recommendations**

The African Commission’s Working Group on Indigenous Populations / Communities makes the following recommendations:

A. To the Government of the Republic of Gabon:

1. To put national sectoral policies in place enabling the Pygmies to enjoy their rights and fundamental freedoms on a par with the rest of the Gabonese population;
2. To recognize the traditional lifestyle of the indigenous Pygmy population;
3. To take measures accordingly to legally protect the access and rights to land, forests and natural resources of Pygmies;
4. To involve indigenous peoples’ organisations and communities in the design, implementation and monitoring of development projects in Pygmy areas of Gabon;
5. To involve indigenous peoples’ organizations and communities in implementing the Pygmy integrated development project in Gabon;
6. To organise a census specifically for indigenous peoples;
7. To take measures guaranteeing the systematic registration of births, along with the issuing of birth certificates to indigenous Pygmy children and their parents;
8. To issue permanent permits of association for indigenous Pygmy organisations;
9. To undertake a study on the issue of practices similar to slavery among the Pygmy population and make concrete recommendations for actions to be taken;
10. To ensure that perpetrators of human rights violations towards the Pygmies – including that of practices similar to slavery – are brought to justice;
11. To take measures to protect the rights of Pygmy women who are doubly vulnerable, being both women and Pygmies;
12. To take measures to ensure that the Pygmy population has, in practice, access to education and health services on a par with the rest of the Gabonese population.
13. To take measures with a view to implementing the UN Declaration on the Rights of Indigenous Peoples;
14. To take measure to ensure participation and representation of the Pygmies at the local level and national decision making structures;
15. To take measures to ratify ILO Convention 169.

B. To the African Commission on Human and Peoples' Rights:

1. To undertake country-by-country monitoring of the commitments and/or indigenous policies adopted by the development agencies, bilateral and multilateral partners;
2. To organise a regional conference on experiences of educating Pygmy children in Central Africa with a view to exchanging experiences, inspiration and, for some, making readjustments;
3. To support the creation of an indigenous civil society in Gabon with a view to establishing a capable and legitimate point of contact for the government;
4. To organise a national seminar in Gabon with a view to raising awareness among government, UN agencies, the World Bank, European Union, environmental organisations, indigenous Pygmy peoples and other players with regard to different aspects of indigenous rights;
5. To encourage the Gabonese government, UN agencies and other development agencies to pay particular attention to the education of Pygmy children;
6. To convince Gabon to ratify the Additional Protocol to the African Charter on Women's Rights;
7. To send a letter to the European Union, World Bank, different bilateral partners and the Central Africa Forests Commission (COMIFAC) with a view to including the issue of indigenous peoples in the different forestry management processes in the Congo Basin, such as AFLEG (Africa Forest Law Enforcement and Government), the convergence plan, etc.;
8. To instigate inter-sessional meetings involving development agencies and players working for indigenous peoples in Africa;
9. To put in place a mechanism to monitor the recommendations made to different government and non-government players in Working Group reports.

C. To Gabonese civil society:

1. To strengthen the existing indigenous associations.
2. To include indigenous peoples' issues in the development and human rights work of existing civil society organizations.

D. To the international community:

1. To put in place and implement projects focusing particularly on the needs of Pygmy populations, including issues such as forest access rights, land, education, health, forced labour and sexual violence;
2. To support an in-depth study into the situation of the indigenous Pygmy peoples of Gabon, including a census;
3. To support the popularisation of the African Commission's report on the rights of indigenous communities;
4. To support projects related to indigenous peoples' rights.

E. To the African Union

1. To consider granting special representation to indigenous peoples' organizations within the ECOSOC at the African Union.

I. SOCIO-POLITICAL BACKGROUND IN GABON

The Republic of Gabon is situated in the west of Central Africa, and lies on the equator. It has a low population density (4.6 inhabitants/square km)¹ and has borders with the Republic of Congo, Equatorial Guinea and Cameroon.

Gabon was populated by successive waves of immigrants up until the 19th century, first the indigenous Pygmy peoples and then, on a larger scale, the Bantu. It was during this process that the first Europeans, the Portuguese, also arrived in the 15th century.

Indeed, the name Gabon comes from these first settlers: *gabão* in Portuguese means “cape”, in line with the shape of the estuary at Libreville. France began to occupy Gabon from the middle of the 19th century onwards. The country gained its independence on 17 April 1960.

Gabon covers 267,667 km² and is divided administratively into nine provinces, namely:

- Estuaire;
- Haut-Ogooué;
- Moyen-Ogooué;
- Ngounié
- Nyanga;
- Ogooué-Ivindo;
- Ogooué-Lolo;
- Ogooué-Maritime;
- Woleu-Ntem.

Run by a Governor, these provinces are sub-divided into departments under a Prefect and, sometimes, districts under a Sub-Prefect.

Gabon has a population of more than 1,500,000 inhabitants, over half of whom live in the political capital, Libreville, or the economic capital, Port-Gentil. More than 85% of the country is covered by forest and the longest river, the Ogooué, is 1,200 km.

The Republic of Gabon has a presidential political system. The first President of the Gabonese Republic was Léon Mba. The second president was Omar Bongo Ondimba. In power since 1967, the regime was originally a dictatorship under a single-party system, the Gabonese Democratic Party (PDG). Following the political unrest that hit a large part of the African continent after the fall of the Berlin Wall, President Omar Bongo Ondimba authorised multi-partyism in Gabon. In 2005, presidential elections were held and the President was re-elected. This was followed by legislative elections in which the PDG gained a majority of deputies in the National Assembly, including the Senate. The opponents of the president regularly question the organisation of the elections and accuse the government of corruption and nepotism.

The Gabonese Republic is a multi-ethnic country, comprising approximately 43 ethnic groups, the Fangs representing a third of the Gabonese population. The Pygmies, who number

¹ Article from Wikipedia: The Free Encyclopedia, 2007: Gabon. <http://fr.wikipedia.org/wiki/Gabon>

around 20,000 people, are considered to be the indigenous peoples in Gabon. Please see Annex 1 for detailed information on the Pygmy population in Gabon.

Some ethnic groups, including the indigenous peoples and the Varama, have gradually begun to assimilate into the mainstream society, losing their language and specific cultural features.

The creation of national parks is an issue affecting the livelihoods of the indigenous Pygmies in Gabon. The WCS (Wildlife Conservation Society) Chairperson said, "National parks will create jobs for Bantus and indigenous people. Indigenous people will be recruited as guides because of their knowledge of the surrounding environment. For example: tourism will create direct and indirect jobs". During the Earth Summit in Johannesburg in 2002, Gabon created a network of 13 national parks, implemented by means of Law No. 003/2007 dated 11 September 2007:

National park	Province	Area	Type of environment
Akanda	Estuaire	540 Km ²	Mangrove
Monts Birougou	Ngounie, Ogooué – Loho	690 Km ²	Mountain
Ivindo	Ogooué - Ivindo	3000 Km ²	Equatorial forest
Loango	Ogooué - Maritime	1550 Km ²	Sandy coast
Lope	Ogooué - Ivindo	4970 Km ²	Forest and savannah
Mayumba	Nyanga	80 Km ²	Sandy coast
Minkébé	Wolen - Ntem	7560 Km ²	Equatorial forest
Monts de cristal	Estuaire	1200 Km ²	Mountain
Moukalaba - Doudou	Nyanga	4500 Km ²	Equatorial forest
Mwagne	Ogooué - Ivindo	1160 Km ²	Equatorial forest
Plateaux batékés	Haut - Ogooué	2050 Km ²	Equatorial forest
Pongara	Estuaire	870 Km ²	Mangrove, sandy coast
Waka	Ngounié	1070 Km ²	Mountain

Gabon's forest covers 230,000 km², or 85% of the country's surface. Logging operations are now of increasing concern, especially with the presence of Malaysian operators who do not observe international standards. Deforestation is estimated to be taking place at a rate of 0.1% per year.

