

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

RESEARCH AND INFORMATION VISIT TO
THE CENTRAL AFRICAN REPUBLIC

15 – 28 January 2007

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African Commission on Human
and Peoples' Rights
(ACHPR)



International
Work Group
for Indigenous Affairs

2009

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

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LIST OF ABBREVIATIONS

ACHPR	African Commission on Human and Peoples' Rights
ADHUC	Association des Droits de l'Homme et l'Univers Carcéral / Association for Human Rights and the Prison System
CAR	Central African Republic
CNT	Conseil National de la Transition / National Transition Council
COOPI	Cooperazione Internazionale / International Cooperation
FNEC	Federation Nationale des Eleveurs Centrafricains / National Federation of Central African Livestock Farmers
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
ILO	International Labour Organisation
NGO	Non-Governmental Organisation
OCDH	Observatoire Centrafricain des Droits de l'Homme / Central African Human Rights Observatory
PEA	Plan d'Exploitation et d'Aménagement / Development and Use Permits
PNA- EPT	Plan National d'Action de l'Education Pour Tous / National Action Plan on Education for All
PRSP	Poverty Reduction Strategy Paper
UNAIDS	United Nations Joint Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund

ACKNOWLEDGEMENTS

First of all, we would like to indicate that we would have been unable to obtain all the information contained in this report had it not been for the generosity and assistance of the many people and organisations we met during our research and information visit to the Central African Republic.

We would like to express our sincere thanks to the High Commission for Human Rights and Good Governance (*Haut Commissariat aux Droits de l'Homme et à la Bonne Gouvernance*) and, especially, to the High Commissioner himself and to the Director-General for Human Rights for their warm welcome, and for having facilitated meetings with members of government institutions, civil society, the media and development agencies. We would also like to thank them for having placed one of their staff at our disposal, namely Mr. Simplicie Kouaranga, who accompanied us and supported us throughout our mission and to whom we would like to express our most sincere gratitude.

We would also like to thank the members of the National Assembly, ministers and senior civil servants who met with us, the civil society organisations who demonstrated their enthusiasm for our trip and for indigenous issues in general, and the different international development players we met. We are grateful for their time and for the valuable information they provided to us.

Our thanks go also to the Aka and Mbororo indigenous communities, for their generosity and for having agreed to share their lives and personal experiences with us.

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 about 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 they belong to. 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 then comprised three ACHPR Commissioners, three experts from indigenous communities in Africa and one international expert on indigenous issues. 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, na-

tional 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 about 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, as well as other interested parties.

To date, the Working Group has undertaken country visits to Botswana, Burkina Faso, Burundi, Central African Republic, Gabon, Namibia, Niger, Libya, Republic of Congo, Rwanda and Uganda. These country visits have been undertaken during the years 2005-2009, and it is planned that the reports will be 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 Central African Republic (CAR) was conducted from 15 to 28 January 2007 by Mr. Zéphirin Kalimba, member of the African Commission's Working Group on Indigenous Populations/Communities (Working Group), accompanied by Dr. Albert K. Barume, member of the advisory network of experts to the Working Group and the sociologist Moké Loamba, President of the *Association pour les Droits de l'Homme et l'Univers Carcéral* (ADHUC) and member of the advisory network of experts to the Working Group.

The mission's objectives were threefold. First, to provide information to the CAR government, regional and local authorities, national human rights organisations, the media, civil society organisations and associations, development agencies and different interested players about the report and the efforts of the African Commission on Human and Peoples' Rights (ACHPR or African Commission) with regard to indigenous peoples. The mission also aimed to gather information about the human rights situation of indigenous peoples in the Central African Republic and provide a substantive report to the African Commission on Human and Peoples' Rights on this issue. Finally, the visit intended to distribute the African Commission's report on indigenous peoples to key individuals and institutions in the Central African Republic.

In order to achieve these objectives, the mission met with many of the country's political representatives, such as the National Assembly, the Presidency of the Republic, the Office of the Prime Minister, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry for Agriculture and Livestock Farming, the Ministry for Water and Forests and the Ministry of Youth and Culture. The mission also met with university researchers as well as a number of representatives from international, inter-governmental and non-governmental organisations, including the European Union, UNICEF, UNDP, COOPI and CARITAS. The mission also took the

opportunity to meet with local NGOs active in the areas of development and human rights, as well as with communities self-identifying as indigenous in the Central African Republic, namely the Aka and Mbororo.

In terms of legal framework at the national level, the Central African Republic has a Constitution which protects against all forms of discrimination and stipulates the equality of communities. The Central African Republic has also 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, the Convention on the Rights of the Child, the Convention on Biological Diversity and the African Charter on Human and Peoples' Rights. All of these are international human rights instruments which protect indigenous peoples' rights.

The Central African Republic is in the process of improving its legal framework regarding the rights of indigenous communities. The country has just adopted a National Cultural Charter which details the elements to be protected as components of national culture. The government is also raising awareness about the legislation which allows for the establishment of villages for indigenous peoples in traditionally indigenous areas. The government has also commenced a process by which to ratify ILO Convention 169.

The CAR government has made several efforts to promote indigenous peoples' rights to representation e.g. by ensuring that Aka and Mbororo peoples were given seats on the National Transition Council, which temporarily acted as Parliament, by reserving a quota for Aka and Mbororo representatives on the Economic and Social Council which is being set up, and by recognising the National Federation of Central African Livestock Farmers (*Fédération Nationale des Eleveurs Centrafricains*) as a public utility institution, a status that facilitates a constructive dialogue between the government and the concerned communities. A pro-indigenous political will is therefore perceptible through these different actions and mechanisms.

However, the mission has noticed that despite the government's efforts, the general human rights situation of indigenous peoples remains worrying in the country. The indigenous Aka people suffer from extreme mar-

ginalisation, they have a high level of illiteracy, they experience a lack of legal protection of their ancestral lands, logging still impacts negatively on their livelihoods, the practice of servitude remains, women are often subjected to violence and sexual abuse, the HIV/AIDS epidemic has reached Aka settlements, there is a lack of access to primary health care and a lack of enjoyment of citizenship rights on a par with the rest of the population in the Central African Republic.

The Mbororo communities are economically better off than the Aka but their human rights situation is also dire. The Mbororo also regularly experience abuses of their human rights, and they have been particularly affected by the armed conflicts that have been ravaging the Central African Republic for a number of years. The war has devastated a large proportion of the Mbororo livestock and it is thereby destroying the source of their livelihood. The Mbororo are often the target of attacks from armed bandits known as '*coupeurs des routes*', whose sole aim is to divest them of their livestock, and it is also common for Mbororo women and children to be taken hostage for a ransom. In addition, these communities suffer from land conflicts with their agricultural farming neighbours, and the rate of HIV/AIDS infection is increasing within their communities.

The CAR authorities, and virtually all of their development partners, are well aware of the vulnerability of the indigenous populations and, particularly, the difficult conditions in which they live. Perceptible efforts are being made to improve their situation but they need support from both national and international stakeholders. The lack of disaggregated data in a number of areas regarding indigenous peoples is also striking but this should not hinder that timely action be taken to promote the human rights of the Aka and Mbororo peoples.

This report uses the terms 'Aka' and 'Pygmy' interchangeably but is aware of the pejorative and derogatory nature of the term. However, in the absence of a more appropriate global term to describe this community, the report will use the term 'Pygmy'.

This report has five key sections. These sections are: the socio-political context of the Central African Republic, the existing legal framework, a

summary of meetings held during the visit, important thematic issues, and finally the conclusion and recommendations.

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

A. To the Government of the Central African Republic:

1. Reserve a quota for indigenous peoples in all public sector recruitment, as is already done for disabled people;
2. Finalize the process of ratifying ILO Convention 169;
3. Establish programmes which ensure and increase indigenous peoples' access to health facilities and take into account their specific cultural needs;
4. Create programmes which ensure that indigenous children obtain access to the educational system. The particular situation of Pygmy indigenous children should be taken into account;
5. Adopt a law that prohibits slavery-like practices;
6. Set up a national commission with the mandate to investigate alleged cases of slavery-like practices still affecting Aka indigenous peoples. Cases of sexual violence against Mbororo and Aka indigenous women as well as slavery-like practices that tend to contribute to the phenomenon of sexual violence against Aka indigenous women should be severely punished in accordance with national laws;
7. Take all necessary measures to combat impunity, such that 'Pygmies' masters' are held responsible for their actions towards the Aka peoples;
8. Take all necessary measures to provide security to indigenous communities and their belongings in armed conflict-affected areas;

9. Ensure that indigenous peoples are included in all decision-making processes regarding the development of their traditional areas;
10. Take all necessary measures to ensure that civil registry documents are issued to all indigenous peoples;
11. Take all necessary measures, including special measures (positive discrimination), to end all discrimination that Mbororo and Aka indigenous peoples suffer from;
12. Adopt a national socio-economic program aimed at redressing injustices and imbalances that indigenous peoples suffer from. The negative impact of armed conflicts on Mbororo's livestock should be one of the main issues to address.
13. Take strong measures, including criminal charges, against under age marriages;
14. Ensure formal legal recognition, demarcation and titling of indigenous peoples' lands.

