

NGO report on indigenous Pygmy peoples

Universal Periodic Review of the Democratic Republic of Congo (2014)

Indigenous peoples in the DRC: The injustice of multiple forms of discrimination

Submitted by:

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September 2013

The organizations that have authored this report

Foyer de Développement pour l'Autopromotion des Pygmées et Indigènes Défavorisés (FDAPYD – Hope Indigenous peoples)

FDAPID-Hope for Indigenous Peoples is a not-for-profit organization. It was created in 2004 by a group of men and women concerned for persons in difficulties who were marginalized and vulnerable. This is the case for the indigenous Pygmy peoples, a population that depends on forests. The organization has its registered office in Goma, provincial capital of North Kivu. It conducts its activities in two out of the six territories of the province, specifically Masisi and Walikale. Its aim is to promote the socio-cultural and economic interests of Pygmies and disadvantaged indigenous peoples. FDAPID works in the following areas: human rights; education – schooling and literacy; environment; health – primary health care, remedies etc.; food security; humanitarian aid to victims of war and natural disasters; decentralization and good local, participatory governance. Telephone: + 243 (0) 810127090, Email: fdapid1@yahoo.fr and fdapirdc@gmail.com

Ligue Nationale des Associations des Autochtones Pygmées du Congo (LYNAPICO)

LINAPYCO is a network of indigenous associations and informal Pygmy groups and communities scattered throughout the DRC. The league aims to protect and promote the rights of indigenous peoples and their cultural identity, as well as to preserve biodiversity through promoting the inherent knowledge of indigenous peoples. Tel: +243 991949345; Email: linapycordc@yahoo.fr.

Organisation d'Accompagnement et d'Appui aux Pygmées (OSAPY)

OSAPY is an organization governed by Congolese law, based in Kinshasa, specializing in research, monitoring and documentation of violations of indigenous peoples' human rights. OSAPY fights for the recognition of indigenous peoples' land rights. It undertakes advocacy for the creation of positive policies to benefit indigenous peoples. Tel: +243994535744; Email: willyloyombo@yahoo.fr.

Programme d'Intégration et de Développement du Peuple Pygmée au Kivu (PIDP SHIRIKA LA BAMBUTI)

PIDP is an organization that was created in 1991, by and for indigenous Pygmies. Its purpose is to tackle the socio-economic problems of marginalization, exclusion and the various forms of human rights violations which Pygmies in the DRC frequently suffer. PIDP is also known as SHIRIKA LA BAMBUTI which means "Association" or "Collective of Pygmies". PIDP operates in various fields including human rights, the environment, land rights, gender, capacity strengthening, peaceful resolution of conflict over questions of natural resource management, and promoting self-help initiatives. It is the mission of PIDP to guarantee protection for the rights and interests of the indigenous Pygmies of Kivu through advocacy and lobbying, and with legal assistance, training and information. PIDP has the following strategic objectives: i) promoting the rights and interests of indigenous Pygmies in Kivu, ii) contributing to the integration of indigenous Pygmies in the process of socio-cultural development, iii) contributing to the protection of forests and natural resources. Telephone: +243991755681/+243994305172, Email: pidpnordkivu@rocketmail.com

Programme de Réhabilitation et de Protection des Pygmées (PREPPYG)

Established in Butembo in 1995, the Programme for the Rehabilitation and Protection of Pygmies is a support organization for indigenous peoples in the territory of Lubero. Its objective is to contribute to promoting Pygmy dignity through food security, sanitation, responsible citizenship, advocacy and environmental protection. Telephone: +243 998493488, Email: preppygbutembo@gmail.com.

Réseau des Populations Autochtones et Locales pour la Gestion durables des Ecosystèmes Forestiers en République Démocratique du Congo (REPALEF/RDC)

Established in Kinshasa in 2010, REPALEF/RDC is a platform of organizations that defend and promote the rights of indigenous Pygmy peoples in the Democratic Republic of Congo. REPALEF/RDC has the established goal of ensuring and increasing the participation of indigenous and local populations in managing forest ecosystems in the Democratic Republic of Congo. REPALEF supports its member networks and organizations in defending and promoting the rights of indigenous Pygmy peoples in the Democratic Republic of Congo. Telephone: +243991755681, Email: repalefrdc@yahoo.fr

Union pour l'Emancipation de la Femme Autochtone (UEFA)

UEFA is an NGO, established in Bukavu in 1998. Its goals are strengthening the capacities of grassroots women's groups and organizations that work for women's emancipation; supporting socio-economic, legal and cultural initiatives of indigenous women; promoting mutual assistance and cooperation among indigenous women; supporting sustainable development initiatives; and easing the burden of tasks undertaken by women. Tel: +243 998 62 36 42; Email: uefafr@yahoo.fr.