In economic terms, the Gabonese Republic has long exported manganese, oil, iron, wood and many other products drawn from its soil and sub-soil. The exploitation of uranium mines in Franceville came to an end in 1985.

Oil income, increasingly important from the 1970s onwards, has only been partly used to modernise the country and diversify the Gabonese economy. In fact, the people benefit little from Gabon's wealth; the standard of living of many Gabonese is no more than 1 dollar per capita per day despite a relatively high per capita GNP. Oil production for 2006/2007 was 234,000 barrels/day, making Gabon the 37th largest oil producer in the world and the 3rd largest in the Francophone area, with 11.9 million tonnes in 2006. In 2004, Gabon's Gross National Product was US\$ 5.1 billion, equating to a per capita GNP of US\$3,417.

With regard to religion, prior to colonisation Gabon's inhabitants had animist beliefs, characterised by various myths and rites but similar in relation to ancestor worship and the use of fetishes. To this day one can still find the mutilated bodies of children, victims of ritual crimes aimed at ensuring their perpetrators' power and wealth. In practice, many people now combine the Christian faith with indigenous and animist beliefs. A variety of sects have also enjoyed great success in Gabon, particularly evangelical faiths based on American or even African models.

II. EXISTING LEGAL FRAMEWORK AND INTERNATIONAL COMMITMENTS OF GABON

The Republic of Gabon's Constitution contains no provisions for the protection of indigenous Pygmy peoples. Gabon's supreme law does, however, prohibit all forms of discrimination, including on the basis of race or ethnic background.

Gabon has ratified a number of international agreements and treaties protecting different aspects of indigenous rights, in particular, the International Covenant on Civil and Political Rights (acceded 21 January 1983), the International Covenant on Economic, Social and Cultural Rights (acceded 21 January 1983), the Convention on the Elimination of all forms of Racial Discrimination (ratified on 29 February 1980), the International Convention on the Elimination of all Forms of Discrimination against Women (ratified on 21 January 1983), the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (acceded 5 February 2005), the Convention against Torture and other forms of Cruel, Inhuman or Degrading Treatment (ratified on 8 September 2000), the Convention on the Rights of the Child (ratified on 9 February 1994), the Convention on the Prevention and Punishment of the Crime of Genocide (acceded 21 January 1983), the Convention on Refugee Status (acceded 27 April 1964), the Rome Statute (ratified on 21 September 2000), the Convention on Biological Diversity (ratified on 14 March 1997), the African Charter on Human and Peoples' Rights (ratified on 26 June 1986) and the Algiers Convention, recently replaced by that of the Maputo Convention on nature and natural resource conservation (ratified on 9 May 1988).

The importance of these international instruments in Gabon's domestic law, is that once they are ratified, they are recognised by the Constitution of 11 October 2000, the preamble to which states: "...solemnly affirms its attachment to human rights and fundamental freedoms as arising from the 1789 Declaration of the Rights of Man and of the Citizen and the 1948 Universal Declaration of Human Rights, enshrined in the 1981 African Charter on Human and Peoples' Rights" and Article 113 which stipulates that: "The President of the Republic shall negotiate international treaties and agreements and ratify them once a law has been passed by Parliament authorising them, and the Constitutional Court has verified their constitutionality. The President of the Republic and the presidents of the two chambers of Parliament shall be informed of all negotiations aimed at concluding an international agreement that is not subject to ratification."

It should, however, be noted that Gabon has not yet ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, nor the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery.

III. DIFFERENT MEETINGS HELD

1. MEETING WITH THE DEPUTY PRIME MINISTER FOR FOREIGN AFFAIRS AND COOPERATION

The mission was received at the Ministry for Foreign Affairs and Cooperation by the Deputy Prime Minister for Foreign Affairs and Cooperation, assisted by his staff. The mission handed over a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration on the Rights of Indigenous Peoples and explained the African Commission on Human and Peoples' Rights' efforts in this regard. It urged the use and dissemination of the report. During the meeting, the Deputy Minister informed the delegation that, following various explanations of the concept of "indigenous", which had enabled Gabon to adopt the UN Declaration on Indigenous Peoples, indigenous issues were now being taken into consideration in Gabon. He explained to the mission that there was no land problem in Gabon and that the sub-soil belongs to the state. In the context of logging, local populations have rights of use and there are areas reserved for local people's families. The Deputy Minister further informed the mission that Gabon had created 13 national parks and that indigenous peoples would need to be involved in the management of these parks as guides because of their knowledge of the forest.

The Deputy Minister informed the mission that indigenous peoples' representation in democratic institutions such as the National Assembly and the Senate is still problematic given that the electoral system is based on a classic form of democracy that demands a majority.

With regard to ILO Convention 169, the Deputy Minister was of the following opinion: this seems to give indigenous people a status different from other citizens. He suggested that Gabon should instead be considering a policy of positive discrimination that envisages allocating a given quota for these peoples in public office.

To preserve the rights of "minorities" or of Pygmies, the Deputy Minister believes that appropriate mechanisms need to be put in place that are different from those of classic democracy. Mechanisms existing elsewhere need to be copied, such as in Lebanon or Burundi, where the Constitution has been revised and adapted in order to reserve places for minorities or Pygmies in State institutions.

2. VISITS TO TWO INDIGENOUS PYGMY COMMUNITIES IN WOLLEN NTEM PROVINCE

The mission visited two indigenous Baka communities, with representatives from the Baka association EDZENGUI. These were the villages of Esseng and Mimbang located approximately 800 km from Libreville, in Woleu-Ntem province, Minvoul district. Entirely Baka villages, these communities illustrate the gulf that exists between the Pygmies and other communities.

The mission met with village members who bore witness to the separate lives they lead, the legal insecurity affecting their lands and the other different abuses to which they are subjected. Indigenous children have no access to school, and indigenous people have no access to basic services (health, justice, administration, land, forest...) and are used for small works remunerated according to non-indigenous people's standards. They rarely consult doctors for many reasons, such as discriminating medical staff.

In both visited communities, the Pygmies underlined some of the difficulties they are facing in their cohabitation with the Bantus. Bantus see Pygmies as sub-human and marriage between Bantus and Pygmies is highly disapproved of. Bantus often abuse Pygmy women. Pygmies live in villages near Bantus but they do not possess the land and can be displaced or expelled at any moment.

In addition, geographical isolation, administrative procedures, illiteracy and many other factors prevent indigenous children from getting birth certificates and, consequently, from having access to other legal documents. Even if every citizen must have an ID card, in reality few indigenous people in Gabon has one, preventing them from having the same level of access to public services as the other Gabonese².