B. To NGOs

1. Reinforce socio-economic development activities in indigenous areas.

C. To the international community

1. Mobilize more resources for development projects in Aka and Mbororo indigenous areas;
2. Increase indigenous peoples' participation in all development projects likely to affect them.

D. To the African Commission on Human and Peoples' Rights

1. Follow up on this report and all its activities in Central African Republic.

MAP OF CENTRAL AFRICAN REPUBLIC¹

1 From Wikimedia.org

1. SOCIO-POLITICAL CONTEXT OF THE CENTRAL AFRICAN REPUBLIC

The Central African Republic (CAR) covers an area of 622,984 km² and shares international borders with five countries, namely the Democratic Republic of Congo, the Republic of Congo, Cameroon, Sudan, and Chad.² The recent history of this landlocked country has been marked by a succession of government regimes and by armed groups active in the north-eastern parts of the country. The current government has been in place since 2003, and elections were held in 2005. It is in the process of negotiating with some rebel factions, with a view to achieving a more lasting peace. These factors are all at the root of the high level of poverty found in the country, despite its wealth of natural resources such as wood, diamonds, gold and uranium.

In socio-demographic terms, the Central African Republic is home to approximately 4.3 million people and major ethnic groups include the Baya, the Banda, the Mandjia and the Sara.³ There are two key groups of indigenous peoples in the Central African Republic, namely the Aka (who are part of the larger group of 'Pygmies') and the Mbororo. The Aka are a group of hunter-gatherers from the tropical forests of central Africa, whilst the Mbororo are nomadic pastoralists, who also live in other countries in west and central Africa.

There are no precise data on the number of indigenous Aka living in the CAR. Nevertheless, based on a census conducted by the NGOs COOPI (*Cooperazione Internazionale*), CARITAS and OCDH (*Observatoire Centrafricain des Droits de l'Homme*) in 2004, there are 15,880 Aka in Lobaye Prefecture alone.⁴ Given that there are also Aka communities in other prefec-

2 CIA World Factbook: <https://www.cia.gov/library/publications/the-world-factbook/geos.it.html>

3 CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/it.html>

4 **Anna Giolitto, 2006.** *Etude des cas de discrimination, abus et violations des droits de l'homme envers les pygmées Aka de la Lobaye République Centrafricaine.* COOPI, Caritas and OCDH, p.17

tures, the number is likely to be well into several tens of thousands. As for the Mbororo, they are estimated at more than 26,000 families or approximately 300,000 individuals, and make up approximately 7% of the national population.⁵

5 Commission réfugiés, France: http://209.85.165.104/search?q=cache:krcN2Pufm7IJ:www.commission-refugies.fr/IMG/pdf/Centrafrique-mariage_force.pdf+mbororo+en+centrafrique&hl=fr&ct=clnk&cd=8&gl=fr

2. EXISTING LEGAL FRAMEWORK AND INTERNATIONAL COMMITMENTS IN THE CENTRAL AFRICAN REPUBLIC

The new Constitution of the Central African Republic, adopted in 2004, contains no specific provisions for the protection of the indigenous Aka and Mbororo peoples but, on the basis of the constitutional principle of *ZO KWe ZO* (All Men are Equal), it stipulates that no discrimination should be practised, including on the basis of race or ethnicity. In its preamble, the Constitution also provides for the promotion of “ethnic and cultural diversity” and enshrines the principle of “the rule of law based on a pluralist democracy, guaranteeing the security of people and goods, the protection of the weakest, particularly vulnerable people and minorities, and full exercise of fundamental rights and freedoms”.

In 2003, a Ministerial Decree prohibiting the use and/or export of the oral traditions of Central African cultural minorities for commercial purposes was passed with a view to curbing acts of unjust exploitation of Aka culture for commercial purposes.⁶ This related particularly to international tours or recordings of traditional indigenous Aka music for the sole gain of the organisers. In addition, in May 2006, a ‘Law on the Cultural Charter of the Central African Republic’ was promulgated with the aim of protecting natural cultural heritage, particularly the cultural routes and spaces of ethnic minorities.⁷

This government action is in line with the fact that, in 2003, UNESCO proclaimed the oral traditions of the Aka to be masterpieces of the oral and intangible heritage of humanity. The government’s action is also in line with the January 2006 visit of the UNESCO Director General to Aka sites in the context of the continuation of a plan of action to safeguard and

6 Decree of 1 August 2003

7 Law 0600 dated 10 May 2006

promote the oral traditions of the Aka.⁸ To ensure and support the cultural life of the Aka, a cultural centre for indigenous Aka has just been opened with the support of the local and international NGOs OCDH, COOPI, and CARITAS. It should also be mentioned that the CAR's 2004 interim Poverty Reduction Strategy Paper (PRSP) specifically mentions the Aka, along with the Mbororo, as the groups most severely affected by poverty and on whom state efforts should be focused in the future.

At the regional and international level, the Central African Republic is party to a number of conventions and treaties that protect different aspects of the rights of indigenous peoples. More specifically, these are:

- The International Covenant on Civil and Political Rights (entry into force 1976);
- The International Covenant on Economic, Social and Cultural Rights (entry into force 1976);
- The Convention on the Elimination of all Forms of Racial Discrimination (entry into force 1969);
- The Slavery Convention as amended (entry into force 1955);
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery (entry into force 1957);
- The ILO Convention 29 on Forced Labour (entry into force 1932);
- The ILO Convention 105 on the Abolition of Forced Labour (entry into force 1959)
- The Convention on the Rights of the Child (signed in 1990);
- The ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (entry into force 2000);
- The UNESCO Convention against Discrimination in Education (entry into force 1962);
- The ILO Convention 111 on Discrimination in respect of Employment and Occupation (entry into force 1960).
- The African Charter on Human and Peoples' Rights

⁸ UNESCO:http://portal.unesco.org/fr/ev.phpURL_ID%3D31498%26URL_DO%3DDO_TOPIC%26URL_SECTION%3D201.html

However, the Central African Republic is not yet a party to the Optional Protocol to the Convention on the Elimination of Discrimination against Women, which recognises the competence of the Committee for the Elimination of Discrimination against Women to receive and consider communications. Nor is this country a party to the Optional Protocol to the Convention on the Rights of the Child and the involvement of children in armed conflicts.

The CAR government has commenced the process for ratification of ILO Convention 169. Not only does the political will seem to be present, but different stakeholders, including Parliament, already seem to have an understanding of the issue. The High Commission for Human Rights and Good Governance and the Ministry of Culture are piloting this project, which requires the support of everyone, including the international community. The CAR could thus become the first African country to ratify this important framework for the protection of indigenous peoples' rights.

3. DIFFERENT MEETINGS HELD

3.1 Meeting with the High Commission for Human Rights and Good Governance

The High Commission for Human Rights and Good Governance is a state institution attached to the Presidency of the Republic. It is run by a High Commissioner, and this institution is active in the area of human rights promotion, human rights protection and good governance.

Copies of the report of the African Commission's Working Group on Indigenous Populations/Communities were provided to the High Commission, and this institution also accompanied the mission to nearly all its meetings. This institution, whose representatives have attended a number of sessions of the African Commission on Human and Peoples' Rights, welcomed the report and asserted as useful the report by the Working Group of the African Commission.

3.2 Meeting with the Ministry of Youth and Culture

The mission was received in the office of the Ministry of Youth and Culture by the Director General of Culture and Heritage, the protocol attaché to the Minister, and the Office Director, on the personal instruction of the Minister, who was unable to attend.