1. Introduction

This alternative report has been prepared by non-governmental organizations of indigenous Pygmy peoples and their supporters: 15 non-governmental organizations that work with indigenous peoples of the Democratic Republic of Congo (DRC). Its aim is to present a picture of the situation of indigenous Pygmies. The organizations that have authored this report regret the lack of information on the rights of indigenous Pygmy peoples, and the absence of any commitment to promote and protect them. This is despite the fact that these peoples face numerous forms of discrimination and live in conditions of extreme vulnerability and poverty.

2. The organizations that have authored this report respectfully address a request to the Human Rights Committee as it considers the situation of indigenous Pygmy peoples in the DRC, the violations of their rights pursuant to international legal instruments and its recommendations to the government of the DRC. That request is for a holistic approach that takes into account the various forms of discrimination to which indigenous Pygmies are subjected, as well as the accumulated effects and impacts of those diverse forms of discrimination on indigenous Pygmies.

3. As this report shows, indigenous Pygmy peoples of the DRC are victims of discrimination that is largely due to their gender. However, their ethnicity, and often their poverty, are also factors. In the DRC, indigenous Pygmy peoples continue to suffer discrimination and marginalization. To date, no measures have been taken by the government of the DRC to ensure that indigenous Pygmy peoples can fully enjoy their rights.

4. This report looks first at the situation of indigenous peoples in the DRC. It considers their dispossession from their ancestral lands: a dispossession that poses a constant threat to the fundamental link that indigenous Pygmy peoples maintain with their ancestral lands. These are essential for their culture, way of life and survival. Loss of their ancestral lands has had, and continues to have, particularly devastating effects on indigenous Pygmy peoples. One of their most important responsibilities is feeding and caring for their families. They are now deprived of the means to do so and are thus forced to live in very precarious conditions that leave them exposed to exploitation and violence.

5. The report then considers the discrimination suffered by indigenous Pygmy peoples in the areas of education, health, participation in public and political life, and access to justice. There is emphasis on the fact that the government of the DRC is proving slow to adopt special measures aimed at instituting equality for indigenous Pygmy peoples, and at ensuring that they can enjoy all their rights, without discrimination.

6. The Democratic Republic of Congo (DRC) is party to various international legal instruments concerning human rights. These include: 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; the Convention on Biological Diversity; the Convention on the Elimination of All Forms of Discrimination against Women; and the African Charter on Human and Peoples' Rights.

7. The DRC also voted for the United Nations Declaration on the Rights of Indigenous Peoples, adopted 13 September 2007 by the General Assembly of the United Nations. Article 215 of the Constitution of the DRC states that, on ratification, international treaties and agreements duly concluded take precedence over national laws. Despite this, the Congolese government continues to delay meeting its international legal obligations, especially in relation to the rights of indigenous peoples. In fact, there is no mechanism designed to guarantee and implement the rights of indigenous Pygmy peoples in the DRC.

2. General overview of indigenous Pygmy peoples

8. The Democratic Republic of Congo comprises four large ethnic groups: Bantu, Nilotic, Sudanese and Pygmy. Originally, the indigenous Pygmy peoples were semi-nomadic hunter gatherers living in the high mountain forests in the Great Lakes region of central Africa.¹ It is generally accepted that these peoples were