Moreover, the everyday life of the Pygmies in relation to work is highly characterized by discrimination. In certain parts of the country, the logging industry does not employ Pygmies living next to the site. A report produced through the Plan for the Development of Indigenous Peoples underlines the continuing inequalities or discrimination affecting the indigenous peoples in the field of employment:

*"Some Babongo, Bakoya, Baka, Barimba, Bagama, Bakouyi, and Akoa found work for the logging industry, but in general it is short-term contracts and very low paid jobs. In some regions, Babongo, Bakoya, Baka, Barimba, and Bagama represent almost 10% of the overall work force, but are still victims of discrimination compared with the other working groups on the site."*³

3. MEETING WITH THE WWF CENTRAL AFRICA PROGRAMME OFFICE (CARPO)

The Worldwide Fund for Nature (WWF) is a major environmental and conservation stakeholder in the region. The mission therefore met with the Programme Officer and her assistant in order to provide them with a copy of the African Commission's report on indigenous populations/communities.

The Programme Officer was appreciative of the African Commission's initiative, stating that, "God created all men equal, none are superior and they all have the same rights". She deplored the newspaper *L'Union du Gabon* (17 October 2007) using the term "slave peoples" in the title for its article on the "National seminar on the Pygmies integrated development project" in October 2007. According to the Programme Officer, to call these people "slave peoples" in the 21st century was an insult.

WWF is developing a participatory mapping programme to safeguard the indigenous peoples' living environment, involving them in producing management plans for protected areas,

2 Knight, Judy. "Relocated to the roadside: preliminary observations on the forest peoples of Gabon". *African Study Monographs*, Suppl.28, p. 90,116. November 2003

3 Republic of Gabon. Ministère de l'Economie Forestière, des Eaux, de la Pêche, de l'Environnement chargé de la Protection de la Nature. *Plan de Développement de Peuple Autochtones du Programme Sectoriel Forêts Environnement, rapport final*. By Dr. Kai Schmidt-Soltau, July 2005, p.20

forests and mines, in the construction of sacred sites, and also involving them in sub-regional institutions.

WWF works with EDZENGUI (named after the protective spirit of the forest) in the region where the indigenous Baka live. EDZENGUI has benefited from a grant of 19,000,000 FCFA or US\$38,000 (at a rate of 1\$ for 500 FCFA) for the following projects:

- The construction of a community house;
- The promotion of the Baka people's cultural knowledge in the Mikembe region.

Those projects have begun in the Mikembe areas with the participation of the indigenous people's communities.

4. MEETING WITH THE WILDLIFE CONSERVATION SOCIETY (WCS)/ GABON

The Wildlife Conservation Society (WCS) is an international organisation. After briefly presenting the aim of its visit, the mission handed over a copy of the summary version of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration on the Rights of Indigenous Peoples.

WCS is implementing projects in Gabon in the context of environmental conservation. A mapping project for the Congo Basin's forests is being undertaken in association with the Indigenous Peoples of Africa Coordinating Committee (IPACC). Gabon has initiated the establishment of 13 national parks, after evaluating and making a census of the botanical and animal species, as well as the socio-economical and cultural structures. Everyone has been taken into account, including the Babongo of the Chaillu massif.

The law on national parks (Article 10) stipulates that all the management organs of the park must, in all their activities, ensure respect for and protection of the "imperatives for the conservation of the natural and cultural heritage", which could mean that some indigenous peoples' cultural sites could be protected by this provision. In reality, this requirement does not enhance indigenous peoples' rights; on the contrary, it brings additional constraints to the traditional way of life of these communities. An assessment of the Development Plan for indigenous peoples adopted by the Government of Gabon through its Sectoral Plan for the Forest Environment indicates:

"Neither the forest code nor the bill of law on national parks take into consideration the difference of belonging to Babongo, Bakoya, Baka, Barimba, Bagama, Bakouyi and Akoa... The possibility of giving permits to indigenous peoples for subsistence hunting inside the management plan for national parks has been discussed; but as mentioned in the document... they must not be allowed to earn money through commercial hunting of protected species, they will be confronted with the loss of resources from the collective estates that they have been using for many generations⁴."

As stated by the WCS representative: "We make no distinction in our projects between Bantu or indigenous Pygmy. We work with the population that lives around our projects because Gabon has no development strategy for indigenous peoples", indigenous people being seen as Gabonese citizens.

⁴ Republic of Gabon. Ministère de l'Economie Forestière, des Eaux, de la Pêche, de l'Environnement chargé de la Protection de la Nature. *Plan de Développement de Peuple Autochtones du Programme Sectoriel Forêts Environnement, rapport final*. By Dr. Kai Schmidt-Soltau, July 2005, p.21

The representative stated, however, that these indigenous peoples have a mastery of the forest and that this was an asset for them in the national parks governmental project supported by the WCS, which is a world-scale development project and could receive up to 100,000 tourists a year, creating a great deal of direct and indirect employment for young people, including the indigenous people living around these parks. The WCS representative also underlined the fact that the WCS door is open to Gabon's indigenous peoples' associations for a frank and lasting collaboration.

WCS provided the mission with a copy of the law on national parks.

5. MEETING WITH AN OFFICIAL FROM THE WORLD BANK

In the absence of the Resident Representative, the mission had a meeting with the head of the World Bank's communications department in Gabon. After explaining the African Commission's efforts, the mission provided a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration and urged its use and dissemination.

The communications officer told the mission that the world was now changing, that this was good for indigenous peoples, who could play a role in social, political and economic development and that they had great challenges to face. He highlighted the fact that the World Bank was a stakeholder in the international protection of indigenous rights, referring to its internal policy in this regard (legal, social and political recognition for indigenous people). Unfortunately, the World Bank in Gabon has no specific programme for indigenous people.

6. MEETING WITH THE UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)

The mission also visited the United Nations Development Programme (UNDP) and had a meeting with the programme's main advisor. As elsewhere, the mission provided a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities, explained the African Commission's efforts in this regard and invited the UNDP to use and disseminate the report. The mission also provided the UNDP with a copy of the UN Declaration on the Rights of Indigenous Peoples, for its appropriate use in Gabon.

The programme's main advisor acknowledged that human rights were a concern for the UNDP, in terms of prohibiting all forms of discrimination. The UNDP is in the process of setting up a poverty reduction programme in cooperation with the Gabonese government in the context of the "Joint initiative of the Gabonese government, UNDP and UNFPA". This project, managed by the Ministry for the Family, Child Protection and Women's Promotion, is based around a gender focus. In the light of the mission's observations, the advisor agreed to lobby the government to take account of indigenous women and children in the design of this project.

It emerged from this meeting that the UNDP/Gabon has no specific programme for this country's indigenous peoples. In contrast, UNICEF is implementing a programme for indigenous peoples.

The programme's main advisor insisted that programmes should not be imposed on indigenous peoples but that they must be empowered and placed at the centre of the action; if not, the programmes would end in failure. He deplored the fact that there were few indigenous peoples' associations in Gabon and that those that did exist were not well organised.

