

**REPORT OF THE COUNTRY VISIT OF THE WORKING GROUP ON  
INDIGENOUS POPULATIONS/COMMUNITIES TO THE REPUBLIC OF CONGO**

**15 – 24 March, 2010**

## TABLE OF CONTENTS

<b>ABBREVIATIONS AND MAIN TERMS .....</b>	<b>4</b>
<b>ACKNOWLEDGEMENTS.....</b>	<b>5</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>7</b>
<b>I. INTRODUCTION .....</b>	<b>15</b>
<b>II. BACKGROUND INFORMATION.....</b>	<b>17</b>
Brief political history of the Congo .....	17
Geographic and Linguistic Background.....	17
Economic Background .....	18
Administrative background.....	18
The Republic of Congo’s Indigenous Communities .....	18
The Republic of Congo’s International Obligations.....	19
Previous mission .....	20
<b>III. MEETINGS HELD DURING THE MISSION .....</b>	<b>22</b>
<b>Meetings in Sibiti.....</b>	<b>22</b>
<i>Meeting with the Sibiti Prefecture.....</i>	<i>22</i>
<i>Meeting with the Sibiti Sub-Prefect.....</i>	<i>24</i>
<i>Meeting with the Health, Education, Social Affairs and other departmental delegations .....</i>	<i>25</i>
<i>Meeting with the Sibiti Public Prosecutor.....</i>	<i>26</i>
<i>Meeting with local NGOs in Sibiti .....</i>	<i>27</i>
<i>Meeting and visits to indigenous communities .....</i>	<i>28</i>
<b>Meetings held in Brazzaville.....</b>	<b>29</b>
<i>Meeting with the Ministry of Foreign Affairs.....</i>	<i>29</i>
<i>Meeting with the Ministry of justice .....</i>	<i>30</i>
<i>Meeting with the Ministry of Social Affairs.....</i>	<i>31</i>
<i>Meeting with the National Assembly .....</i>	<i>35</i>
<i>Meeting with the Ministry of Primary and Secondary Education .....</i>	<i>36</i>
<i>Meeting with the President of Senate .....</i>	<i>38</i>
<i>Meeting with the Ministry of Forestry.....</i>	<i>39</i>
<i>Meeting with the Legal Advisor to the President of the Republic .....</i>	<i>42</i>
<i>Meeting with the representative of UNESCO.....</i>	<i>43</i>
<i>Meeting with the Representative of UNDP .....</i>	<i>46</i>
<i>Meeting with United Nations Children’s Fund (UNICEF) .....</i>	<i>48</i>

*Meeting with the Human Rights Commission* ..... 51  
*Meeting with NGOs*..... 53

**IV. DELEGATION'S ANALYSES AND OBSERVATIONS ..... 56**

**V. CONCLUSION AND RECOMMENDATIONS..... 60**

## **Abbreviations and main terms**

ACHPR: African Commission on Human and Peoples' Rights

ADHUC: Association pour les Droits de l'Homme et l'Univers Carcéral

AFLEG: Africa Forest Law Enforcement and Governance

COMIFAC: Commission des Forêts d'Afrique Centrale

CSOs: Civil Society Organizations

EMRIP: Expert Mechanism on the Rights of Indigenous Peoples

EU: European Union

FIPAC: International Conference on Indigenous Pygmy Peoples

IPHD: International Partnership for Human Development

NGO: Non Governmental Organisation

RENAPAC : Réseau National des Peuples autochtones du Congo

UNDP: United Nations Development Programme

UNDRIP: The United Nations Declaration on the rights of indigenous peoples

UNESCO: United Nations Educational, scientific and Cultural organization

UNICEF: United Nations Children Funds

## **Acknowledgements**

The African Commission on Human and Peoples' Rights (ACHPR) wishes to express its appreciation to the government of the Republic of Congo for inviting its Working Group on Indigenous Populations/Communities (WGIP) to undertake a promotion mission to the country, and for putting at the disposal of its delegation all the necessary facilities and personnel to ensure the success of the mission.

The Commission is grateful to the authorities for their hospitality and support during the mission. A special note of appreciation is extended to the officials of the Government and other organisations who found time to meet with the delegation in spite of their busy schedules.

# MAP OF THE REPUBLIC OF CONGO



## **EXECUTIVE SUMMARY**

The Working Group on Indigenous Populations (WGIP) of the African Commission undertook a mission to the Republic of Congo from 15 to 24 March 2010. The composition of the delegation was as follows:

- Commissioner Musa Ngary Bitaye, member of the African Commission and Chairman of the Working Group on Indigenous Populations;
- Commissioner Soyata Maïga, member of the African Commission and member of the Working Group on Indigenous Populations;
- Dr Albert Barume, member of the Working Group;
- Dr. Robert Eno, Principal Legal Officer at the Secretariat of the African Commission, accompanied the mission.