¹ Information on the indigenous peoples in central Africa can be found in numerous publications, including: Lewis, J (2000) *Batwa Pygmies of the Great Lakes Region*, MRG, London; Woodburn, J (1997) *Indigenous discrimination: the ideological basis for local discrimination against huntergatherer minorities in sub-Saharan Africa*, in *Ethnic and Racial Studies*, Vol. 20, No. 2, pages 345 to 361; Jackson, D (2003) *Twa Women, Twa Rights in the Great Lakes Region of Africa*, MRG, London; Nelson, J. and Hossack, L (ed.) (2003) *From principles to practice: Indigenous Peoples and*

the first inhabitants of the Great Lakes area, and that they were later joined by livestock-rearers² and farmers. Various groups of indigenous peoples of the DRC are habitually known as "Pygmy" peoples.³ These are generally known by the following names: Batwa, Batswa, Batoa, Balumbe, Bilangi, Bafonto Samalia and Bone Bayeki in the province of Equateur; Batsa, Batwa and Bamone Bakengele in the province of Bandundu; Bambuti, Baka, Efe and Bambeleketi in the province of Orientale; Bashimbi (Bashimbe), Bamboté and Bakalanga in the province of Katanga; Batwa (Batswa) in the two Kasai provinces; and Batwa (Batswa), Bambuti, Bayanda, Babuluku, Banwa, Bambuti and Bambote in North Kivu, South Kivu and Maniema. Other groups are distributed throughout the forest region of the DRC, notably the Aka, along the north-west border with the Republic of Congo,⁴ and the Bambega in Oubangui, Equateur.

9. The total population of indigenous Pygmy peoples in the DRC is not known. This is because there has never been an official census. However, estimates vary between 250,000 to 350,000 individuals.⁵ Studies were conducted recently under the aegis of the World Bank in order to develop a strategic framework for the preparation of a development programme for indigenous Pygmy peoples of the DRC. These studies show that the overall number of individuals appears to be some 600,000, i.e. around 1% of the total DRC population.⁶

3. Indigenous Pygmy peoples of the DRC do not have rights to their lands and live with land insecurity

10. Access to their ancestral lands and the security of their land tenure are fundamental issues for indigenous Pygmy peoples. These peoples maintain close links with the forests on which they depend for their well-being, identity and survival. Over the course of centuries farming, livestock-rearing and timber exploitation activities, both artisanal and industrial, have forced such peoples to abandon their forests and their traditional way of life based on hunting, gathering and collecting. As such, the majority of these peoples have become dependent on occasional work, or else must resort to begging in order to survive.

11. Furthermore, the expulsion of indigenous Pygmy peoples from their ancestral lands in order to create national parks began during the colonial period with the 1925 Royal Decree that created the Virunga National Park. The process continued after DRC independence with the creation of the Kahuzi-Biega and Maiko National Parks.⁷ Between the 1960s and the beginning of the 1980s, around 6000 Twa were forcibly removed from their ancestral lands: in the hills of Chatondo, Katasomwa, Munango, Kabona, Kakumbukumbu and Bukulula.⁸ Today, these areas are part of the Kahuzi-Biega National Park, located between the territories of Kabare, Kalehe and Shabunda in the South Kivu province.⁹ When it was created, the Kahuzi-Biega National Park had a surface area of 60,000 hectares. When it was extended in 1975, its surface area grew to 600,000 hectares.¹⁰ This extension robbed the indigenous Pygmy peoples of their lands. They were not consulted, nor

Protected Areas in Africa, FPP, Moreton-in-Marsh; African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs (2005) *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities*, hereafter "ACHPR WGIP Report (2005)".

² ACHPR WGIP Report (2005) supra note 13, pages 19 and 20.

³ The term "Pygmy" is contested and some people consider it derogatory. Nevertheless, it is widely used in the DRC, including by indigenous peoples themselves. The organizations that have authored this report use this term to refer collectively to hunter-gatherers and former hunter-gatherers, unless a more specific term is more appropriate.

⁴ CIFOR, The World Bank and CIRAD (2007) *Forests in post-conflict Democratic Republic of Congo – Analysis of a priority agenda*, p.10

⁵ For example, Lewis, J (2000) supra note 13; Luling V and Kenrick J (1998) *Forest Foragers of Tropical Africa. A Dossier on the Present Condition of the 'Pygmy' peoples*, Survival International, London.

⁶ World Bank, Strategic Framework for the Preparation of a Pygmy Development Program–Democratic Republic of Congo, Report No. 51108-ZR, December 2009, p. 7.

⁷ The Kahuzi-Biega National Park was created by Order No. 70-316 of 30 November 1970.

⁸ Barume, A K (2003) *En voie de disparition? Les droits des autochtones en Afrique : Le cas des Twa du Parc national de Kahuzi-Biega, en République Démocratique du Congo*, p.17.