7. MEETING AT THE MINISTRY FOR THE FAMILY, CHILD PROTECTION AND WOMEN'S PROMOTION

The mission met with the international relations advisor from the Ministry for the Family, Child Protection and Women's Promotion. After explaining the aim of the visit, the mission provided a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration on the Rights of Indigenous Peoples.

The meeting focused largely on explaining the concept of "indigenous peoples", and the advisor was to inform the Minister of the aim of our visit to Gabon. The Advisor thanked the mission and informed us that only the Minister could answer our questions.

The delegation asked the advisor to pass on the documents to the Minister and made a request to see her in person because the Ministry "has the task of implementing all measures aimed at putting an end to discrimination towards women in order to ensure equality before the law with men and the effective integration of women in policies and programmes related to other ministerial departments" and is currently implementing "the joint initiative of the Gabonese government, UNDP and UNFPA". Despite this request for an audience, the mission could not meet with the Minister.

8. MEETING WITH THE PRESIDENT OF THE SENATE

The mission was received by the President and First Secretary of the Senate, assisted by a number of senators and staff. The meeting took place at the Senate. After presenting the aim of its visit, the mission gave the President of the Senate a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities along with the UN Declaration on the Rights of Indigenous Peoples.

The mission held a very fruitful meeting with the President and other members of the Gabonese Senate's presiding officers. The mission explained the concept of "indigenous", which could lead to confusion if no distinction were made between the common meaning of the term in Africa and that of the African Commission on Human and Peoples' Rights.

The President of the Senate acknowledged that the indigenous Pygmy peoples were the first inhabitants of the country but stated that there were no land conflicts between the Bantu and the Pygmies in Gabon as the state owned all the land.

However, the President of the Senate explained that where forests are being logged, the concerns of the local people are taken into account. He further stated that, in Gabon, a Pygmy is a human being like any other citizen and that there are recognized Pygmy associations. The senators acknowledged that integrating Pygmy peoples without taking account of their cultural knowledge should be avoided because the Pygmy civilisation should be maintained and supported.

The mission urged the senators to help the indigenous MINAPYGA association to obtain recognition, given that MINAPYGA had been working for ten years on a temporary authorisation.

With regard to the issue of educating indigenous children, the President of the Senate acknowledged that this was a long debate but that they would bear it in mind, and that they would initiate discussions on the ratification of ILO Convention 169 by Gabon.

9. MEETING WITH THE DIRECTOR OF THE ANTHROPOLOGY LABORATORY (LEBAN) OF THE OMAR BONGO UNIVERSITY IN LIBREVILLE

The mission held a working session with the Director of the Anthropology Laboratory of the Faculty of Arts of the Omar Bongo University in Libreville. The laboratory has been working on the languages of indigenous Pygmy peoples for several years. In their research, they distinguish more than six groups of indigenous peoples, namely:

- BAKAS
- BAKOWA (AKOWA)
- BEKUI
- BABINGA
- BAMBONGO
- BARIMBA

The Baka have a language similar to that of the Bantu. While some groups use the same language as the Bantu, others have a distinct language. He requested that Gabon's indigenous peoples work hard to revive their cultural knowledge but said they were absent from public life. The Director observed that indigenous people were not really consulted, with non-indigenous people talking on their behalf.

The delegation provided the director with a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration on the Rights of Indigenous Peoples. The director gave the mission a photocopy of "*L'ONU comme creuset de l'autochtonie*" ("The UN as the melting pot of indigenesness") by Françoise Morin (an anthropological study).

10. MEETING WITH THE DEPUTY PRIME MINISTER TO THE PRESIDENCY OF THE REPUBLIC FOR REFORM, HUMAN RIGHTS, COORDINATION OF LARGE WORKS AND INDEPENDENCE DAY CELEBRATIONS

The mission was received by the Deputy Prime Minister to the Presidency of the Republic for Reform, Human Rights, Coordination of Large Works and Independence Day Celebrations. After giving the Deputy Prime Minister a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration on the Rights of Indigenous Peoples, the meeting focused for more than an hour on different aspects of Pygmy issues (education, organising in associations, political parties in the community...) and the applicability of the UN Declaration to Gabon.

The Deputy Prime Minister informed the mission of the preparation of a draft decree on the promotion, protection and recognition of cultural communities in Gabon in order to put an end to the marginalisation and domination of the Pygmies. This should be done through the preservation of the traditional knowledge of the Pygmies. The Deputy Minister has called on MIAPYGA's President and other indigenous peoples' organisations to collaborate with the Ministry on this project.

The Deputy Prime Minister acknowledged that Pygmy children were treated with contempt at school, as good-for-nothings. He revealed his Pygmy origins and noted his pride at coming from a community so full of potential.

The Deputy Prime Minister thanked the mission deeply and promised to make the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration more accessible.

11. MEETING WITH THE MINISTER OF STATE, MINISTER FOR SOCIAL AFFAIRS, NATIONAL SOLIDARITY, WELL-BEING AND POVERTY REDUCTION

The mission had a meeting with His Excellency, Minister of State, and the Minister for Social Affairs, National Solidarity, Well-Being and Poverty Reduction, assisted by his staff. After briefly explaining the purpose of the visit, the mission handed the minister a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration on the Rights of Indigenous Peoples, which were favourably received.

His Excellency, Minister of State, described the human rights situation in general in Gabon and noted that there were no issues, as human rights were respected.

The President of the Republic of Gabon has passed a decree officially abolishing the death penalty in Gabon. The prison situation is progressing normally and they are in the process of building another prison to improve detention conditions.

According to the Minister, there are in general very few complaints made by indigenous Pygmy peoples with regard to violations of rights in their communities. Individuals can refer issues to the Constitutional Court, in accordance with the law.

In terms of education, there are schools for all Gabonese children throughout the country. In association with UNICEF, the Minister has started a programme for Pygmy integration, with the involvement of the Pygmies themselves (to reinforce the access of the Pygmies to basic services). This programme will enable the government to provide Pygmies with registration documents (birth certificates, national ID cards etc...). Moreover, thanks to the national park project, the Pygmies who want to settle will be able to do so in areas of their choice. This integration programme involves all ministerial departments to ensure its success. According to the government, it will contribute to "enhancing Pygmy children's and families' living conditions in Gabon".

On 17 October 2007, the Ministry of Social Affairs and UNICEF had organised a national seminar on the Pygmy integrated development project. The aim of this seminar was to raise awareness among the relevant ministries of the need to increase access to basic services on the part of Pygmy families and children and to present the results of the pilot project that had been running in the two provinces of Ogooué-Ivindo and Woleu-Ntem. This first step consisted of launching the project, the next step being a review of the sectoral policies for the Pygmy community.

The Minister, who has worked directly with the communities and two Pygmies' organisations, highlighted the lack of organisation and weakness of Pygmy civil society in Gabon. The mission was in agreement with the Minister on the lack of organisation and weakness of Pygmy civil society in Gabon in comparison with other Central African countries. In fact, there are few indigenous Pygmy associations in Gabon.

12. MEETING WITH THE EUROPEAN UNION DELEGATION

The European Union is a major player in the region in terms of human rights and environmental issues.

The mission met the Head of Operations, acting Head of Delegation and, after briefly explaining the purpose of the visit, handed over a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration on the Rights of Indigenous Peoples.