### **The objectives of the mission were to:**

- Collect information on the situation of the indigenous population in Congo;
- Discuss with the Government of the Republic of Congo the situation of the indigenous population in particular, and the country's relations with the ACHPR in general;
- Discuss with civil society about their role in the promotion and protection of the rights of indigenous population in Congo;
- Meet the indigenous communities in order to understand the problems they encounter in matters pertaining to the enjoyment of their fundamental rights ;
- Discuss with the Government of the Republic of Congo the specific situation of the indigenous women and children;
- Engage with the stakeholders in connection with the new Act passed in Congo for the benefit of the indigenous population ;
- Disseminate the United Nations Declaration on the rights of indigenous peoples.

At the national level, the delegation met senior Government officials of the following public institutions: the Presidency, National Assembly, the Senate, Ministries of Justice, Social Affairs, Education and Forestry, and representatives of the National Human Rights Commission. The delegation also met representatives of regional services of the Public Prosecutor's Department, including the Secretary General of the Prefecture, the sub-prefect and the regional directorates responsible for education, justice, health and social affairs. The delegation met representatives of civil society at all levels including Non-Governmental Organisations (NGOs) working in the area of human rights in general, and issues concerning indigenous peoples' rights in particular. The delegation also met representatives of the following United Nations Organisations: UNESCO, UNICEF and UNDP. Finally, the delegation visited three indigenous communities near Sibiti.

### **General observations of the Mission**

Following the interviews, discussions and consultations carried out during the Mission, the delegation reviewed the information and made recommendations in the area of citizenship rights, justice, non-discrimination, participation in the management of public affairs, education, health, land and resources, indigenous women and employment. The review touched on the draft bill on promotion and protection of the indigenous population in the Republic of Congo.

## ***Draft bill on promotion and protection of the rights of indigenous peoples in the Republic of Congo***

The delegation took note of the bill on promotion and protection of the rights of the indigenous population in the Republic of Congo. The process leading to the passage of the Act had been ongoing for more than four (4) years and many interested parties were brought on board, and they included, in particular, the indigenous communities, civil society organisations and international partners. At the time of the mission, the bill had already gone through several stages, notably its adoption by the Council of Ministers and consideration by the Constitutional Court. The only remaining stage was its submission to Parliament, its inclusion on the agenda of the legislature and finally its passage and promulgation by the Head of State. The version presented to the delegation had 11 Chapters which touched on the following respectively: the general provisions, civil and political rights, cultural rights, the right to education, health, property, and the right to the environment and other final provisions. Most of the provisions are comparable to standards prescribed under various international instruments, in particular, the African Charter on Human and Peoples' Rights as well as the United Nations Declaration on the Rights of Indigenous Peoples.

### ***Right to Citizenship and Civil Status***

The delegation observed the lack of disaggregated statistical data on the status of or the level of enjoyment of several rights by the indigenous communities in the Republic of Congo. Alienation, centralist approach, suspicion on the part of the indigenous peoples with regard to the systems in place and the extreme poverty of the communities are all critical factors which prevent them from fully enjoying their citizenship rights. The indigenous people do not register their children at birth nor their marriages for reasons attributable not only to the fact that majority of them are illiterate but also to the fact that public services have not taken the lifestyle of the indigenous communities into consideration, and even where these services exist, they are situated in distant urban locations far removed from where the communities are. The delegation also noted that few of the indigenous people are public servants. In fact, the delegation did not find any indigenous employee in the public service in the places it visited.

### ***Right of access to justice***

The delegation noted that free legal aid is available for the needy in the Republic of Congo. This mechanism could be beneficial to the indigenous communities which live in conditions of extreme poverty and are hardly conversant with the judicial system. Unfortunately, the lack of resources on the part of the Government is crippling the free legal aid system. Meetings with the various local authorities showed that there are unreported cases of discrimination, abuses and attacks on the physical integrity of indigenous peoples by members of the dominant groups. The delegation noted the existence of promising initiatives aimed at sensitizing the indigenous peoples on their rights by the Public prosecutor's department at the Court in Sibiti in collaboration with local NGOs. The delegation was however informed that in certain places like Sibiti, the judicial officers are not many, especially lawyers, to assist the needy among the indigenous people. Furthermore, the delegation observed widespread mistrust on the part of the indigenous people towards the public justice system.



### ***Right to non-discrimination and equality***

The delegation noted that there is no legal or institutional framework specifically established to address discriminatory practices perpetrated against indigenous communities who do not know their rights and are not considered as full-fledged citizens. For instance, it is quite rare for a Bantu woman to marry an indigenous person or for food prepared by an indigenous person to be eaten by people from other communities. The inequalities also persist in the area of employment, and the salary of indigenous persons can in no way be compared to the work they do and it is far from being equal with that of his colleagues from the dominant groups. Some local authorities disclosed cases bordering on slavery to which the indigenous people are subjected in certain parts of the country. Some indigenous individuals and whole families are, in certain cases, viewed as Bantu property.

### ***Right to information and participation in the management of public affairs***

The delegation noted that the indigenous people do not have access to public information. There is no Government programme in place aimed at building capacity among the indigenous people to enable them understand their rights and duties as full nationals and their contribution to the socio-economic development of the country. For example, there is no radio station nor any specific programme targeted at the indigenous communities. Moreover, the delegation did not meet any public servant from the indigenous communities. There is no indigenous person in the public or institutional sector such as the Legislature, the Executive or the Judiciary. Even at the local level, the indigenous people are not part of the decision-making organs or institutions. Furthermore, the traditional institutions are not recognised nor taken into account in the administrative organisation of the country.