⁹ ERND Institute (2009) *Les Autochtones pygmées à la quête de la justice en RDC : Cas du procès PA du Parc Kahuzi Biega contre ICCN et l'Etat Congolais, Bukavu*.

¹⁰ Busane, R (2006), *Gestion des aires protégées et conflictualité. Recherche sur l'impact de la domanialité publique sur les activités socioéconomiques des terroirs villageois du Sud Kivu*, Catholic University of Bukavu, page 10. See also Barume (2003) supra note 20, pages 70-71. The extension resulted from Order No. 75/238 of 22 July 1975, changing the boundaries of the PNKB.

did they give their consent or receive fair and equitable compensation. This was in violation of international law and the provisions of Congolese law on expropriation for public purposes.¹¹

12. Lands of indigenous Pygmy peoples have also been seized for the implementation of mining industry projects. This is frequently in violation of national laws pertaining to consultation, and to international law on the rights of indigenous peoples to free, prior and informed consent.¹² For example, mining concessions have been established on, and next to, ancestral lands of indigenous Pygmy peoples without their consultation or prior consent. These include the BBC concession and the concession to the wood processing industry in the territories of Ingende and Bikoro in the province of Equateur. In their activities, the operators of these concessions do not take into account the rights of indigenous peoples over the concessions. Indigenous peoples do not benefit in any way from the exploitation of their lands.¹³ Furthermore, despite the conversion¹⁴ of securities of the company SODEFOR in the Maindombe district of the Bandundu province, the indigenous Pygmy peoples of the Inongo, Kiri and Oshwe territories are still the victims of unlawful exploitation of their forests by development companies.¹⁵

13. The dispossession of indigenous Pygmy peoples from their ancestral lands is the reason for the loss of their traditional way of life and culture. The conditions in which they live are highly precarious owing to their condition of poverty and vulnerability. The DRC voted in favour of adopting the United Nations Declaration on the Rights of Indigenous Peoples in 2007. Despite this, no measures have been taken to improve, promote or protect the rights of indigenous Pygmy peoples in the DRC. This is in contrast to the recommendations issued by the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the African Commission on Human and Peoples' Rights on the need to adopt measures to protect the rights of indigenous peoples, including their right to land.¹⁶

4. The reforms under way fail to take into account the land rights of indigenous peoples

14. The DRC government has given its assurance that local communities will play an active role in the forest sector reforms. Recently, it even declared that it was going to respect the principle of free, prior and informed consent. Nevertheless, to date, there is still no safeguard for the right of indigenous Pygmy peoples to their lands. That right is still being violated. The Constitution of the DRC, the land law of 1973 and the Forest Code

¹¹ Law 77-001 of 22 February 1977 on expropriation for public purposes.

¹² The right to free, prior and informed consent (FPIC) protects indigenous peoples from losing their way of life, culture and identity as peoples by recognizing their right to give or withhold their consent regarding projects and measures that could affect the lands that they traditionally own, occupy or use. FPIC is a process involving transparent and non-coercive consultations, discussions, negotiations and meetings that enable indigenous peoples to reach a consensus and take decisions in line with their customary decision-making processes. FPIC is protected by the United Nations Declaration on the Rights of Indigenous Peoples and by Convention 169 of the International Labour Organization concerning Indigenous and Tribal Peoples in Independent Countries. It has been recognized by the human rights bodies responsible for interpreting the aforesaid instruments as being protected by the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Racial Discrimination.

¹³ ERND (June 2012) *Rapport de documentation, d'analyse approfondies et d'orientation des cas dans la province de l'Équateur*.

¹⁴ In 2005, the Ministry of the Environment, Conservation of Nature and Tourism of the DRC embarked on a process of converting ancient forest land titles into forest concession contracts. This process ended in 2009. Of the 156 forest land titles subjected to the conversion process, only 65 were converted while 91 were rejected. It should also be said that, in 2002, the DRC government declared a moratorium intended to suspend the granting of industrial forest concessions. The moratorium was extended in 2005 and 2008 and remains in force. Despite the moratorium, forest concession have still been granted. See especially: REM (April 2012) *Note de briefing – Délai de conversion des anciens titres forestiers en contrats de concession forestière: Impact sur le contrôle forestier*, p. 7. Some operators have avoided the moratorium by obtaining licences for artisanal timber cutting. Many people fear that lifting the moratorium would have serious consequences for local communities and indigenous peoples whose lands would be further subject to industrial pressures.