The official welcomed the African Commission's initiative for indigenous peoples. The European Union is sensitive to issues of human rights and minorities, the environment, a decent job, independence and progress.

The delegation is working in three parts of the sub-region, namely:

- Gabon;
- Equatorial Guinea;
- Sao – Tomé Principe.

The EU's work is focused around a fairly varied programme of cross-cutting activities (health, education, gender focus, sanitation, water, etc...). The EU is running two human rights programmes. One is being implemented in Equatorial Guinea and Sao – Tomé Principe and is focusing on good governance and the structuring of associations.

In Gabon, the situation is very different. The EU is currently working to support road maintenance, education / training and the environment. Observing the weakness of the grass-roots level of civil society, the EU has commenced a programme to support non-governmental players, building their capacities and creating a network of Gabonese associations encouraging, the indigenous organisations to join in.

The delegation's spokesperson emphasised the existence of a budget line within the EU for associations, including indigenous peoples' associations. It is a programme linked to the government and which provided the premises known as the "Non-governmental players' centre" where associations, including indigenous associations, can submit their projects for consideration and award of grants.

13. MEETING WITH THE MINISTER OF JUSTICE, ATTORNEY-GENERAL

After briefly presenting the efforts of the African human rights system with regard to indigenous peoples, the mission presented a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and of the UN Declaration on the Rights of Indigenous Peoples to the Gabonese Minister of Justice and Attorney-General.

The Minister firstly stated that all Africans were indigenous and that, by wishing to describe the Pygmies in this way, we were automatically excluding the rest of the country's population. The mission took the opportunity to clarify the concept of indigenous as presented in the Working Group's report. The Minister undertook to read the African Commission's report carefully so as to better understand the indigenous concept.

The Minister said that practices of servitude or slavery do not exist in Gabon, although there is a problem of Bantus having children with indigenous women and then not recognising them. This is due to the irresponsibility of these Bantus.

In Gabon, he stated, a certain level of integration, albeit low, can now be seen. With the coming of democracy to Gabon, the Pygmies are becoming more aware and are stating their identity, and some villages are run by Pygmies. The best way to promote and protect their rights is by formal education of children and informal education of adults.

14. MEETING WITH THE PRESIDENT OF THE NATIONAL ASSEMBLY

The mission was received by the President of the National Assembly of the Republic of Gabon, assisted by the third Vice-President of this institution. As elsewhere, the mission provided a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and the UN Declaration and explained the African Commission's efforts in this regard. The mission encouraged the National Assembly to pass a law promoting and protecting the indigenous Pygmy peoples of the Republic of Gabon.

The President of the National Assembly fervently thanked the mission for this information and also for explaining how the African Commission works in general, and particularly the Working Group on Indigenous Populations/Communities.

The President of the National Assembly stated sincerely that he was not aware of the existence of the African Commission's Working Group on Indigenous Populations/Communities and he promised to read the Commission's report before passing it on to the National Assembly committee responsible for human rights and legislation.

The mission was reassured by the President of the National Assembly that: "Things are going to move in favour of indigenous peoples, who will need to benefit from positive discrimination, given the backwardness they are accused of due to historic and cultural considerations and, above all, the sociological sluggishness that has strongly influenced them".

He also made a commitment to undertake a study on a national law in favour of indigenous peoples, referring to the UN Declaration, and to consider how to ratify ILO Convention 169.

15. MEETING WITH NGOS

The mission also met with members of national indigenous NGOs (MINAPYGA, ADCPPG, and EDZENGUI), Brainforest NGO, an environmental NGO, and KOUTI-MOUVARAME, an NGO working with the Varama ethnic minority. As elsewhere, the mission provided a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and also the UN Declaration on the Rights of Indigenous Peoples, and explained the African Commission's efforts with regard to this issue and also the UN Declaration. The mission urged the NGOs to use and disseminate the Working Group's report and the UN Declaration in their community. The NGO representatives agreed to distribute the reports and would ask for support from international organisations to reach the communities.

It emerged from this meeting that the indigenous NGOs have mostly not obtained recognition from the Gabonese state and are working on the basis of temporary permits. This illustrates the non-recognition of the Pygmies' right to organise in associations.

The mission observed that the indigenous NGOs in Gabon were not well-organised and urged them to work together. They have difficulties in obtaining support from international organisations and institutions such as the World Bank, the UNDP, etc. The mission advised the members of the NGOs to consider the European Union for the funding of their projects.

The NGOs deplored the behaviour of the Ministry of Social Affairs in relation to the Pygmy integrated development project, which is only partially involving the indigenous peoples. The associations mentioned above were invited as participants and not as stakeholders in the project; their point of view has not been taken into account.

The following NGOs were present:

NGO	NAME AND SURNAME	POSITION
Association MINAPYGA	Odambo Léonard Minkoue-mi-ella J. Marthe	President Member
Kouti – Mouvarame	Guy Mavelin Gnambi Dirime Maroga Mbina Noelline	President Member
Association culture Nature EDZENGUI	Mve Mebia Emmanuel	General Secretary
Association pour le développement de la culture des peuples pygmées du Gabon (ADCPPG)	Denis Massande - Makomba	President
BRAINFOREST	Essono Ondo Protet Judicael Bilogo Bi Ndong Laurentine	Member Member

16. MEETING WITH NATIONAL AND INTERNATIONAL PRESS: PRESS CONFERENCE

At the end of its visit, the mission organised a press conference for the national and international press.

Held in Brainforest's conference hall, this was attended by national and international participants. The mission's presentation to the journalists consisted primarily of a brief presentation of the content of the report of the African Commission's Working Group on Indigenous Populations/Communities, an overview of the African Commission's efforts with regard to indigenous peoples, and comments on the UN Declaration on the Rights of Indigenous Peoples, along with a summary of the different meetings held in Libreville and Minvoul.

The journalists showed their interest through a series of questions: Who is indigenous? Then what are the rest of the population? What was the reaction of the different authorities to your visit? Why has Africa waited so long for indigenous issues to be addressed? What support could the Working Group give to the Pygmy cause in Gabon? Are you aware of the Pygmy integrated development project? Do the Pygmies exclude themselves from national life? These were just some of the questions raised by the journalists.

The following journalists were present:

PAPER	NAME AND SURNAME
Le Temps	Axel Mboumba
Le Peuple/la Vie	Olivier Konaté Nkombe
RFI	Pauline Simonet
AGP	Nang Bekale J. Marie
Union	Ondjani Myriam Corille
Femme d'aujourd'hui	Chris Oyame

IV. OVERVIEW OF THE SITUATION OF INDIGENOUS PYGMY RIGHTS IN GABON

1. THE PRACTICE OF “PYGMIES’ MASTERS” OR PRACTICES SIMILAR TO SLAVERY

The Gabonese political authorities whom the mission met denied the existence of “Pygmies’ masters” or practices similar to slavery. Despite the continued practice of bondage, the Bantus involved in this speak in terms of “neighbourly relations”. Indigenous peoples are recognised as Gabonese citizens, so slavery does not exist, confirmed the prefectural authority. The Bantu are engaged in various forms of abuse, such as sexual violence against Pygmy women and girls, without these latter being able to say anything.