### ***Right to education***

The delegation noted the existence of an appropriate legal framework on the right of indigenous children to primary education in the country. This right originates from the law on free primary education. The delegation also took note of the crucial activities undertaken by the NGO called the *International Partnership for Human Development* (IPHD) in the Lékoumou administrative district where the positive impact is felt and appreciated though the sustainability of their intervention is doubtful. In spite of the favourable legal framework and ongoing efforts by non-State actors, the delegation observed that there is lack of teachers and schools in the immediate surroundings or in the indigenous villages including the persistent phenomenon of dropouts, which accounts for more than 80% of the indigenous children. For example, the delegation was informed that there is only one indigenous student pursuing secondary education in Sibiti. Moreover, the delegation noted that a large number of children of school-going age were in the village during school hours at the time of the mission. It seems that the efforts being made are still not enough. The delegation also observed that the extreme poverty of the indigenous parents has a negative effect on the education of their children as was indicated in the report of an education study conducted by the Experts' Mechanism on the Rights of Indigenous Peoples (EMRIP), which establishes a direct correlation between indigenous poverty and the education of children. The phenomenon of early marriages was also emphasised as one of the major obstacles to access and maintenance

of indigenous girls in schools. Furthermore, cases of abuses perpetrated against indigenous children by other pupils and sometimes by some teachers were raised. In fact, several indigenous children drop out of school because they are constantly maltreated or teased by other children or teachers who treat them as dirty and uncivilised people. The school system also does not correspond with the lifestyle, culture and living conditions of the indigenous communities. To a large extent, the indigenous children are compelled to drop out of school to participate in activities related to the mode of life of their communities.

### ***Right to health***

The delegation noted a general problem of inaccessibility to health care in the Republic of Congo due mainly to lack of infrastructure, resources and qualified staff. The delegation was informed, for instance that there is only one medical doctor to more than 80.000 inhabitants at Sibiti. Lack of access to health services is a widespread phenomenon in the Republic of Congo, not only because of the scarcity of resources and distant health centres but also due to discrimination, prejudices and mistrust constitute the bane of the indigenous people who are constantly subjected to such practices by the health personnel. Most of the indigenous communities in the Republic of Congo always rely on traditional medicine but the growing inaccessibility to forests and lack of support by Government is seriously eroding the knowledge and skills of the indigenous people in the area of traditional medicine. In spite of the adoption of some positive national policies such as free treatment of malaria for the age bracket from 0-15 years, the health conditions of the indigenous people are still worrisome as a result of a combination of factors including their state of extreme poverty, failure to adapt national health policies to the way of life of the indigenous people, the level of mistrust on both sides. For example, a certain amount of mistrust was observed on the part of the indigenous people in respect of the immunization campaign and antenatal controls in spite of the incentives introduced by the local authorities for the benefit of the indigenous people. The delegation also noted the dearth of decent housing, potable water and toilets, a situation which poses a real hygienic and public health hazard in the places visited. The delegation also observed that almost all indigenous childbirths are followed up by traditional birth attendants who said that they had never benefitted from any assistance programme or any form of training. The absence of support for traditional medicine, which is largely used by the concerned communities is a major concern raised by the mission.

### ***Right to land, cultural identity and decent employment***

The delegation noted that the indigenous communities living mainly in rural areas are not landowners like in other traditional communities in the Republic of Congo. In actual fact, the indigenous communities live on the outskirts of villages belonging to the dominant groups and when these villages spread out, the indigenous people are compelled to move away. The delegation did not come across any village where the indigenous people lived side by side with the Bantus. This widespread situation shows the extent of existing discrimination, segregation and stereotypes that affect the indigenous communities. The delegation noted that traditional landed property ownership is not guaranteed to the indigenous communities. The tropical Congo forests are known to be the ancestral lands of these indigenous communities. Consequently, large portions of the forest have been give out as concessions for logging or transformed into forest reserves, and in both cases, the customary rights of the indigenous peoples are not recognized. The general assumption is that the indigenous communities do not need specific lands because of their nomadic lifestyle. Furthermore, their modes of life

and land use are viewed as a waste of Government resources. This is partly explained by the growing inaccessibility of indigenous people to forests in the Republic of Congo.

The delegation also noted that majority of the indigenous people in Sibiti spend their time working in the farms of Bantus or other dominant groups for whom they carry out all types of activities including hunting. The indigenous people often perform these tasks without any pre-arranged or negotiated salary but receive remunerations determined unilaterally by their employers against whom they cannot institute any action before competent authorities.

Finally, the delegation noted that the indigenous people are endowed with competencies, skills and know-how and are engaged in traditional vocational trades capable of generating incomes. These skills are however not developed and promoted at the national level.

## **Conclusions**

This report presents an account of the visit undertaken to the Republic of Congo from 15-24 April 2010 by the Working Group on Indigenous Populations of the African Commission. It includes the terms of reference of the Mission and details of discussions with members of Government, specialised agencies of the United Nations system and civil society organizations working on the status of the rights of indigenous communities in the Republic of Congo.