These officials recognised that indigenous peoples were marginalised, forgotten and neglected but stated that the CAR government was aware of the situation and in the process of taking corrective measures. By way of example, they noted the cooperation between the Ministry and the NGO COOPI on a project to promote indigenous Aka rights and the es-

establishment of a regional centre for the protection and dissemination of Aka culture.

The Ministry highlighted that their government had made several legal efforts to promote indigenous peoples' rights, as could be seen from the adoption of the law on the Central African Cultural Charter, the efforts underway to ratify ILO Convention 169, the promulgation of the Convention on Biological Diversity by the Head of State and the signing of a ministerial decree prohibiting exploitation of Aka culture. In addition, the Ministry informed the mission that for the past three years the Ministry had each year organised the International Day of Indigenous Peoples, in association with the Bangui *Alliance Française* and civil society organisations. The Ministry also highlighted its desire to protect and preserve the indigenous Aka language as it is an important instrument for the transmission of cultural values.

The representatives of the Ministry observed that the African Commission's efforts with regard to indigenous peoples were well in line with a number of actions being taken by their government and they were happy to receive copies of the report. They promised to use this report to strengthen the ongoing reforms in the Central African Republic. For its part, the mission emphasised the importance of promoting an indigenous civil society, as this currently seems to be non-existent, and that such a civil society would assist indigenous communities in obtaining a voice and influence on matters of public interest.

3.3 Meeting with the Ministry for Family, Social Affairs and National Solidarity

The mission was received in the offices of the Ministry for Family, Social Affairs and National Solidarity. The meeting took place with the Director of the Minister's Office, who had been duly mandated.

After briefly presenting the aim of the visit along with the work of the African Commission with regard to indigenous issues, the mission gave the director two copies of the report of the African Commission's Work-

ing Group on Indigenous Populations/Communities. The ministry assured the mission that the African Commission's report, as far as possible, would be used to improve the living conditions of indigenous communities in the CAR.

During the meeting, the Ministry's representative acknowledged that there was no national policy specifically in place for indigenous peoples and that this led to a lack of coordination among the actions being undertaken for these communities by the different stakeholders, such as charitable organisations, NGOs and UN bodies. It would be better, he commented, if there were a coherent framework for intervention in indigenous areas and he said that his ministry hoped to propose such a framework in the future.

During the meeting, many important issues were discussed but the rapid deforestation and its negative impact on the Aka, along with the persistence of slavery-like practices, were issues which stood out particularly as phenomena requiring urgent measures. The issue of providing education in indigenous areas with no consideration for the moral and cultural values of indigenous peoples was also discussed, along with the threat of disappearance that this could create for the indigenous culture. This ministry, which is also responsible for social affairs, also explained the impact of armed conflicts on the indigenous Mbororo, a large number of whom have lost livestock and been plunged into poverty. The mission thereby learnt that the government was well aware of the situation but that current state funding did not as yet enable any intervention in favour of these communities.

3.4 Meeting with the Ministry for Education, Literacy, Higher Education and Research

On the personal instruction of the Minister, the mission was received by the Office Director and two other Ministry officials. These people welcomed the report of the African Commission's Working Group on Indigenous Populations/Communities very favourably, stating that it was in line with the efforts of their government and UNESCO's work in their

country. The issue of providing education to indigenous children was discussed and it emerged that the government had no particular system in place for these children, nor was there any disaggregated data concerning their school enrolment.

3.5 Meeting with the Ministry of Justice

The mission had a meeting with the Minister of Justice, assisted by the Director General of Justice. After briefly presenting the aim of the visit, the mission presented two copies of the report of the African Commission's Working Group on Indigenous Populations/Communities, which was favourably received by the Ministry.

In response to the issue - raised by the Minister - of who is indigenous in Africa, the mission explained the meaning of the concept as specified by the African Commission on Human and Peoples' Rights.

The Minister noted the efforts of civil society and international organisations to promote and protect the livelihoods of the indigenous Aka. The Minister particularly noted the programme funded by the European Union through the Italian NGO COOPI, on the rights of these indigenous communities. However, the Minister also noted the principle of equality of rights and protection before the law which, in his opinion, meant that it was not essential to have a specific law protecting indigenous peoples. Nevertheless, he stressed that a representative from the indigenous Aka community and one from the Mbororo community had been involved in the National Transition Council from 2003 to 2005, and that this measure was due to the state's recognition that these communities lacked involvement in national life. In the same thrust, the Minister emphasised that indigenous peoples' lack of access to civil registry documents (birth certificates, identity cards, etc.) was one of the underlying reasons for this lack of indigenous involvement in the day-to-day administration of public affairs. The Minister also explained a project run by the government which gives support to judicial institutions in four areas in the CAR by providing mobile hearings so that people can more easily obtain birth certificates. This project could be extended to other areas of the CAR, and

the Ministry of Justice expressed its intention to coordinate with the Ministry for Local Administration in this regard.

3.6 Meeting with the Ministry for the Civil Service

At the Ministry for the Civil Service, the mission was received by the Minister, assisted by his associates. The delegation provided two copies of the report of the African Commission's Working Group on Indigenous Populations/Communities, presented the objectives of the mission and the African Commission's efforts with regard to indigenous peoples. As in previous discussions, the first issue raised by the Minister related to the concept of being 'indigenous' in Africa, given that it was more common in the CAR to use the term 'vulnerable communities'. The mission took this opportunity to explain the concept of 'indigenous peoples' as it is explained in the Working Group's report.

The Minister noted that there was no doubt as to the identity of the Aka, who are recognised by all as being the oldest inhabitants of the Central African forests. He also referred to the Mbororo who, like the Aka, have a particular nomadic way of life. Finally, he emphasised that his ministry made no distinction by ethnic origin during recruitment into the civil service, although he recognised that the indigenous way of life could be an obstacle to them being appointed to public departments. Having learnt that legislation in the CAR stipulates a quota of 10% for disabled people in all civil service recruitment, the mission strongly urged the Minister to consider the possibility of such positive discrimination with regard to indigenous peoples, given their high level of marginalisation. The Minister took good note of the mission's recommendations and stated his willingness to continue to support his government's efforts on behalf of indigenous peoples.

3.7 Meeting with the High Commission for Decentralisation and Regionalisation

The mission was received by the High Commissioner for Decentralisation and Regionalisation, assisted by his Deputy Coordinator. The mis-

sion provided a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities, explained the efforts of the African Commission with regard to this issue and invited the High Commissioner to make use of it and to distribute it widely.

It emerged from this meeting that the High Commission for Decentralisation and Regionalisation provides technical advice and carries out awareness-raising activities. This body raises awareness among the population with regard to certain issues of national interest such as democracy and public services and makes recommendations to the government on how to strengthen decentralisation. It is thus an institution which indigenous peoples could use to promote some of their rights, such as the right to participate in public affairs.

The High Commissioner emphasised that the discrimination from which indigenous peoples suffer is a major concern for his institution. He explained that a project management centre for local populations, including indigenous people, would soon be created in order to build the capacities of local communities in project management. He also explained that his institution was supporting several governmental and non-governmental initiatives for the indigenous Aka and Mbororo. In this regard he particularly mentioned the building of schools and the provision of birth certificates, carried out in cooperation with CARITAS, OCDH and others in Lobaye prefecture.

3.8 Meeting with the National Assembly

The mission was received by the First Vice-President and the Third Vice-President of the National Assembly, assisted by a National Assembly member who sits on the Human Rights Committee and the Director of the Office of the Second Vice-President.

After presenting the aim of the visit, the mission provided the representatives with two copies of the Working Group's report. The Ministry was very interested in the Working Group's report and congratulated the efforts of the African Commission on Human and Peoples' Rights with re-

gard to indigenous rights, as well as the Working Group's interest in the Central African Republic.

The mission explained the concept of 'indigenous peoples' to avoid confusion between the common meaning of the term in Africa and that established by the African Commission on Human and Peoples' Rights.

In response to the representatives' argument that indigenous peoples exclude themselves from national life, the mission explained that indigenous peoples have suffered historical injustices in different countries, including the CAR. This injustice has included a lack of recognition and protection of their way of life, and this has in turn led to the particular discrimination which affects them today.

The First Vice-President of the National Assembly acknowledged the particular situation in which indigenous peoples live, but emphasised the significant measures his country had taken on a number of occasions to promote indigenous peoples' rights, such as their representation on the National Transition Council and on the Economic and Social Council. The National Assembly was also aware of the need to ratify ILO Convention 169 which, in their opinion, was fully in line with the efforts and political will of the Central African Republic.