Thousands of Pygmies live in the north-east forests, independent of the authorities, preserving their customs. Slavery is affecting the whole Pygmy population in Gabon. In theory, Pygmies enjoy the same rights as other citizens but, in reality, they are victims of discrimination, they live in extreme poverty and they do not benefit from public services.

A study conducted in 2001 in the north-east part of the country by a BAKOWA Pygmy NGO and the Association for the Development of the Pygmy Peoples in Gabon (ADCPPG) showed that: *“They are treated like slaves: they work on their Gabonese masters’ plantations in exchange for a plate of rice or a few coins a day. Children born into these conditions automatically become the property of the master. Those who complain of their status receive corporal punishment”*. The indigenous peoples cannot negotiate the cost of an activity with the Bantus; the Bantus fix the price as they wish.

A UNICEF report indicates that more than 50,000 indigenous Pygmies in Gabon are living along the roads in extreme precariousness⁵. This situation is putting indigenous peoples in a position of almost complete dependency on other communities for whom they work cheaply if not for nothing. The working relationship between indigenous and non-indigenous is often characterized by abuse and slavery. The Plan for the Development of Indigenous Peoples of Gabon, in its Sectoral Plan for the Forest Environment, mentions, for example: *“When a Bakoya is hunting with a gun, it is because its Bantu master has lent him one. It is then for the gun’s owner to benefit from the hunting return and to decide if he will give the hunter parts of the animals or not.”*⁶ Many Bantus have confirmed having Pygmies in their possession, whom they call “their Pygmies”. These Pygmies are often not paid for their services and are sometimes victims of different abuses from their “master”.

The Gabonese authorities met have promised to work towards enhancing the living conditions of indigenous peoples.

5 Helene Ayika, 2007, Providing basic services to Gabon’s ‘people of the forest’, UNICEF : http://www.unicef.org/infobycountry/gabon_39602.html

6 Republic of Gabon. Ministère de l’Economie Forestière, des Eaux, de la Pêche, de l’Environnement chargé de la Protection de la Nature. *Plan de Développement de Peuple Autochtones du Programme Sectoriel Forêts Environnement, rapport final*. By Dr. Kai Schmidt-Soltau, July 2005, p.21

2. ACCESS TO HEALTH CARE

“Through lack of money, our women give birth in the village and sometimes, despite the use of traditional medicine, many of them die or their children are stillborn”.

Comments from a Pygmy man interviewed by the mission.

Despite the existence of medical centres for Pygmies living in the province of Woleu-Ntem visited by the mission, access to basic health care is a serious problem because of poverty and discrimination by the health workers, who consider the Pygmies as “dirty”. There are no statistics on the health situation of the Pygmies in Gabon. They have skin diseases, HIV/AIDS and malaria. The indigenous people make do with traditional medicine.

In 2004, Prime Minister Jean François Ntoutoume Emame met the *Association pour le Développement de la Communauté pygmée du Gabon* (ADPPG), which requested his help to enable them to fully enjoy their citizenship: health needs (impregnated mosquito nets, medicines) and other tools. The Prime Minister, quoting the Head of State, recalled that “no province, no ethnic group is superior to another”. Pygmy people are still waiting for measures to be taken. There is no health programme specific to the Pygmy population.

“God gave us an incalculable wealth, the forest from which we draw all kinds of medicines. Without the plants we would all be dead for we have no white man’s medicine to cure us”. Comments of a Pygmy village chief, interviewed by the mission.

3. RIGHT TO EDUCATION

The illiteracy rate is higher among Pygmies than among the Bantu population. There are no reliable statistics on the education of Pygmy children. The Gabonese NGO PROCED (*Promotion et valorisation des cultures en voie de disparition*) indicated in a 2002 report that “an average of 90.59% of children (Pygmy) that could attend school do not... One Pygmy alone, living in Minvoul, region in the north of Gabon, has reached the third grade at the high school level and in Mékambo, in north-east Gabon, another Pygmy has succeed in getting to university level,” commented Odambo-Adone, president of MINAPYGA⁷. Poverty prevents many parents from sending their children to school, and those who can or dare to go to school are subjected to prejudice, ridicule and contempt from the Bantus and even from teachers.

On 25 May 2005, during a seminar to produce a literacy strategy for Pygmies in Gabon, and in the presence of the Minister for Culture and Arts, who is responsible for popular education, the *Association pour le Développement de la Culture des Peuples Pygmées du Gabon* (ADCPPG), who organised the seminar, called on the Gabonese state to take better account of the Pygmies’ educational needs.

“The Pygmies are marginalised because of a lack of will on the part of the Gabonese authorities to include them in the modern world...” as recognised by the Gabonese Minister for Culture and Popular Education, Pierre Amoughé Mba, at the workshop seminar on the education of Pygmies, organised in Libreville, 20 May 2007, by its Ministry. “To register more Pygmy children in school, UNESCO and other partners are planning to support literacy activities and programmes for Pygmy people financially and technically,” said Mba. Edouard Nguerma, education inspector, also underlined that “one of the first concerns of the Government will be

⁷ Antoine Lawson, Education au Gabon: Avec quels moyens alphabétiser les pygmées? http://www.unmondepymee.com/data/File/gabon_alphabetisation.pdf

to train teachers in order to set the foundations of the education programme for Pygmies⁸. To succeed, the government indicates that it will initiate a programme aimed at giving a maximum of knowledge and information to Pygmy teachers (trained in the communities) in many different topics ranging from literacy to civic education, sanitation and health⁹.

4. ABANDONMENT OF CHILDREN AND SEXUAL VIOLENCE AGAINST INDIGENOUS PYGMY WOMEN

Information gathered by the mission shows that indigenous Pygmy women in Gabon suffer from various types and forms of sexual violence, both as women and as Pygmies. Many indigenous Pygmy women are affected by HIV/AIDS and sexually transmitted diseases.

The Esseng village chief, located in the province of Woleu-Ntem, showed the mission around ten (10) children born of Bantu men and abandoned Pygmy women. "We have no way of complaining about this kind of practice," said the village chief. The Bantu men do not recognise a child conceived with Pygmy women.

Ignorance and lack of financial means are the main factors preventing the Pygmies from referring to national courts. The discrimination and prejudice affecting the indigenous people when taking legal action against a non-indigenous person should also be noted.

5. RIGHT TO CITIZENSHIP, TO EQUAL ENJOYMENT OF RIGHTS AND TO PARTICIPATE IN THE RUNNING OF THE COUNTRY

The Constitution of Gabon stipulates that all citizens are equal before the law:

Article One:

"The Gabonese Republic recognises and guarantees the inviolable and imprescriptible human rights by which the public authorities are bound:

1- Every citizen has the right to the free development of their personality, within respect for the rights of others and public order. No-one may be humiliated, ill-treated or tortured even when under arrest or in prison".

Law No 37-1998 on the Code of Nationality specifies that the status of a person is established by a certificate issued by a civil registry office. This relates in particular to birth, marriage and death certificates. With regard to birth certificates, the law indicates that all children must be registered following their birth, and parents or guardians can be fined for failing to do so. A birth certificate is essential for obtaining other documents, particularly identity cards, electoral registration cards, school registration, passports, even access to employment.