The mission, which is the focus of this report, is a follow-up to the previous research and information mission undertaken by the Working Group in 2005 which raised a lot of concerns and also outlined ongoing positive actions engaged in by the different stakeholders. The earlier mission of the Working Group targeted the indigenous communities living in the north of the country. The current mission was undertaken to the Southern part of the country where quite a sizeable number of indigenous populations live.

The mission also included a visit to the indigenous communities living in the Lékoumou administrative district, specifically in the Sibiti Prefecture mostly inhabited by indigenous people. The mission held working sessions with the Prefecture, officials of the local governments, the Public prosecutor's office and local NGOs operating in the field of rights of the indigenous people. The mission also visited 3 indigenous villages and had discussions with them during which the communities clearly outlined their concerns, characterised by lack of access to land, health care, education, employment including their non-participation in the management of national and community institutions. The indigenous populations do not live in the same villages as the Bantus; they abandon their own villages when the dominant groups spread out and their health and hygienic conditions are a source of great concern.

The current mission forms part of the national concern characterised by a process of discussion of a bill on the promotion and protection of the rights of indigenous populations. It is a major initiative by the Government intended to create a specific legal framework to guarantee the different aspects of rights of indigenous people. At the time of the mission, the process leading to the adoption of the law was at a very advanced stage and all the public authorities the delegation met expressed the firm determination of the Government and National Assembly to carry out the process to its logical conclusion within the shortest possible time.

It is worthwhile mentioning that at time of adoption of this report by the African Commission, Act No. 5-2011 of 25 February 2011 to promote and protect the rights of indigenous populations in the Republic of Congo had already been passed and promulgated.

In view of this, the African Commission makes the following recommendations to the various parties concerned with the aim of improving the status of the rights of the indigenous communities in the Republic of Congo:

## **Recommendations**

### **To the Government of the Republic of Congo**

1. Initiate without any further delay the process of implementation of Act No. no.5-2011 of 25 February 2011 on the promotion and protection of the rights of indigenous population ;
2. Organise a national census of indigenous population and ensure that the technical institutions produce disaggregated statistical information on the living conditions of the indigenous populations ;
3. Guarantee the representation of indigenous population in public and community institutions and ensure gender equity ;
4. Guarantee access to the justice system by the indigenous populations especially by establishing a free legal aid mechanism within the immediate surroundings ;
5. Take all appropriate steps towards the issuance of identity cards and systematic registration of births and marriages by equipping the technical agencies with adequate resources tailored to the lifestyle of the indigenous populations ;
6. Establish a school system adapted to the lifestyle, needs and inherent constraints in the daily lives of the indigenous population ;
7. Establish school canteens and operationalise free educational supplies including the introduction of incentives to encourage the teaching personnel to go to the indigenous communities and in particular provide training for indigenous teachers ;
8. Incorporate elements of indigenous culture and identity into teaching and literacy curricula ;
9. Develop a technical and professional teaching by taking into account indigenous know-how and economy ;
10. Provide well –equipped health centres stocked with adequate medicines and endowed with qualified staff within the communities where the indigenous people live ;
11. Provide training for health personnel from the indigenous communities in terms of supervision and capacity building for traditional birth attendants ;

12. Develop targeted sensitisation campaigns and initiate community actions to ensure that the indigenous population familiarise themselves with : immunisation, antenatal and postnatal controls, HIV/AIDS screening ; monitoring of chronic parasitic diseases among the indigenous communities ;
13. Provide support in different ways, including provision of financial assistance for the promotion and practice of traditional medicine by the indigenous population ;
14. Recognise and protect the customary land entitlement of the indigenous population, demarcate and provide title deeds for land ;
15. Guarantee the participation of the indigenous population in the exploitation, conservation and management of natural resources in their traditional native communities;
16. Promote income-generating activities and facilitate market access for products originating from economic activities and traditional vocations of the indigenous population ;
17. Guarantee to the indigenous populations equitable conditions for access and right to employment ;
18. Take appropriate measures with a view to ensuring effective protection of the indigenous populations from all forms of violence, servitude and practices bordering on slavery and also ensure that the perpetrators and accomplices of these acts are prosecuted and punished according to law ;
19. Strengthen the sub-regional component of promoting cultural rights and the identity of the indigenous populations by way of organising Inter-State festivals and meetings as a means of ownership of the said initiatives and policies by the communities themselves;
20. Support and strengthen the capacity of indigenous organisations as well as civil society oprganisations working in the field of rights of indigenous people ;
21. Take appropriate measures for the ratification and implementation of Convention No.169 of the ILO concerning indigenous people.