¹⁵ See, among others: Rigot V (June 2011) *Forêts congolaises - Quand l'exploitation industrielle entretient des conflits sociaux, Point Sud* – Les études du CNDC 11.11.11; Greenpeace (May 2011) *Crisis for FSC in the Congo Basin?*; Greenpeace (July 2010) *Forest Reform in the Democratic Republic of Congo: Leaving People Out*.

¹⁶ Human Rights Committee, Concluding Observations, Democratic Republic of Congo, CCPR/C/COD/CO/3, 26 April 2006, paragraph 26; Committee on Economic, Social and Cultural Rights, Concluding Observations, Democratic Republic of Congo, E/C.12/COD/CO/4, 16 December 2009, paragraphs 14, 15, 17 and 36; Committee on the Elimination of Racial Discrimination.

of 2002 make no reference to indigenous Pygmy peoples or their rights. Furthermore, the right to land tenure is not recognized on lands associated with gathering, collecting and hunting. The aforesaid right is only recognized on lands used for crops and livestock. In addition, initiatives under way concerning land and forest governance and reforms fail to take into account the points of view of indigenous Pygmy peoples, or to ensure that they are able to play an active role in those initiatives. As such, the zoning process in Congolese forests, currently under way in the DRC, does not include any mechanism enabling identification and protection of forests and lands belonging to indigenous Pygmy peoples. The multilateral REDD+ initiative (Reducing Emissions from Deforestation and Forest Degradation) is a funding mechanism for environmental projects aimed at reducing climate changes and conserving forests. The European Union action plan FLEGT (Forest Law Enforcement Governance and Trade) aims to end the illegal exploitation of forests and to improve management and governance of forests in timber-exporting countries. Both initiatives represent processes to which the DRC is committed. Such processes could have negative consequences for indigenous peoples if the DRC government continues to deny them their land rights and if special measures are not taken.

15. Outside of officially classified areas, the country contains areas designated "community reserves" with a view to classification. This process could take away the lands of indigenous Pygmy peoples without their free consent. This would harm local communities and indigenous Pygmy peoples who would have their traditional areas and lands taken from them by the organizations responsible for managing those lands. The concept of free, prior and informed consent (FPIC)¹⁷ has not been considered, either in creation or in management. However, a large part of the forested area of Walikale is not officially classified, and is in a satisfactory state of conservation. This is largely due to the fact that the indigenous Pygmy peoples of the area depend directly on their use of these forests. For this reason, they have contributed greatly to the conservation of the forests through their non-destructive uses of these resources.

16. Nevertheless, as is the case elsewhere throughout the DRC, the establishment of protected areas in certain parts of the Walikale territory took place at the expense of the forest community, i.e. indigenous Pygmies. It resulted in their expulsion and forced displacement, denial of access to their means of survival and basic subsistence, and police surveillance that led to serious human rights violations. This was the case in the low altitude areas of the Kahuzi National Park in Itebero.

17. Furthermore, in addition to the existence of those two classified areas, a large section of the living space of indigenous Pygmy populations and local communities is currently being designated an ecological corridor. This is a concept that the communities affected do not yet understand. It creates fears and uncertainties regarding future official classification of their forests with all the consequences that could result. In all of the processes implemented on lands traditionally managed by indigenous Pygmy peoples and local communities, their rights are still violated. The primate reserves of Kisimba-Ikobo and the PKI Tayna Community Reserve of Tayna are examples of this.¹⁸

5. Indigenous peoples do not have access to health and education

The right to health

18. Indigenous Pygmy peoples of the DRC do not, in practice, enjoy equal access to health-care services. Their villages lack health-care institutions and their access to drinking water is almost non-existent.¹⁹ The reality is that indigenous Pygmy peoples of the DRC do not have access to modern primary health care.²⁰ Those who are able to have access to health-care centres do not usually have the resources to pay consultation fees or for medication. Furthermore, some report being badly treated by health-care centre staff because they are

¹⁷ *Rapport sur l'Etat des lieux de l'accompagnement des communautés locales et peuples autochtones pygmées dans le processus de la Foresterie communautaire en territoire de Walikale*, PIDP SHIRIKA LA BAMBUTI, January 2013.