The representatives said that they were extremely satisfied and enlightened by the meeting and promised to report back faithfully to the President, providing him with a copy of the report and with very clear recommendations as to how the Central African Republic could promote indigenous peoples' rights further.

3.9 Meeting with the Office of the Ministry for Water and Forests

The mission held a meeting with the Director of the Office of the Ministry for Water and Forests, assisted by her associates. The mission provided a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities and explained the efforts of the African

Commission on Human and Peoples' Rights with regard to indigenous issues.

The Minister emphasised that the CAR was aware of the extreme marginalisation of the Aka indigenous community and of their problems in acquiring full citizenship rights. The Minister also underlined that a review of legislation on national parks and protection of habitats was underway, with a view to making the duty of conservation compatible with the rights of communities to their habitat. This review and the subsequent legislation was also going to involve indigenous Aka peoples in decision-making processes, so that the Aka can exert an influence on the future development and conservation of their environment. The Minister also noted some of the positive effects forest taxes had had on indigenous communities, such as providing funds for the construction of village pharmacies, schools and dispensaries.

3.10 Meeting with the Ministry for Agriculture and Livestock Farming

The mission met with the Director General of the Ministry for Agriculture and Livestock Farming and this meeting focused largely on the indigenous Mbororo, who are the main livestock farmers in the Central African Republic. After briefly presenting the aim of the visit, the mission provided a copy of the report of the African Commission's Working Group of Indigenous Populations/Communities.

The Ministry explained that the recent armed conflicts have, and continue to have, a disastrous effect on the national economy as a whole, and on the livestock sector and the Mbororo in particular, given that this indigenous community alone accounts for most of the CAR's livestock farming⁹. The mission was also informed of the different difficulties encountered by the Mbororo in carrying out their work. These difficulties included: the reigning insecurity in the north of the country, where a number of rebel factions

⁹ World Food Programme, Central Africa Republic:
<http://www.fao.org/Wairdocs/ILRI/x5537E/x5537e0g.htm#3.%20cattle>

and the '*coupeurs de route*'¹⁰ are in operation; ongoing land conflicts between agricultural farmers and pastoralists; the nomadic nature of the pastoralists' lifestyle and the difficulties in crossing borders.

3.11 Meeting with the Ministry for Foreign Affairs

The mission was received by the Ministry for Foreign Affairs, in the person of the Deputy Minister, assisted by her associates. As elsewhere, the mission provided two copies of the Working Group's report, presented the efforts of the African Commission in this regard and urged the use and distribution of the report.

The meeting with the Ministry focused on the concept of 'indigenous' in Africa, the CAR government's efforts towards the Aka and Mbororo, the human rights situation of these communities and the African Group's position during the vote on the draft UN Declaration on the Rights of Indigenous Peoples by the Third Committee of the UN General Assembly in New York in September 2006. The Ministry's representatives listened with interest to all the mission's concerns regarding these different issues and promised to continue the path being followed by the government of protecting the rights of indigenous communities. With regard to the draft UN Declaration, the Minister also promised to pass the message that the CAR should protect indigenous peoples' rights on to her superiors.

3.12 Meeting with the Deputy Minister and the Government Spokesperson for the Prime Minister and Head of Government

The mission was received by the Deputy Minister and the Government Spokesperson for the Prime Minister and Head of Government, who welcomed the Working Group's report. Throughout the discussions, the Minister praised the African Commission's efforts towards indigenous peoples and compared them with his own country's efforts towards the Aka and Mbororo.

10 The '*coupeurs de route*' are armed bandits who have obtained this name due to their methods of setting up road ambushes for the purposes of extortion and other similar acts.

The government spokesperson explained the lack of resources in the Central African Republic since March 2003. At the same time, he emphasised that his country gives great importance to the Aka and Mbororo communities. By way of example, the Minister referred to the representation of these two communities in certain institutions, such as the Economic and Social Council. The moral and political support given by his government to the work being undertaken by a number of NGOs, on behalf of the Aka, was also underlined as a sign of the government's pro-indigenous stance. As for the persistent practice of servitude or 'Pygmies' masters', the Minister informed the mission that the government was planning an assessment with a view to putting an end to this practice which, in his words, was inhuman.

The impact of conflicts and insecurity on the Mbororo pastoralists was also discussed during the meeting. The Minister highlighted the economic role of this indigenous community and his government's intention of putting an end to the rebellions and practices of '*coupure des routes*' by armed bandits, in order to create a favourable environment for developing livestock farming.

Finally, the meeting went on to consider the possible ratification of ILO Convention 169 by the Central African Republic. The Minister was well-versed on the issue and reassured the mission of his government's desire for parliament to adopt this legal instrument.

3.13 Meeting with the European Union

The Resident Representative of the European Union in the Central African Republic also agreed to meet with the mission. In addition to providing him with a copy of the report, the mission emphasised the efforts of the African Commission with regard to indigenous peoples' rights.

After favourably receiving the report and stating how useful it would be in Africa, the Resident Representative highlighted the particular attention that his organisation gives to indigenous peoples. It was partly for this reason that the European Union has financed and intends to continue

supporting the programmes of the Italian NGO COOPI focusing on the Aka. During this meeting, it was also highlighted that the practice of Aka servitude ('Pygmies' masters') was one of the main factors that exclude the Aka from almost all areas of public life, including employment. Some specific questions related to the Mbororo were also discussed. The Resident Representative also mentioned that it may be possible for the European Union to provide support to some groups of Mbororo pastoralists, who have been severely affected by the recent armed conflicts.

3.14 Meeting with the Resident Representative of UNICEF-Central African Republic

The mission held a meeting with the Resident Representative of UNICEF in Bangui, during which the objectives of the visit were explained and copies of the report of the African Commission's Working Group on Indigenous Populations/Communities presented to UNICEF. The Resident Representative promised to contribute to distributing the report and to use it with a view to improving their programmes for indigenous peoples in the Central African Republic.

During this meeting, the mission learnt that a programme for indigenous peoples was currently being designed by UNICEF – Central Africa. They were expecting an expert to start working on the issue in a few months time, with a view to identifying the areas of intervention and producing an action plan. A specific programme for the Mbororo was also mentioned. For all these activities, UNICEF will be cooperating with the CAR government to develop these activities further. The mission also learnt that UNICEF already supports some projects regarding indigenous peoples, which are run by various NGOs, particularly COOPI, and local authorities.

According to the representative, all the activities that UNICEF intends to undertake with indigenous populations must be respectful of their cultures. The case of a pilot mobile education system in Somalia was mentioned as a possible source of inspiration, as it was undertaken in line with the provisions of the Convention on the Rights of the Child and especially in line with the particular provision for indigenous children.

3.15 Meeting with the local authorities and NGOs in Lobaye prefecture

Lobaye is situated approximately 110 km from the capital, Bangui and, according to available statistics, it is the prefecture with the largest population of Aka. This was also why the mission chose to go to Lobaye for its field visit. In Mbaiki, the capital of Lobaye, the mission met with the Police Commissioner, the Sub-Prefect, the Mayor and a local official from the international NGO CARITAS. Copies of the African Commission's report on indigenous populations/communities were distributed during each of the meetings. During the meetings with the local authorities in Lobaye, the mission repeatedly had to clarify the meaning of the term 'indigenous' as understood by the African Commission on Human and Peoples' Rights in order to avoid any confusion or misunderstanding.

During these meetings, the mission was informed of the following matters:

- The Aka continue to be subjected to the practice of servitude by other communities. This practice leads to various forms of abuse, particularly low or unpaid work in the fields of the Akas' 'masters';
- The Catholic church, in association with the international NGO COOPI, has put special programmes in place for the Aka, particularly in the areas of education, census taking, health and cultural promotion;
- The Ngouma, Bakota 1, Bakota 2 and Nkenga camps, where the Aka live, have been legally established as villages, with Aka chiefs at their head;
- The indigenous Aka peoples have difficulty in gaining access to land because of their mobility and inability to adapt to the complex administrative procedures required by land titling;
- An Aka cultural centre has been established in Mbaiki with a view to promoting their rights and way of life. Aka cultural works and different publications on the Aka community are exhibited in the centre and the Aka are represented on the Governing Board;
- Indigenous Aka seek to maintain their own language, called 'Bab-inga', and the continuation and promotion of this language is seen as essential;

- The virtues of Aka pharmacopoeia remain unvalued and unprotected,
- The Aka do not feel that they are protected by the justice system on an equal footing with the rest of the CAR population;
- Access to education, to full citizenship, healthcare, justice and land, as well as to employment, are the main concerns of the Aka.