**Recommendations to the International Community:**

1. Provide technical , material and financial assistance to the Government of the Republic of Congo for the effective implementation of the Act on promotion and protection of the rights of indigenous population;
2. Provide material and financial support for community, local and national stakeholders working towards promoting and protecting the rights of the indigenous population ;

3. Promote collaboration among all the stakeholders to enhance the harmonisation of programmes, actions and plans among all stakeholders operating in the area of rights of indigenous persons in order to maximize the impact on indigenous communities

**Recommendation to the National Commission on Human Rights, NGOs and other civil society organisations:**

1. Contribute to the popularisation of the Act concerning the promotion and protection of the rights of indigenous people, in particular, by organising seminars, translating the Act into local languages and engaging in mass media campaigns etc. ;
2. Initiate capacity building programmes among the indigenous people concerning their rights and take measures for the sensitisation of the dominant groups about the rights of the indigenous population.

## **I. INTRODUCTION**

The African Commission on Human and Peoples' Rights (ACHPR) was established by virtue of Article 30 of the African Charter on Human and Peoples' Rights (the Charter) with the overarching mandate of promoting and protecting human and peoples' rights in Africa.

In order to fulfil its mandate effectively, the ACHPR established special mechanisms, including special rapporteurs and thematic working groups on human rights. These special mechanisms fulfil the same mandate as the ACHPR, namely, the promotion and protection of human rights within their respective areas of specialisation. One of these special mechanisms is the Working Group on Indigenous Populations/Communities (WGIP), established by the ACHPR in 2000, at the time of the 28<sup>th</sup> Ordinary Session of the African Commission, held in Cotonou, Benin, in October 1999.

In 2003, the Working Group adopted and submitted a report to the ACHPR in which it gave an overview of the situation of indigenous populations in Africa and conceptualized its approach to indigenous affairs in the context of the African Charter. The Report was adopted by the ACHPR in 2003 and subsequently published and widely distributed. This Report represents the official conceptualisation and framework within which the African Commission promotes and protects the rights of the continent's indigenous populations and communities.

Since its establishment, the Working Group has made visits to a number of countries, including Botswana, Namibia, Niger, Uganda, Rwanda, Burundi, the Democratic Republic of Congo, the Republic of Congo, Gabon, the Central African Republic, Burkina Faso, Libya and Kenya.

### **Preparation of the mission**

During its 46<sup>th</sup> Ordinary Session held in November 2009 in Banjul, The Gambia, the African Commission discussed the possibility of its WGIP to undertake a promotion mission to the Republic of Congo. A note verbal to this effect was given to the Congolese delegation during the session. In February 2010, the Congolese government responded favourably, inviting the WGIP to undertake the mission as planned, that is from 15 – 24 March, 2010. The government prepared a draft programme which was shared with the Secretariat and members of the delegation undertaking the mission. The programme was finalised prior to the delegation embarking on the mission, with the contributions from local NGOs.

### **Composition of the delegation**

The delegation of the WGIP comprised:

- Commissioner Musa Ngary Bitaye – Member of the African Commission and Chairperson of the WGIP – Head of delegation;
- Commissioner Soyata Maiga - Member of the African Commission and of the WGIP
- Dr. Albert Barume – Member of the WGIP.

The mission was supported by Dr. Robert W Eno, Senior Legal Officer at the Secretariat of the ACHPR.

## **The Mission's Objective**

- To gather information on the situation of indigenous peoples in the Congo;
- To meet with the highest authorities in order to inform them of the work of the African Commission in the area of promoting the rights of indigenous populations/communities and to discuss the general situation of indigenous communities in the Congo;
- To meet civil society organisations working in this field in order to discuss their role in and contribution to defending indigenous rights;
- To obtain information from all actors on the specific situation of indigenous women and children;
- To meet with grassroots indigenous communities and discuss progress towards enjoyment of their rights, along with the challenges still facing them;
- To discuss with actors involved in the process of adoption of a bill on indigenous peoples in Congo ; and
- To disseminate the UN Declaration on the Rights of Indigenous Peoples.

## **Meetings held**

The Delegation met senior executives from the following public bodies: the Presidency of the Republic, the National Assembly, the Senate, the Ministries of Justice, Social Affairs, Education and Forests, and representatives from the National Human Rights Commission. The Delegation also met representatives from the regional-level authorities and the Public Prosecutor's Department, namely the General Secretary of the Prefecture, the Sub-Prefect and the departmental services responsible for education, justice, health and social affairs. The Delegation met civil society representatives, along with non-governmental organisations active in human rights issues generally, and indigenous rights issues in particular. The Delegation also met representatives of the following UN agencies: UNESCO, UNICEF and UNDP. Finally, the Delegation visited three indigenous communities in the Sibiti region.



## II. BACKGROUND INFORMATION

### Brief political history of the Congo

The Republic of Congo is a former French colony. In 1880, Pierre Savorgnan de Brazza signed a Protectorate Treaty with various traditional leaders, to France's benefit. The French Parliament ratified Savorgnan de Brazza's agreement in 1882, while the Berlin Conference (1884-1885) recognised French rights over the right bank of the Congo. Now a Commissioner General, Pierre Savorgnan de Brazza united Congo and Gabon under his authority, then extended France's possessions to the north. The colony of the French Congo was created in 1891 and licensed companies divided up the territory to exploit its resources (rubber and ivory).