¹⁸ The study: "Democratic Republic of Congo. Conservation International REDD pilot project: a different kind of Disney production" is a joint publication of the WRM and Réseau Cref, 2011

¹⁹ ACHPR and IWGIA (2009) supra note 30, p. 80.

²⁰ World Bank (2009) supra note 18, page 8.

indigenous.²¹ Despite the lack of statistics in this area, it is generally acknowledged that indigenous peoples of the DRC have a life expectancy below that of their fellow, non-indigenous, citizens.²²

19. Indigenous peoples of the DRC live in precarious social conditions. These combine with an almost total lack of health-care services available to them, exposing them to various tropical and endemic diseases including malaria, intestinal parasitic diseases, respiratory diseases, skin conditions and HIV/AIDS.²³ The situation is especially worrying among indigenous women who face very high levels of child and maternal mortality.²⁴ Sexual attacks, sometimes based on beliefs that having sexual relations with an indigenous Pygmy woman could cure backache,²⁵ are extremely harmful to indigenous women, making them especially vulnerable to HIV/AIDS and other sexually transmitted diseases. These conditions cannot be treated on account of the lack of means for obtaining the necessary medication.²⁶ The dispossession of indigenous peoples from their ancestral lands also prevents them from accessing their traditional remedies and the medicinal plants necessary for their, and their families', health-care. This leaves them wholly without access to health care.

The right to education

20. Article 43 of the DRC Constitution states that "primary education is compulsory and free in public establishments". Nevertheless, the children of indigenous Pygmy peoples do not usually have access to this education. In reality, education is not free as parents generally have to pay teachers' salaries.²⁷ These costs are considered high by the majority of communities. However, they have an especially prohibitive impact on indigenous Pygmy peoples who do not have the financial resources necessary to enable them to meet these costs.²⁸

21. Furthermore, the majority of villages of indigenous Pygmy peoples lack the infrastructure for state education. Their schools are usually derelict or half-built and without proper facilities. The support of NGOs is vital in terms of taking responsibility for providing education to indigenous Pygmy children. However, this provision only covers a small number of children. A World Bank study shows that only 18.7% of indigenous Pygmy children are enrolled in primary education (aged 6-11) in the DRC, compared with the national average of 56.1%. Furthermore, 30.5% of indigenous persons (aged 15 and over) are able to read and write, compared with 65% nationally.²⁹ Unfortunately, this study does not include data disaggregated by gender. Nevertheless, it is clear that the level of illiteracy among indigenous Pygmy women is probably around 100%. Another study published in 2010 shows that, of the indigenous children who attend school in east of the DRC, 39% are girls.³⁰

6. Indigenous peoples do not have the opportunity to participate in public life and politics

²¹ Jackson, D (2003) supra note 13, p. 15; World Bank (2009) supra, note 18 page 8.

²² World Bank (2009) supra note 18, page 37.

²³ ACHPR and IWGIA (2009) supra note 30, p. 80.

²⁴ Ibid. See also: Wodon Q (2010) supra note 69

²⁵ RNW Africa Desk (6 June 2012) *The DRC still struggles to see its pygmy population*. Available at: <http://www.rnw.nl/africa/article/drc-still-struggles-see-its-pygmy-population>.

²⁶ IRIN (13 September 2006) *DRC: Sexual violence, lack of healthcare spreads HIV/AIDS among pygmies*. Available at: <http://www.irinnews.org/Report/61053/DRC-Sexual-violence-lack-of-healthcare-spreads-HIV-AIDS-among-pygmy>.

²⁷ Ramsay, K (2010), *Uncounted: the hidden lives of Batwa women*, MRG, London, pages 6 and 7.

²⁸ World Bank (2009) supra note 18, page 8; Ramsay, K (2010), supra note 67, pages 6 and 7.

²⁹ Wodon Q (2010) *Indigenous peoples in Central Africa: The case of the Pygmies*, Presentation made on December 20, 2010 at the World Bank's workshop on Indigenous Peoples, Human Development and Poverty, Washington, DC.

Available at: http://siteresources.worldbank.org/EDUCATION/Resources/Session2_Wodon_Dec20.pdf.