A number of Pygmy children are not registered for various reasons, particularly lack of access to registry offices on the part of their parents and the inappropriateness of the procedures in place in relation to the way of life and remoteness of Pygmy communities. Moreover, some registrars demand money from Pygmies who wish to obtain registration documents. The lack of identity cards has serious consequences for the Pygmies.

8 Idem

9 Idem

The majority of Pygmies did not vote during the legislative and presidential elections through lack of voter registration cards. The Pygmies do not participate in elections not because they refuse to take part but quite simply because they have no identity cards, no access to basic services, and little freedom of movement. Participation by the Pygmies in legislative and local elections is still very limited due to a lack of financial, intellectual and material means.

The mission met people from indigenous organisations who deplored the difficulty in obtaining permanent authorisation for their association; for example, MINAPYGA has been working for more than ten years on a temporary permit. The temporary permit is used to give the administrative leaders time for follow-up before issuing the permanent permit.

6. INDIGENOUS LAND PROBLEM

Pygmy populations in Gabon are bound to the forest and the land as key elements of their way of life, giving them the wealth and standard of living they need.

Gabon's Pygmies are facing a growing land problem. This is essentially due to a failure on the part of the state to recognise their nomadic way of life and, consequently they are facing a lack of legal protection of their ancestral lands.

Gabonese land law invests sole ownership of the soil and subsoil in the state. Moreover, like many land laws in Central Africa, it only recognises visible use and occupation of the land. In other words, lands that are not visibly occupied or used are considered empty and automatically returned to the state, which can then allocate them for different uses, particularly conservation or forest exploitation. Logging is done without taking into account the Pygmy population, contracts being signed with the government, the sole owner of the land and forest.

Although it does not confer a right of ownership, custom is recognised as a source of rules governing the use and occupation of some rural lands. But again, the customary rules for Pygmy land management do not enjoy the same status. The Pygmies, regarded as the first inhabitants, have been pushed aside in land management. According to custom, Bantus recognise the Pygmies' right to use the land but not to own it. A document on the inquiry into land use has been produced and emphasises the visible occupation and usage of the land. In this context, Ordinances No.25/PR of 12 October 1970 and No.1/76/PR of 6 January 1971 on the expropriation of underutilised land, include land with no infrastructure built on it and non-exploited lands. Through such mechanisms, many local communities who were traditional owners of the land have become tenants, depending on the government and large landowners. The Government of Gabon has not adopted any new land policies since decolonisation and has not adopted any laws to remedy the historical injustices affecting the communities in that matter.

There is no law protecting the lands rights of Pygmies, nor do non-Pygmy communities accept that a Pygmy "could own land". Land occupied or used by a Pygmy is, in some areas, considered as belonging to no-one. Pygmies are not recognised as owners and can be expelled from the land at any time. For example, The Pygmies who have been displaced from the forest to Minvoul district by the government are faced with these difficulties on the land where they live; and they are often threatened even if the lands have been allocated to them by the Prefecture.

The creation of national parks constitutes an additional threat to the land rights and customs of indigenous peoples because the protected areas are an integral part of the State's estate, inside which communities only have a very limited user right.

V. CONCLUSION AND RECOMMENDATIONS

It emerges from all the interviews conducted that the Pygmies are recognised as one of the most vulnerable groups of the Gabonese population. The majority of the persons interviewed during the mission underlined the high level of poverty of the Pygmy community, the inaccessibility of their children to education, their lack of access to land and health care, and their institutional exclusion from the job market. Moreover, the communities' members are victims of inhuman practices and slavery.

Faced with a very pessimist situation, the government has taken a commitment to implement action plans drafted such that the Pygmies in Gabon will enjoy more rights and fundamental freedoms on a par with the majority of Gabonese people. At the moment, an integrated development project is being implemented in Pygmy areas, in partnership between the government and UNICEF.

With regard to the above, the African Commission's Working Group on Indigenous Populations/Communities makes the following recommendations:

A. To the Government of the Republic of Gabon:

1. To put national sectoral policies in place enabling the Pygmies to enjoy their rights and fundamental freedoms on a par with the rest of the Gabonese population;
2. To recognize the traditional lifestyle of the indigenous Pygmy population;
3. To take measures accordingly to legally protect the access and rights to land, forests and natural resources of Pygmies;
4. To involve indigenous peoples' organisations and communities in the design, implementation and monitoring of development projects in Pygmy areas of Gabon;
5. To involve indigenous peoples' organizations and communities in implementing the Pygmy integrated development project in Gabon;
6. To organise a census specifically for indigenous peoples;
7. To take measures guaranteeing the systematic registration of births, along with the issuing of birth certificates to indigenous Pygmy children and their parents;
8. To issue permanent permits of association for indigenous Pygmy organisations;
9. To undertake a study on the issue of practices similar to slavery among the Pygmy population and make concrete recommendations for actions to be taken;
10. To ensure that perpetrators of human rights violations towards the Pygmies – including that of practices similar to slavery – are brought to justice;
11. To take measures to protect the rights of Pygmy women who are doubly vulnerable, being both women and Pygmies;
12. To take measures to ensure that the Pygmy population has, in practice, access to education and health services on a par with the rest of the Gabonese population.
13. To take measures with a view to implementing the UN Declaration on the Rights of Indigenous Peoples;

14. To take measure to ensure participation and representation of the Pygmies at the local level and national decision making structures;
15. To take measures to ratify ILO Convention 169.

B. To the African Commission on Human and Peoples' Rights:

1. To undertake country-by-country monitoring of the commitments and/or indigenous policies adopted by the development agencies, bilateral and multilateral partners;
2. To organise a regional conference on experiences of educating Pygmy children in Central Africa with a view to exchanging experiences, inspiration and, for some, making readjustments;
3. To support the creation of an indigenous civil society in Gabon with a view to establishing a capable and legitimate point of contact for the government;
4. To organise a national seminar in Gabon with a view to raising awareness among government, UN agencies, the World Bank, European Union, environmental organisations, indigenous Pygmy peoples and other players with regard to different aspects of indigenous rights;
5. To encourage the Gabonese government, UN agencies and other development agencies to pay particular attention to the education of Pygmy children;
6. To convince Gabon to ratify the Additional Protocol to the African Charter on Women's Rights;
7. To send a letter to the European Union, World Bank, different bilateral partners and the Central Africa Forests Commission (COMIFAC) with a view to including the issue of indigenous peoples in the different forestry management processes in the Congo Basin, such as AFLEG (Africa Forest Law Enforcement and Government), the convergence plan, etc.;
8. To instigate inter-sessional meetings involving development agencies and players working for indigenous peoples in Africa;
9. To put in place a mechanism to monitor the recommendations made to different government and non-government players in Working Group reports.

C. To Gabonese civil society:

1. To strengthen the existing indigenous associations.
2. To include indigenous peoples' issues in the development and human rights work of existing civil society organizations.

D. To the international community:

1. To put in place and implement projects focusing particularly on the needs of Pygmy populations, including issues such as forest access rights, land, education, health, forced labour and sexual violence;
2. To support an in-depth study into the situation of the indigenous Pygmy peoples of Gabon, including a census;
3. To support the popularisation of the African Commission's report on the rights of indigenous communities;

4. To support projects related to indigenous peoples' rights.

E. To the African Union

1. To consider granting special representation to indigenous peoples' organizations within the ECOSOC at the African Union.