In 1910, Brazzaville became the capital of French Equatorial Africa, and the regions explored by Pierre Savorgnan de Brazza were split into two countries: Gabon to the west and Congo to the east. In 1911, the licensed companies lost most of their lands. The ensuing anti-colonial reaction took the form of protest movements. Nationalism did not truly commence, however, until after the Second World War. By exploiting local rivalries, Fr. Fulbert Youlou managed to get elected in the 1956 local elections and, in 1958, he became Prime Minister of the Republic within the French equatorial community.

The Congo gained independence on 15 August 1960. Fulbert Youlou was elected the first President of the Republic. The country subsequently underwent a number of regime changes, moving from Marxism-Leninism to economic liberalisation. The Republic of Congo became the Popular Republic of Congo in 1969. After a general uprising in 1990, a new Constitution was adopted in 1992 and the regime returned to a multi-party system.

Between 1993 and 1999, the Republic of Congo was marked, and its stability challenged, by three successive civil wars. President Denis Sassou-Nguesso was elected following elections held, respectively, in 2002 and 2009. The President is both the Head of State and Head of Government, which is made up of various ministries. The Congolese Parliament is formed of a National Assembly and a Senate.

### Geographic and Linguistic Background

The Republic of Congo is a state in Central Africa bounded to the west by the Atlantic Ocean and Gabon, to the north by Cameroon and the Central African Republic and to the east and south by the Democratic Republic of Congo. It covers an area of 341,821 km<sup>2</sup> and has a 169 km-long coastline on the Atlantic Ocean. Its capital is Brazzaville.

The Republic of Congo has an estimated population of 2.6 million, primarily made up of **Bantu** and some ethnic minorities, including indigenous peoples such as the **Babemdjele and Baka** (1.4%). Of the sixty or so ethnic groups, the **Kongos** are the most numerous (51.5%), followed by the **Tékés** (17.3%) and the **Mboshis** (11.5%). Other ethnic groups make up 19.7% of the population. The population is unequally distributed. 70% of the population lives in the south of the country, along the coast, on the bank of the middle Congo

River, and near the Congo-Ocean railway line that links these two areas. Three-quarters of the population live in towns such as Brazzaville.

The most important languages belong to the Bantu family: these are the Munukutuba (50.3%), Kikongo (36.5%), Lingala (13%), Mboshi (8.5%) and Tékés (8%) languages. Lingala, the “river language” is spoken in the north and east, right all the way along the river; Munukutuba (or Kituba), the “railway line language”, is spoken in the south.

### **Economic Background**

The Republic of Congo has numerous natural resources comprising, primarily, oil (80% of income) and timber, which is the second largest source of State revenue. Agriculture plays a significant role in the country’s economy. Although agriculture remains primarily a subsistence activity, an industrial sector has nonetheless grown up which, whilst fragile, enables the Congo to export a number of products such as sugar, produced by the SARIS-CONGO company. Coffee and cocoa are important among the agricultural products that the country exports unprocessed.

### **Administrative background**

The Republic of Congo is administratively comprised of 12 departments, namely Brazzaville town, Pointe Noire town, Bouenza, Cuvette, Cuvette-Ouest, Kouilou, Lékoumou, Likouala, Niari, Plateaux, Pool and Sangha.

### **The Republic of Congo’s Indigenous Communities**

The indigenous communities that live in the Republic of Congo are otherwise known as ‘Babendjele and Baka’, a disparaging term that is not preferred by many of these community members. They are found virtually all over the country, but more specifically in the departments of Kouilou, Lékoumou, Niari and Bouenza. Sections of these communities live in other African countries and, together, they form what are commonly known as the ‘Babendjele and Baka’ of the Central African rainforest, recognised as the oldest inhabitants of this part of the continent.

The Babemdjele and Baka indigenous communities of the Republic of Congo live primarily on hunting, gathering, fishing and small scale crop farming. They are socially structured into small groups that constantly move across large areas of forests, with which they have a strong cultural tie as source of their whole livelihoods, culture and way of life. Politically, these have no central authority with control or decision-making power over the other communities. The political system is egalitarian although some social roles, such as expertise in hunting or traditional medicine, enjoy great esteem and consideration among other community members. The forest is considered in a similar vein; it is seen as Mother Earth, and something that no

community member can take as his own.<sup>1</sup> The expanding exploitation of forests-related natural resources, including timber and minerals, constitutes one of the major challenges to indigenous peoples'

### **The Republic of Congo's International Obligations**

The Republic of Congo is party to the following international instruments:

- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- Optional Protocol to the International Covenant on Civil and Political Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women
- Slavery Convention
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
- Freedom of Association and Protection of the Right to Organise Convention
- Right to Organise and Collective Bargaining Convention
- Convention concerning Forced or Compulsory Labour
- Equal Remuneration Convention
- Abolition of Forced Labour Convention
- Discrimination (Employment and Occupation) Convention
- Convention against Discrimination in Education
- Rome Statute of the International Criminal Court
- African [Banjul] Charter on Human and Peoples' Rights
- Convention Governing the Specific Aspects of Refugee Problems in Africa
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights
- African Charter on the Rights and Welfare of the Child
- The United Nations Declaration on the rights of indigenous peoples (UNDRIP)