3.16 Meeting with the indigenous Aka of the Mbote Bonguele region

The Mission visited an Aka village (derogatively named “camp”) at Mbote Bonguele, near Mbaiki. Immediately upon arrival the mission was met by a non-Aka man who presented himself as the head of the village in question and informed the mission that nobody should meet the Aka without his prior permission. The presence of this ‘chief’ prevented a number of Aka from expressing themselves freely but, despite this, some brave people did highlight the fact that relationships were not always good with the Bantu. In fact, this visit enabled the mission members to immerse themselves in the relationship existing between the Aka and other villages, and to learn more about the Aka’s lack of access to the education system. An elderly Aka member, for instance, explained that “our children have difficulty in accessing education due to a lack of financial resources, material resources and because of the bullying and violence to which they are often subjected by Bantu children”. A number of Aka community members whom the mission met also highlighted their difficulties in ensuring their land rights. Many also asserted that they do not enjoy their rights on the same footing as the rest of the population.

3.17 Visits to the Zomea health centre and Siriri village

The mission visited the Zomea health centre, located approximately 10 kilometres from Mbaiki and built by the Catholic church. This centre provides free healthcare for the Aka and employs indigenous people as nursing and birthing assistants. The mission noted that HIV/AIDS had

already penetrated the indigenous community in this area and six cases had already been identified. The nurses highlighted the difficulty of monitoring those Aka who are carrying the virus, given their nomadic lifestyle and the difficulties in getting Aka to take regular medication. In fact, the issue of adapting healthcare to the Aka way of life was raised by the health staff, who say that they have not yet found an answer to this.

A few kilometres from the health centre is an Aka village known as Siriri, which the mission also visited. This was an opportunity for the indigenous member of the mission to raise awareness among the Aka of their situation and how they can improve certain aspects of their life, notably hygiene and school attendance, particularly as the Catholic mission in the area has made a classroom and teacher available to them.

At the medical centre and in Siriri village, the mission observed and noted the prevalence of certain illnesses such as leprosy, aggravated - according to the local nurse - by a lack of discipline in taking medication and the adoption of a certain attitude among the patients. "A number of Aka continue to suffer from certain illnesses as they are not able to take treatment rigorously at regular times. We are sometimes forced to keep the medicines with us and tell them to come by each morning for regular doses. In other cases, we simply keep the patient here until he or she has finished the treatment," a nurse at the health centre explained to the mission.

3.18 Meeting with the Head of the Anthropology Department of the Faculty of Arts at Bangui University

The mission held a meeting with the Head of the Anthropology Department of the Faculty of Arts at Bangui University, who has spent a number of years conducting research into the indigenous Aka. He was given copies of the report of the African Commission's Working Group on Indigenous Populations/Communities. The Head noted that despite the persistent relationship of servitude between Aka and non-Aka, the latter know that the Aka are masters of the forest and that they rely on them for their pharmacopoeia. He also noted that there was still no special legal protection for the indigenous Aka and that, in terms of their geographical living space, the Aka

culture and way of life cannot be contained within national borders given that hunter-gatherer activities know no borders. This anthropologist also told the mission of the sedentarisation of indigenous Aka that is underway, highlighting the fact that some members of this community are beginning to farm the land. According to the anthropologist, this new way of life the Aka are being forced into has begun to raise the issue of Aka land ownership, which in turn is unacceptable to many non-Aka villagers.

3.19 Meeting with the Secretary-General of the National Federation of Central African Livestock Farmers

The mission held a meeting with the Secretary-General of the National Federation of Central African Livestock Farmers (Fédération Nationale des Eleveurs Centrafricains – FNEC). This Federation was established in 1972 following the so-called agrarian reform that put an end to state interventionism in the area. This organisation is officially recognised and keeps a good standard of communication between the government and indigenous Mbororo pastoralists. There are about 250 Mbororo groups within the Federation and, a few years ago, before the recent conflicts, they managed to obtain significant funding from the World Bank in order to provide members with needed technical assistance and medicines for animals. Among other things, the Federation coordinates the pastoral communes (currently seven in total), which are administrative entities established by the government to promote the economic activity of livestock farming.

Apart from the financial problems facing this organisation, the Federation's representative highlighted a number of issues as the main human rights concerns of the Mbororo in the Central African Republic. These issues related primarily to a loss of livestock during the recent armed conflicts and the insecurity that continues to reign in their environments because of the armed bandits known as '*coupeurs des routes*'; the land conflicts that often arise between pastoralists and agricultural farmers; the limited access to schooling for Mbororo children; the discrimination experienced by Mbororo children in school due to the negative attitude of Bantu children and sometimes even the teachers; the low school enrolment of young Mbororo girls who, with the stated aim of avoiding prostitution, are forced to give

up their studies at 15 years or less and marry a man chosen by their parents. Via its awareness-raising activities, the Federation works to overcome the cultural practice of early and/or forced marriages, as well as domestic violence. The Federation's representative also noted the introduction of HIV/AIDS into the Mbororo community, the lack of access of many indigenous Mbororo to civil registry documents and the harassment and denial of justice to which Mbororo pastoralists are often subjected by state officials who abuse their power, swindling the pastoralists.

3.20 Meeting with human rights NGOs from the Central African Republic

The mission held discussions with some of the CAR's human rights organisations, namely *Ligue Centrafricaine des droits de l'homme*, *Association des femmes juristes centrafricaines*, *Association centrafricaine de lutte contre la torture* and *Réseau des ONG Chrétiennes*. It briefly presented the purpose of its mission and gave each NGO present a copy of the report of the African Commission's Working Group on Indigenous Populations/Communities. The mission explained the concept of 'indigenous peoples' to the NGOs and encouraged them to use and widely distribute the report in order to strengthen the continental dynamic for the promotion of indigenous rights. In addition, the mission urged the NGOs to take an active part in the activities of the African Commission on Human and Peoples' Rights through, particularly, the mechanism of Observer Status to the Commission and regular involvement in its sessions. The mission also noted that there were no human rights NGOs run by indigenous peoples in the Central African Republic, and encouraged the NGOs -to the extent feasible- to assist in the establishment of such an organisation. The NGOs welcomed the mission's suggestions, stated their willingness to include aspects of indigenous rights in their work from now on and underlined the need for continuing the work of the African Commission on the issue of indigenous peoples in Central African Republic.

3.21 Meeting with the Italian NGO COOPI

COOPI (Cooperazione Internazionale) is an Italian NGO that has been working in the Central African Republic for several years. It is particularly well-known in this country for its work with and for the indigenous Aka, which it has carried out with the financial backing of the European Union. COOPI works largely in Lobaye Prefecture and, in its work, cooperates with the *Observatoire Centrafricain des Droits de l'Homme* (OCDH) and CARITAS. Its activities focus around two broad areas, namely:

1. Fighting discrimination by increasing people's knowledge of their rights, awareness raising of political and administrative authorities as well as advocacy work;
2. Promoting socio-cultural identity by improving knowledge of the Aka's way of life, the preservation of 'Pygmy' art, the creation of the Cultural Centre for the Promotion of Aka Rights and renovation of the 'Pygmy' exhibit room at the Barthelemy Boganda museum in Bangui.

Actions undertaken by COOPI include awareness raising campaigns directed towards the administrative authorities with a view to obtaining civil registry documents for the Aka, actions promoting Aka culture (as described above) and lobbying for the ratification of ILO Convention 169 on indigenous peoples. On the issue of ratification, COOPI seems to have undertaken important lobbying work with various ministries, parliament, international bodies and civil society members. It also conducts intensive research and monitoring in addition to producing publications on the Aka's culture and human rights situation.¹¹

The mission discussed the work of the African Commission on Human and Peoples' Rights with COOPI; it distributed the report of the Working Group on Indigenous Populations/Communities and discussed its contents. The mission also discussed the process of awareness raising around ratification of ILO Convention 169 and the difficulties that COOPI is encountering, particularly in terms of funding. The mission encouraged COOPI's management to continue the valuable work it is doing with the

¹¹ More information about COOPI is available from their website: www.cooopi.org

Aka, to use and distribute the Working Group's report and to take part in the activities of the African Commission on Human and Peoples' Rights.