ANNEX 1: GEOGRAPHIC LOCATION OF INDIGENOUS PYGMY PEOPLES IN GABON¹⁰

PROVINCES	DEPARTMENTS	ADMIN. CAP.	DISTRICTS	COMMUNES	CANTONS	NUMBER
Estuaire	Komo - Mondah	Libreville	Cap – Esterias Nzombé	Libreville (6 districts) Owendo Ntoum	Komo – Ntoum, Ikoy – Tsimi, Océan – Gongoué, Mbel	735 351
	Babongo	Komo	Kango	Bokoué, Komo, Engong		753
AKWOA	Noya	Coco - beach		Coco - beach	Muni – Noya, Océan - Mondah	
Total Estuaire						1839
Haut - Ogooué Babongo Akoula	Mpassa	Franceville	Lakabi	Franceville (4 districts)	Djoumou, Kassa, Lekabi	904
	Sebe - Brikolo	Okondja	Lekori	okondja	Brikolo, Lekala, Lekori, Louami, Lélama	635
	Lekoni - Lekori	Akieni		Akieni	Lewoumou, Limi, Lessimi, Lebeyi	612
	Lekoko	Bakoumba		Bakoumba	Lebombi, Miagassa	164
	Lekabi - Lewolo	Ngouoni		Ngouoni	Ngatara, Ngoua, Ekoula	16
	Bayi - Brikolo	Aboumi		Aboumi		
	Lebombi – Leyou	Moanda		Moanda	Lebombi, Lekedi - Leyou	61
	Djouori - Agnili	Bongoville		Bongoville	Kayie, Lekeye	563
	Djoué	Onga		Onga	Mpani, Ngayi	59
	Plateaux	Léconi		Léconi	Louri, Djouélé, Lébombi, Djouya	447
	Ogooué - Letili	Boumango		Boumango	Loula, Maloundou	623
Total Haut - ogooué						4075

¹⁰ Source: 2005 Report from the *Association pour le Développement de la Culture des Peuples Pygmées du Gabon* (AD-CPPG)

PROVINCES	DEPARTMENTS	ADMIN. CAP.	DISTRICTS	COMMUNES	CANTONS	NUMBER
Moyen – Ogooué Babongo Akwoa	Ogooué - Lacs	Lambaréné	Aschouka Makouké	Lambaréné (2 districts)	Lacs – nord, ogoué – Mbiné, Lacs – sud, Ogooué – aval, Ogooué Ngounié, Ogooué – amont, route de Fougamou	682
	Abanga - Bigné	Ndjolé	Bifoun - Ebel	Ndjolé	Talagouga, Abanga, Ebel- Alembé, Ebel - Samkita	512
Total Moyen - Ogooué						1194
Ngounié Babongo	Douya - Onoye	Mouila		Mouila (2 districts)	Dinadi	523
	Ogoulou	Mimongo	Etéké	Mimongo	Haute – Ogoulou, Haute – Dibadi, Vieux – Mimongo, Diboa	1728
	Ndolou	Mandji		Mandji	Poni, Koumou, Doubanga, Dou- rembou	
	Dola	Ndendé		Ndendé	Dola – Nord, Dola – sud	
	Louétsi - Bibaka	Malinga		Malinga	Haute – louétsi, louétsi – Bibaka	103
	Louétsi - Wano	Lebamba		Lébamba	Wano – Bikoundou, Louétsi – Soungou	634
	Tsamba - Magotsi	Fougamou	Ikobey	fougamou	Banda, Tandou, Sindara	712
	Moughalaba	Guiétsou		Guiétsou	Haute - Mougha- laba, Basse – Moughalaba	
	Boumi - Louétsi	Mbigou	Nzenzélé	Mbigou	Louétsi – Boumi, Ngounié – Louétsi, Douay, Wano – Ivindzi	742
Total Ngounié						4442
Nyanga Babongo Baghame Barimba	Mougoutsou	Tchibanga		Tchibanga (2 districts)	Dousse – Gous- sou, Dougheny, Moughalaba, Douvoungou, Voungou - Mongo Doubandji, Mig- amba – Yara, Do-	160

PROVINCES	DEPARTMENTS	ADMIN. CAP.	DISTRICTS	COMMUNES	CANTONS	NUMBER
	Douigny	Moabi	Mourindi	Moabi	Doubandji, Migamba – Yara, Douami - Mouembi	324
	Basse – Banio	Mayumba		Mayumba	Loubetsi – Douvou, Mayombe, Mouwambi	416
	Haute – Banio	Ndindi		Ndindi	Lagune, Louzibi	742
	Doutsila	Mabanda		Mabanda	Haute – Dota, Haute - Ngongo	614
	Mongo	Moulengui Binza		Moulengui - Binza		407
Total Nyanga						2663
Ogooué – Ivindo	Ivindo	Makokou	Batouala Mvady Makébé	Makokou (2 districts)	Aboye, Ivindo, Lebombi, Mouniandji, Ntang - Louli	637
Baka						
Bakoya	Lopé	Booué	Mokéko	Booué	Lopé	708
Babongo	Zadié	Mékambo		Mékambo	Djouah, Loué, Bengoué, Sas- samongo	843
	Mvoug	Ovan		Ovan	Baleme, Djoué	
Total Ogooué – Ivindo						2188
Ogooué – Lolo	Lolo - Bouénguidi	Koula - Moutou	Popa	Koula – Moutou (2 districts)	Basse – Lombo, Bouenguidi Yao, Lolo - Wagna	103
Babongo						
Bakouyi	Lombo - Bouénguidi	Pana	Dienga	Pana	Haute – Bouenguidi, Haute - lombo	407 826
	Offoué – Onoye	Iboundji		Iboundji	Offoué, Onoye	166
	Mulundu	Lastourville	Ndangui Matsatsa	Lastourville	Lassio – Sébé, Leyou, ogooué – Amont, Ogooué – Aval, Pongui	723
Total Ogooué – Lolo						2325
Ogooué – Maritime	Bendjé	Port - Gentil	Mpaga	Port – Gentil (4 districts)	Lac – Onan- gué, Océan, Ogooué	30
Akwoa	Etimboué	Omboué		omboué	Lagunes, Iguela, Rembo - Nkomi	80

PROVINCES	DEPARTMENTS	ADMIN. CAP.	DISTRICTS	COMMUNES	CANTONS	NUMBER
	Ndougou	Gamba	Sette – Cama	Gamba	Lagunes, Basse – Nyanga, Rembo – Bongo	217
Total Ogooué – Maritime						327
	Woleu	Oyem	Akam - Essatouck	Oyem (2 districts)	Bissok, Ellelem, Kye, Nyé, Woleu	55
	Haut – Ntem	Minvoul	Bolossoville	Minvoul	Nord, Sossolo – Ntem	641
	Haut – como	Medouneu		Medouneu	Komo – Abanga, Mbè	156
	Okano	Mitzic	Sam	Mitzic	Doum, Doumandzou, Lalara, Okala	
	Ntem	Bitam	Meyo – Kyé Bikondome	Bitam	Ekorité, Mveze, Ntem, Sud	
Total Woleu Ntem						952
Overall Total						20.005