The Republic of Congo has not ratified the following international instruments that are equally relevant to rights of indigenous communities

---

<sup>1</sup> Lewis, J., 2001, Forest People or village people: whose voice will be heard?, In Bernard, A., and Kenrick, J., ed., *Forest People or village people: whose voice will be heard?*, Edinburgh, Centre of African Studies, University of Edinburgh, p.64

- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts
- Optional Protocol to the Convention on the Elimination of Discrimination against Women

### **Previous mission**

The African Commission initially conducted a mission through the Working Group on Indigenous Populations/Communities, 5-19 September 2005, led by working group member Zéphyrin Kalimba, accompanied by a then independent expert, Dr Albert Barume. The report of the mission was adopted by the African Commission and published, with the following recommendations:

#### *To the Government of the Republic of Congo*

1. Urgently bring the draft bill on ‘Babendjele and Baka’ to a successful conclusion, bearing in mind the deep concerns of the communities in question;
2. Put national sectoral policies in place that will enable the ‘Babendjele and Baka’ to enjoy all rights and fundamental freedoms on a par with other Congolese citizens;
3. Take urgent measures to put an end to the practice of “Babendjele and Baka’ masters” and punish all those who take part in it.

#### *To the African Commission on Human and Peoples’ Rights*

1. Conduct country by country monitoring of the commitments and/or indigenous policies adopted by development agencies, bilateral and multilateral partners;
2. Organise a regional conference on experiences of educating ‘Pygmy’ children in Central Africa, with a view to exchanging experiences, gaining inspiration and, for some, refocusing strategies;
3. Support the creation of an indigenous civil society in this country with a view to establishing capable and legitimate spokespersons with whom the government can dialogue;
4. Visit the Republic of Congo with a view to supporting the draft bill that is underway and raising the awareness of the government with regard to the different aspects of indigenous law that this bill should incorporate;
5. Write to the European Union, the World Bank, the different bilateral partners and COMIFAC (Forestry Commission in Central Africa) with a view to including the issue of indigenous peoples in the different processes related to forestry management in the Congo basin, such as AFLEG (Africa Forest Law Enforcement and Governance), the Convergence Plan, etc.;
6. Commence inter-sessional meetings involving the development agencies and players working on behalf of indigenous peoples in Africa;
7. Put in place a mechanism for monitoring the recommendations of the Working Group’s reports through different players, both state and non-state.

#### *To the Congolese civil society*

1. Strengthen the existing indigenous associations.

*To the international community*

1. Design and implement projects specifically focussing on the needs of the indigenous peoples, including such issues as land, education, health, forced labour, bondage and sexual violence;
2. Support an in-depth study of the situation of indigenous peoples in the Republic of Congo, possibly including a census;
3. Assist in disseminating the African Commission's report on the rights of indigenous communities.

### **III. MEETINGS HELD DURING THE MISSION**

#### **Meetings in Sibiti**

The Delegation conducted a field mission to Lékoumou department, more specifically Sibiti Prefecture, administrative capital of Lékoumou department, located in the southern part of the Republic of Congo. Approximately 25% of the department's population is indigenous.

#### ***Meeting with the Sibiti Prefecture***

The Delegation met with the General Secretary of Sibiti Prefecture, who stood in for the Prefect absent at the time of the visit. Commissioner Bitaye introduced the Delegation and presented the aims of the mission. Commissioner Maiga then briefly described the mandate and work of the African Commission on Human and Peoples' Rights in general, and that of the Working Group on Indigenous Populations/Communities in particular. She mentioned, for the benefit of the General Secretary, the African Commission's previous visit to the Republic of Congo in 2005 and the status of the process of adopting a law on the rights of indigenous peoples in the Republic of Congo. Commissioner Bitaye particularly highlighted the African Commission's support of the Republic of Congo's efforts in favour of indigenous communities.

In his preliminary comments, the General Secretary thanked and welcomed the Delegation before stating that he had developed an interest in the work of the African Commission, as he had undertaken work in this regard when working as a journalist in the past. He then presented his department in geographic and administrative terms before stating that, in 2006, his administrative constituency had hosted the government celebrations for International Day of the World's Indigenous People.

Cohabitation between indigenous and non-indigenous peoples was the first point addressed by the General Secretary, who indicated that the rest of the Congolese population were now gradually beginning to understand that indigenous people were citizens like themselves. He mentioned some cases in which certain individuals continued to consider themselves the owners or chiefs of indigenous families or individuals but he did nonetheless state that there had been progress in the perception and consideration of indigenous peoples both at government and community level. The General Secretary said that he was particularly interested in the issue of indigenous rights and that his wife was in the process of publishing a book on indigenous education in the Republic of Congo.