3.22 Participation of the Mission in Television and Radio broadcasts in the CAR

The mission participated in a few media broadcasts, including one on national television and another on a CAR radio station. The mission was also interviewed by the parliamentary press service, and this interview was broadcast in its entirety on national radio. On these occasions, the members of the mission presented the objectives of their visit to the CAR and the work being conducted by the African Commission on Human and Peoples' Rights with regard to indigenous peoples. A presentation of the report of the Working Group on Indigenous Populations/Communities, along with an understanding of the term 'indigenous' in Africa, formed the essential issues around which these broadcasts focused.

3.23 Meeting with the National Press: Press Conference

At the end of its visit, the mission organised a press conference for the local and national press. Held in the Office of the Prime Minister, the conference involved the participation of more than a dozen different publishing houses. A brief presentation of the content of the report of the Working Group, an overview of the efforts of the African Commission on Human and Peoples' rights with regard to indigenous populations and a summary of the meetings held formed the basis of the mission's presentation to the journalists. A series of questions put to the mission revealed the journalists' interest in the issue and the questions largely focused on the issue of who is indigenous in Africa and how the African Commission on Human and Peoples' Rights can help countries, such as the Central African Republic, to promote indigenous peoples' rights. At the end of the meeting, copies of the Working Group's report were distributed to those journalists present.

4. OVERVIEW OF INDIGENOUS PEOPLES' HUMAN RIGHTS SITUATION IN THE CENTRAL AFRICAN REPUBLIC

4.1 The practice of 'Pygmies' Masters' or practices similar to slavery

The practice of 'Pygmies' masters' still persists in the Central African Republic. This consists of an individual or a family holding Aka individuals or entire Aka families in their home or on their lands. The beneficiaries of this practice often talk about the Aka as "my Pygmies", implying a proprietary relationship. Some of these 'Pygmies' have been passed down the family as inheritance to their current 'masters', whilst other 'masters' have returned from the forests accompanied by 'Pygmies' who then become theirs. The provision of gifts and the incurring of debts means that many of these relationships with the 'Pygmies' become relationships of servitude. This may relate, in particular, to a 'master' paying a 'Pygmy's' dowry, to providing him with second-hand clothes, or to representing or defending him before the authorities. All these services, allegedly provided in good faith, in reality only serve to create and maintain the 'Pygmy's' dependency on their 'master'.

In return for the 'assistance' provided, the 'Pygmies' carry out work in the fields for their 'masters' for little or no remuneration, and they cannot complain as they would often suffer from all sorts of violence. The masters' generally expect their 'Pygmies' to undertake all kinds of work, at any time of the day and under any condition. They are often subjected to corporal punishment, and even food deprivation, for simply refusing or being incapable of undertaking a task. In some cases, the 'master' also owns the labour his 'Pygmies' may provide to third parties for payment. In other cases, a 'Pygmy's' bondage also includes sexual violence against his wife or daughters by the 'master'. Some analysts consider this violence to be one of the causes of the spread of HIV/AIDS among the indig-

enous Aka communities. A Bantu also revealed to the mission that “a ‘Master’ can never touch or eat what ‘Pygmy’ women have prepared, but they sometimes sleep with Aka ‘Pygmy’ women and girls. Once pregnant, they are returned to their husbands or fathers because a ‘master’ would never wish to be known to have had a child with a ‘Pygmy’ woman”. The ‘master’ is accountable to no-one for his treatment of his ‘Pygmies’, not even to the local authorities or the police. In fact, for many, the ‘Pygmies’ are not even considered human beings like the rest of the population.

This phenomenon of ‘masters’ is particularly common in some of the provinces that have a large Aka population. In the prefecture of Lobaye, for example, which is said to have the highest concentration of ‘Pygmies’, a survey by development and human rights NGOs in 2004 revealed that 59.7% of ‘Pygmies’ still had ‘masters’.¹² Moreover, educated people living in the towns, such as senior civil servants, are also involved in this practice. For example, the mission met a senior ministerial civil servant who admitted having “his Pygmies”, although he thought that the practice should be abolished. He explained his perspective as follows:

“When I was studying abroad, every time my mother called to give me news of the family she also gave me news of ‘my Pygmies’. And a little while ago some of these ‘Pygmies’ came to me in Bangui to ask for a dowry in order to get married. As is customary, I gave them what was necessary. Nevertheless, I think that the practice should be abolished. I even tried to set my ‘Pygmies’ free in the village but many of them didn’t want this”.

4.2 Armed conflicts and indigenous peoples

The northern and eastern parts of the Central African Republic have been, and still are, in the grip of different armed conflicts that have been affecting the whole region for nearly 15 years. These wars and conflicts have been taking place in the border areas with Sudan and Chad, particularly Darfur, where cross-border rebel movements are particularly active.

12 Anna Giolitto, 2006. Op. Cit., p.32

These wars and violent conflicts are sometimes played out on the ancestral lands of the Mbororo pastoralist communities.

It is estimated that the Mbororo constitute around 7% of the national population or 300,000 individuals.¹³ Nevertheless, the Mbororo community alone holds most of the country's livestock. This community is well aware of its economic weight and has created a powerful public utility institution known as the National Federation of Central African Livestock Farmers (*Fédération Nationale des Eleveurs Centrafricains* - FNEC) which in the past received funding of several million US dollars from different donors in order to provide vital veterinary services and products to its members. This structure comprises hundreds of groups of livestock farmers. The economic status of the Mbororo in the CAR attracts much praise but it also creates a number of specific problems, notably attacks from armed groups seeking to cover their own subsistence needs or demanding ransoms. Mbororo herds are also often attacked, stolen or forcibly taken over by armed groups or bandits. This phenomenon has increased to a worrying scale over the last five years, with a proliferation of armed groups or bandits, known as '*coupeurs des routes*'. They have obtained this name due to their methods, which consist of setting up road ambushes for the purposes of extortion and other similar acts. The taking of Mbororo women and children as hostages has also become frequent for the purposes of demanding large ransoms.

The elevated rate of insecurity and instability in areas in which Mbororo groups are living was highlighted by a civil servant from the Ministry of Livestock who explained that: "We recently lost three pastoral commune mayors, killed by unidentified armed men. Murders have become commonplace, not to mention hostage taking, which has become profitable for the aggressors. In one case, 25 Mbororo children were taken and locked in a small local mosque by their aggressors. When the forces of law and order tried to approach the mosque, the aggressor killed 21 of the children there and then, before fleeing". The FNEC has confirmed that this general insecurity has had a devastating effect, as the Mbororos' livestock population has decreased significantly. As a result, many community members have been forced to leave their traditional areas of liveli-

¹³ Commission réfugiés, France:
http://209.85.165.104/search?q=cache:krcN2Pufm7IJ:www.commission-refugiés.fr/IMG/pdf/Centrafrique-mariage_force.pdf+mbororo+en+centrafrique&hl=fr&ct=clnk&cd=8&gl=fr

hood, others have fallen into poverty, and yet others have turned to agriculture or become soldiers in the army. CAR officials in this regard emphasised bilateral discussions between Cameroon and Chad in the search for ways to tackle the insecurity in these areas.

4.3 Access to healthcare

Access to healthcare is a major concern for many indigenous peoples in the Central African Republic. The remoteness and isolation of these communities and the scorn and discrimination to which they are often subjected by some members of the health service are just two of the reasons why accessing health care is particularly difficult for indigenous peoples in this country.

Their level of poverty or, better said, their capacity to pay for medical care, is also a difficulty but this is far more acute among the Aka, given that the Mbororos' cattle rearing generally generates sufficient resources with which to make payments. Many members of the indigenous Aka community which the mission met confirmed that they were unable to pay for health care for themselves and their families. This lack of access to healthcare also means that certain illnesses, such as yaws and leprosy, still persist within Aka communities while they have been virtually eliminated elsewhere. Additionally, the Aka are also often victims of prejudice and discrimination when they visit some medical centres. The particularly high level of poverty among the Aka explains why there are a number of non-governmental initiatives aimed at providing minimum free healthcare for these people. This is the case in Zomeya, in Lobaye prefecture, for example, where nuns have built a health centre providing free care for the Aka. The centre has also provided training for some indigenous Aka in the provision of health care. This was the case of a young Aka woman -whom the mission met- who, encouraged by the health centre, had become a birthing assistant.