³⁰ Ramsay, K (2010), supra note 67, page 6.

22. The political representation of indigenous peoples in the DRC is almost non-existent. There are, in fact, no indigenous members in the Senate or National Assembly, and there is only one indigenous representative serving among the provincial assemblies.³¹ Neighbouring countries of the DRC, such as Rwanda and Burundi, have indigenous representatives in their public institutions. Yet, to date, the DRC is still lagging behind in adopting measures to ensure representation of the country's indigenous peoples and women in the public institutions.

7. Indigenous peoples do not have access to justice

23. Article 12 of the DRC Constitution of 2006 states that "All Congolese are equal before the law and have the right to equal protection in law". Article 150 stipulates that "the judiciary is the guarantor of the individual freedoms and fundamental rights of citizens". However, in practice, access to justice is often more difficult for indigenous Pygmy peoples who, as well as being victims of multiple rights violations, are subject to stigma in society. Their illiteracy rate is coupled with a lack of knowledge of their rights, lack of access to information on legal and judicial matters, the use of official languages with which they are not familiar, and geographical distance from judicial institutions. In addition, they lack the necessary financial means to undertake legal processes. All of these represent obstacles that prevent indigenous Pygmy peoples from having access to justice. Furthermore, complaints lodged by indigenous persons are rarely the subject of examination by the judicial system, which itself is seriously afflicted by corruption and sometimes negatively biased against indigenous peoples.³²

8. Conclusion and recommendations

24. The organizations that have authored this report respectfully wish to propose recommendations that the Human Rights Committee could present to the DRC government. The recommendations could enable the DRC government to pay greater attention to the rights of indigenous Pygmy peoples when creating laws, policies and programmes for the benefit of indigenous Pygmy peoples.

1. The DRC government should ensure that particular attention is given to indigenous Pygmy peoples in the land and forest reforms under way, as well as the international initiatives to which it is committed, such as REDD+ and the FLEGT process. Those reforms and initiatives should guarantee indigenous Pygmy peoples their rights of access and control over their lands and natural resources. *Such protection includes recognition of the collective right of indigenous Pygmy peoples to maintain their cultural links with their lands, and to own and control their natural resources.*

2. The DRC government should adopt specific legislative measures that recognize the land rights of indigenous peoples as well as their right to free, prior and informed consent. The ongoing zoning process of Congolese forests should include a mechanism aimed at identifying the lands and territories of indigenous Pygmy peoples. The purpose should be to afford them recognition and protection, in accordance with the international conventions ratified by the DRC.

3. The DRC government should implement a mechanism aimed at providing reparations to indigenous Pygmy peoples, men and women, as well as collectively, for the lands that have been taken from them without their consent. The mechanism should also ensure that the compensation awarded is fair and equitable, and that it does not contribute to exacerbating gender inequalities.

4. The DRC government should immediately adopt and implement special measures aimed at ensuring socio-economic integration of indigenous Pygmy peoples in the DRC, especially through protection and implementation of their economic, social and cultural rights. These measures must put an end to forms of contemporary slavery manifested in the patronage of certain other ethnic groups to the detriment of indigenous Pygmy minorities. The measures should promote their culture.

³¹ In this case, the Honourable Jérôme Bokele Bonkono who was elected in 2011 and who sits on the Mbandaka Provincial Assembly in Equateur.

³² ACHPR and IWGIA (2009) *supra* note 30, p. 82.

5. The DRC government should collect disaggregated data on the situation of indigenous Pygmy peoples in the DRC and present the results in its next report to the Committee.
6. The DRC government should pay particular attention to indigenous Pygmy peoples when creating its education policies and programmes. It should also adopt special measures aimed at guaranteeing them equal access to education at all levels, and at encouraging them to remain in the school system. To this end, the DRC should enact the principle of free primary education so that the majority of indigenous Pygmy peoples lacking financial resources can receive a school education.
7. The DRC government should strengthen and create school infrastructures in the villages of indigenous Pygmy peoples.
8. The DRC government must adopt measures intended to ensure the participation and involvement of indigenous Pygmy peoples in decision-making institutions. A mechanism should be adopted for co-opting indigenous Pygmy peoples into national and provincial decision-making institutions.
9. The DRC government should create the necessary mechanism for establishing a specific law for indigenous Pygmy peoples.