A large number of Aka continue to depend heavily on traditional medicine. This is an area in which the Aka indigenous community has an excellent reputation in the CAR. There is a National Association of Tradi-

tional Doctors but the Aka are not represented within this, partly due to the discrimination they suffer from other peoples.

HIV/AIDS has now also reached the indigenous Aka and Mbororo communities of the Central African Republic where, according to a UNAIDS report,¹⁴ the national rate of infection is estimated to be more than 13%. However, no culturally appropriate screening or prevention programme is in place in the CAR, which could ensure that the issue of HIV/AIDS is better understood by indigenous peoples. At one health centre that treats primarily indigenous Aka, the mission was informed that around seven cases of HIV/AIDS infection had been identified. The centre was, however, only monitoring two of them, as five patients had disappeared or were almost impossible to monitor in the forest.

Mbororo communities also face problems in accessing medical care. In most cases, health centres are located far from where they live and many of them have become unable to pay for medical care because of loss of their cattle. Members of the indigenous Mbororo community also noted cases of HIV/AIDS infection among them and deplored the lack of a special AIDS care and prevention programme that takes into account their nomadic lifestyle.

4.4 Access to education

Article 7 of the CAR Constitution guarantees the right to free education in state schools. It says that: "The state guarantees children and adults access to education, to culture and to vocational training... education is free in state establishments for the different types of education." Despite this constitutional provision, the CAR education system is facing severe problems, partly due to a lack of resources. The United Nations Development Programme estimates an illiteracy rate of 57.3% nationally and a primary school enrolment rate of 40.7%.¹⁵ In indigenous areas, illiteracy and primary school enrolment rates are signifi-

14 UNAIDS: http://data.unaids.org/pub/Report/2006/2006_country_progress_report_Central_African_Republic_fr.pdf

15 UNDP: <http://www.cf.undp.org/omd.htm>

cantly lower than the national average. According to a study conducted in Lobaye prefecture, which has the largest Aka population, only 6.7% of primary school age Aka children are enrolled in school.¹⁶ Similar information on the enrolment of Mbororo children is not available, but the specific objectives of the CAR's National Action Plan on Education for All (PNA-EPT) is to "raise the level of access of minority groups (Pygmies, Mbororo, the disabled, children in mining areas etc.) aged 5 to 15 years from 10 to 80%". This indicates that the school enrolment amongst children in these groups is very low and probably around 10%.¹⁷

Different factors lie at the root of indigenous children's difficulties in accessing education. Some of the key difficulties are that: the languages of instruction used in the schools –French and Sango- are foreign to them; the schools are located far away, often more than ten kilometres from their homes; and indigenous children are subjected to ridicule by some teachers and fellow pupils. Sometimes, Aka children are even placed in one corner of the classroom, away from the rest of the children. This kind of attitude, along with their poverty stricken appearance – their clothing is often torn and dirty- makes them the object of mockery on the part of other children. The lack of adaptation of the school system and school timetable to the cultural identities and practices of indigenous communities must also be noted. In fact, Aka children often drop out of school to follow their parents into the forest during the period of the caterpillar harvest, and this makes it difficult for them to complete the school cycle. Mbororo children face similar problems with discrimination at school and their parents are often unable to pay for their schooling.

4.5 Land and natural resource use

The Constitution of the Central African Republic states that "the property and goods of individuals, as well as the nation's heritage, are inviolable.

16 Anna Giolitto., 2006, op. cit., p.22

17 Gouvernement de la République Centrafricaine, Plan National d'Action de l'Éducation Pour Tous (PNA-EPT) : <http://planipolis.iiep.unesco.org/upload/Central%20African%20Republic/Central%20African%20Republic%20PNA%20EPT.pdf>

The state and local authorities, along with all citizens, must protect this".¹⁸ The regulations governing the land law are specifically established in Law N° 63.41 dated 9 January 1964 on state lands, which stipulates that the state is the sole and only owner of the soil. This law also recognises customary land rights resulting from occupation and use since time immemorial. Although this law specifies that traditional communities are not the owners of the lands they occupy and use in the terms of written law, it puts sufficient guarantees in place against any despoilment of lands occupied under a customary system. Nor does Law 90/003 dated 09 June 1990 on the Forest Code in the CAR recognise rights of ownership over forest resources to traditional communities but, like the land law, it limits itself to recognising a right of use for local communities. Nevertheless, Decree 91/018 dated 2 February 1991 establishes the methods for granting development and use permits (*permis d'exploitation et d'aménagement* - PEA) and establishes the need for the prior consent of the local populations when developing "their forests". However, the text does not specify what is understood by the term "their forests".

Law 84/045 dated 2 July 1984 on wildlife protection strengthens the customary land rights of indigenous communities by specifying, in Article 34, that hunting requires a licence unless conducted under customary law. These rights are, however, not recognised within protected areas, the majority of which are located on indigenous peoples' ancestral lands.

The indigenous Aka are particularly affected by this legislation, above all because of the growing forest exploitation that is expanding without any consideration for their traditional sites and living spaces. Their numerical insignificance, the scorn and discrimination they suffer from their fellow citizens, their high levels of illiteracy and their marginalised lifestyle under the domination of their neighbours are all factors that prevent this indigenous community from enjoying the mechanisms provided, for example, in the Forest Code with regard to rights of use of the forest. Moreover, Bantu communities do not accept the fact that indigenous Aka can own land, as was also confirmed by an Aka in Mbaiki village. Land which is occupied or used by an Aka is, in some places, considered as belonging to no-one. It is also intolerable to a Bantu that an Aka should occupy a plot of

18 Article 14 of the Central African Republic's Constitution.

land in a Bantu village. Several indigenous communities have also lost land for conservation purposes and logging operations. As a consequence, communities are forced out of their lands and left to live on road sides, where they face new social phenomena including prostitution and illness.

The CAR authorities are, however, making efforts to recognise villages which are set up and run by the Aka themselves, and this could gradually contribute to greater security of land rights for these indigenous communities.

For the Mbororo, land is also an important issue, although the challenges they experience are different from those of the Aka. For the Mbororo, a key issue is the recurring land conflict between these largely nomadic pastoralists and groups of settled agricultural farmers.¹⁹ This conflict is the result of a number of actions, particularly the accidental or deliberate destruction of fields by the Mbororo's herds; the practice of 'field traps' (*'champs pièges'*) that farmers create around Mbororo livestock areas in order to obtain compensation from the Mbororos whose livestock has damaged the crops, disputes over land ownership between settled farmers and nomadic pastoralists, who are often considered to be simply passing through without any claim to the lands they use from time to time.

The mechanism of "pastoral communes" established by the CAR government is proving to be one way of securing the land rights of indigenous Mbororo in the country. These "pastoral communes" have been established by way of laws 64/32 and 64/33 dated 20 November 1964 on the creation and organisation of local authorities and administrative constituencies in the Central African Republic, (where Section III of Law 64/32 specifically addresses the formation of rural communes in pastoralist areas, the appointment of mayors and the running of the municipal council.) and by Law 65/61 dated 3 June 1965 on livestock rearing regulations in the Central African Republic. Under the terms of this legislation, a commune is known as a pastoral commune if livestock farmers are in a majority and they elect a majority of transhumant pastoralists to the mu-

19 Guy Florent Ankogui-Mpoko, Matthias Banzhaf and Pyt Douma, 2004. *Gestion des Conflits entre Agriculteurs et Eleveurs en République Centrafricaine (RCA)*. Cultural Action and Cooperation Department of the French Embassy, Bangui ., CAR.

nicipal council. Pastoral communes were, on this basis, created from 1962 onwards with the aim of settling Mbororo pastoralists and giving them a geographical land basis. Since then, seven pastoral communes have been created,²⁰ with autonomous municipal councils. These structures function the same way as any other administrative institution and indigenous peoples feel that this could positively impact on their right to take part in public affairs and preside over their well-being.

4.6 Participation in national public life and equality before the law

The Constitution of the Central African Republic states that all citizens are equal before the law and that the law “guarantees men and women equal rights in all areas. Place of birth, person or family gives neither rights nor privileges in the Central African Republic.”²¹ Yet this equal enjoyment of rights as recognised by the Constitution is blocked for indigenous peoples as they lack access to civil registry documents. In the Central African Republic, as in many African countries, these civil documents are a requirement for accessing or enjoying various rights e.g. being able to vote or enrol in school.

Despite the country’s principle of free provision of birth certificates, many Aka children are not registered at birth for a number of reasons, particularly their parents’ lack of access to civil registry offices, the inappropriateness of the established procedures to the Aka way of life and the remoteness of these communities. Moreover, some registry officials demand money from indigenous Aka who wish to obtain civil registry documents. Without birth certificates, these people cannot obtain national identity cards and consequently cannot participate equally in public affairs or access certain public services such as schools. The general human rights situation of the Aka and their economic weakness are at the root of their virtual exclusion from public life in the Central African Republic.

Development organisations and agencies, both national and international, are in the process of implementing programmes aimed at providing

²⁰ Ibid.

²¹ Article 5 of the Central African Republic’s Constitution

indigenous Aka with civil registry documents, particularly birth certificates and national identity cards.²² However, a large number of communities have yet to be covered, and many Aka are therefore living without the necessary civil documents. The lack of identification documents also affects the Mbororo people, though possibly to a lesser extent.

The CAR government is well aware of the lack of indigenous peoples' participation in the public administration, and efforts seem to be underway to overcome this. During the transition period from 2003 to 2005, indigenous Mbororo and Aka communities were each represented by one person on the National Transition Council, which then acted as Parliament. Similar representation for the Aka and Mbororo is planned for the Economic and Social Council, which is in the process of being established. The creation, in 2006, of the first villages established and run by indigenous Aka in Lobaye prefecture should also be noted. The same is the case for the seven pastoral communes established and run by Mbororo, whose municipal councils were appointed by decree of the Council of Ministers, with mayors appointed by ministerial decree on the proposal of the sub-prefect following an opinion of the sub-prefectural council. Mbororo pastoralists in the CAR are now grouped into a public utility institution recognised as such by the government and known as the National Federation of Central African Livestock Farmers (*Fédération Nationale des Elevateurs Centrafricains* - FNEC). This federation is also beginning to offer a framework for pastoralists' demands and provide a guarantee of their participation in the decision-making processes and regulations that affect their lives.

However, it would be good if the government's efforts could also be extended to other areas, such as public sector recruitment. It would in this regard be relevant to extend the government's positive discrimination measures, such as the 10% quota reserved for disabled people in all public sector recruitment, to indigenous peoples as well.

22 COOPI, UNDP and some local NGOs are helping indigenous Aka to obtain civil registry documents. More information on COOPI's activities can be found on the website: <http://www.pygmees.coopi.org/docs>

5. CONCLUSION AND RECOMMENDATIONS

This research and information visit to the Central African Republic was successfully completed and has enabled an understanding of the human rights problems affecting the indigenous Aka and Mbororo peoples of this country. The Central African Republic recognises the existence of these indigenous communities within its territory, and this is a significant step in the right direction. The Central African Republic has also undertaken several legal measures with a view to improving the living conditions of these communities, e.g. by ensuring that indigenous communities gain political representation and allowing for the creation of indigenous villages. The Central African Republic may even be prepared to employ positive discrimination in favour of indigenous peoples, and the country's efforts to ratify ILO Convention 169 should be noted in this regard.

Despite the government's efforts, the human rights situation of indigenous peoples in the Central African Republic is dire. Some Aka live under slavery-like practices, whilst some of the Mbororo suffer from living in an area of armed conflict. Both indigenous groups also experience severe difficulties in accessing their land and natural resources, and they also have difficulties in obtaining appropriate healthcare and schooling. The Central African Republic may, however, find itself strained to deal with all of the above human rights issues, as its resources have been seriously damaged by the political and social crises that it has suffered in recent times. All efforts to rectify the human rights situation in this country will thus require the multi-faceted support of the international community and, especially, of the African institutions themselves.

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

A. To the Government of the Central African Republic

1. Reserve a quota for indigenous peoples in all public sector recruitment, as is already done for disabled people;
2. Finalize the process of ratifying ILO Convention 169;
3. Establish programmes which ensure and increase indigenous peoples' access to health facilities and take into account their specific cultural needs;
4. Create programmes which ensure that indigenous children obtain access to the educational system. The particular situation of Pygmy indigenous children should be taken into account;
5. Adopt a law that prohibits slavery-like practices;
6. Set up a national commission with the mandate to investigate alleged cases of slavery-like practices still affecting Aka indigenous peoples. Cases of sexual violence against Mbororo and Aka indigenous women as well as slavery-like practices that tend to contribute to the phenomena of sexual violence against Aka indigenous women should be severely punished in accordance with national laws;
7. Take all necessary measures to combat impunity, such that 'Pygmies' masters' are held responsible for their actions towards the Aka peoples;
8. Take all necessary measures to provide security to indigenous communities and their belongings in armed conflict-affected areas;
9. Ensure that indigenous peoples are included in all decision-making processes regarding the development of their traditional areas;

10. Take all necessary measures to ensure that civil registry documents are issued to all indigenous peoples;
11. Take all necessary measures, including special measures (positive discriminations), to end all discrimination that Mbororo and Aka indigenous peoples suffer from;
12. Adopt a national socio-economic program aiming at redressing injustices and imbalances that indigenous peoples suffer from. The negative impact of armed conflicts on Mbororo's livestock should be one of the main issues to address.
13. Take strong measures, including criminal charges, against under age marriages;
14. Ensure formal legal recognition, demarcation and titling of indigenous peoples' lands.

B. To NGOs

1. Reinforce socio-economic development activities in indigenous areas.

C. To the international community

1. Mobilize more resources for development projects in Aka and Mbororo indigenous areas;
2. Increase indigenous peoples' participation in all development projects likely to affect them.

D. To the African Commission on Human and Peoples' Rights

1. Follow up on this report and all its activities in the Central African Republic.

ANNEX 1: TERMS OF REFERENCE

Objectives of the mission

This research and information visit to the Central African Republic aims to achieve the following objectives:

- To inform the CAR government, regional and local authorities, national human rights institutions, the media, civil society organisations and associations, development agencies and other interested players of the report and efforts of the African Commission on Human and Peoples' Rights with regard to indigenous peoples;
- To collect information on the situation of the human rights of indigenous peoples in the Central African Republic, with a view to providing a substantive report to the African Commission on Human and Peoples' Rights;
- To distribute the African Commission's report on indigenous peoples to key individuals and institutions.

People undertaking the mission

This research and information visit to the Central African Republic will be conducted by Mr. Zéphyrin Kalimba, member of the African Commission's Working Group on Indigenous Populations/Communities. He will be accompanied by Dr. Albert K. Barume, member of the advisory network of experts to the Working Group. If funding is available, the team will also be accompanied by Mr. Moké Loamba from ADHUC. The mission will be organised in cooperation with local, national and international NGOs present on the ground.

Issues to consider

- Constitutional recognition
- Legal protection
- Rights to political representation
- Political, social and economic marginalisation
- Rights to land and natural resources
- Right to development
- Right to education, health, etc.
- Protection from discrimination
- Government programmes aimed at improving the lives of indigenous peoples
- Gender issues

Where necessary, issues such as the situation of indigenous peoples (including the situation of women) during war and armed conflict should also be considered.

Envisaged activities and meetings

- Presentation to the CAR parliament on the issue of indigenous peoples as contained in the African Commission's report;
- Participation in a radio or television broadcast on the content of the report and the efforts of the African Commission with regard to the rights of indigenous peoples;
- Visits to indigenous communities;
- Meetings and interviews with human rights and development NGOs interested in the rights of indigenous peoples;
- Meetings with ministers or heads of CAR ministries involved in issues such as land, justice, education, health, social rehabilitation, community development, etc.;
- Meetings with clergy working on behalf of indigenous peoples;
- Meeting with some representatives from the CAR judicial system;

- Meetings with human rights NGOs on the issue of indigenous rights. During this meeting, copies of the African Commission's report will be distributed to members of CAR civil society;
- Meetings with United Nations missions in the Central African Republic;
- Meetings with different international bodies and organisations working in the Central African Republic;
- End of mission press conference.

Timetable of activities

The mission will take place from 15 to 28 January 2007.

Mission report

The mission report will be produced by Mr. Zéphyrin Kalimba and Dr. Albert K. Barume, in accordance with the norms and expectations of the Working Group.

Necessary documents

- 50 copies of the Working Group's Report
- 100 copies of the summary version of the Working Group's Report.
- Letter of introduction or mission letter on the headed paper of the African Commission