A lack of access to school on the part of indigenous children was pinpointed by the General Secretary, who condemned the extreme poverty of the parents, the remoteness of schools, the mockery from other children, the lack of food during school hours and the lack of decent clothing, stating that these were some of the main reasons why indigenous children were unable to access education. For example, he indicated that the drop-out rate among indigenous children following primary school was around 98% and that in his department only one indigenous child was in higher secondary school, with three or four more in lower secondary school. The General Secretary noted the work of the US NGO International Partnership for Human Development (IPHD) which, in the context of its 'Food for Education' programme, was offering primary school-age indigenous children in the

department a school kit, food during class hours and some school uniform or clothes. This NGO is also trying to encourage parents with children at school to take up agricultural activities in order to make them less mobile. The IPHD project had 3 more years to run at the time of the Delegation's visit, and the General Secretary hoped that the government and other actors would consider picking up this programme and continuing with it.

Access to civil registry documents was also mentioned by the General Secretary, who emphasised that, under the terms of Congolese law, parents must register their children at birth, at no charge, or face criminal penalties. This legal stipulation, highlighted the General Secretary, was hardly ever applied in indigenous areas because of various factors, particularly the distance of the communities, some of whom live more than 40 kms from the registry office. The cost of transport is an obstacle to indigenous families, who do not earn much. The General Secretary emphasised that, to try and resolve the problem of distance, his department had put in place a mechanism of outreach registry offices in indigenous areas, which collect information and pass it on to the departmental centre. Unfortunately, all the people working in these outreach offices were volunteers, due to lack of resources. The Prefecture hoped to be able to begin paying these volunteers but was still seeking resources. The General Secretary also highlighted the fact that some children, and even some adults, either had no name at all or shared the same name as others. He wondered about this attitude and stressed that several indigenous people had been unable to vote because of this phenomenon, despite indigenous peoples being a majority in some parts of the country.

The General Secretary particularly emphasised the discrimination that indigenous people continue to suffer. By way of example, he pinpointed the fact that many non-indigenous men will still not eat food prepared by an indigenous woman and the fact that most indigenous men will still not contemplate marrying a non-indigenous woman, although the reverse is sometimes possible. The General Secretary said that, with the adoption of the law on indigenous rights, he hoped that these negative, stereotypical and prejudiced perceptions would gradually disappear. He also noted that, at the International Conference on Indigenous Pygmy Peoples (FIPAC), organised by the government of the Republic of Congo in 2008, the indigenous people had clearly condemned the negative perceptions of the rest of the population in their regard.

The right to land and forests was addressed during the meeting with the General Secretary, who told the Delegation that the indigenous people in his department continued to depend heavily on the forest for their day-to-day survival. With regard to land, he informed the Delegation that, in principle, the lands on which indigenous villages were located were not recognised, either in custom or in law, as belonging to them. As the Bantu or other non-indigenous villages spread towards those of the indigenous population, these latter are forced to abandon their homes and penetrate deeper into the forest, much of which has been allocated to logging companies as concessions. The General Secretary stressed that, within his department, loggers took no account of indigenous areas and forest use, even though the indigenous people remained culturally attached to these spaces.

Access to health care was also covered in the General Secretary's presentation, who began by giving an overview of the health infrastructure and resources in his department: there are 5 active health centres throughout the whole department, out of 22 that used to exist. With approximately 80,000 inhabitants, Lékoumou department had only one general practitioner. He highlighted the fact that, with such a situation, traditional medicine - an area in which the

indigenous population had renowned expertise - should be supported as an alternative. Unfortunately, traditional pharmacopoeia was not benefiting from any government support programme. The issue of HIV/AIDS was considered by the General Secretary, who highlighted the existence of a departmental testing centre but that this centre had no disaggregated data on the indigenous population. He also mentioned ante-natal care for indigenous women, who currently benefit from no specific programmes and who continue to be supervised by indigenous midwives with no back-up.

The political representation of indigenous people within the department was also considered. The General Secretary stated that the Municipal Council comprised 47 members, of which none were indigenous, despite the fact that these latter were in a majority in some parts of the department. There is no statistical data on the exact number of indigenous people living in the country in general or Lékoumou department in particular. Nor is there any indigenous individual in the National Assembly, Senate, government or judicial bodies. The General Secretary insisted on the need to educate indigenous children and raise awareness among the communities, and to undertake actions aimed at facilitating the integration and advancement of indigenous individuals in the public administration. For example, he mentioned the first indigenous nurse in the department, which the Prefect wanted to see hired as soon as possible.

Commissioner Bitaye briefly responded to the General Secretary, thanking him for the depth of his intervention and the time he had devoted to the meeting. He praised the government's awareness of the deplorable situation in which the Congo's indigenous peoples continued to live and the government efforts underway, despite a lack of resources. The Commissioner urged the department, via the intermediary of the General Secretary, to continue to seek solutions to the problems of indigenous peoples. He finally provided the General Secretary with several copies of the publications of the African Commission on the rights of indigenous communities.

### ***Meeting with the Sibiti Sub-Prefect***

The Delegation met with the Sub-Prefect of Sibiti, Mr Charles Ngono, in his office. Commissioner Bitaye presented the members of the mission, the aims of the visit and the work of the African Commission on Human and Peoples' Rights. Commissioner Maiga, in turn, briefly presented the progress of the mission so far, the meetings held and the content of the different interviews.

The Sub-Prefect welcomed the mission and expressed his gratitude at the African Commission's interest in the Republic of Congo in general, and the situation of indigenous communities in particular. He then said that he did not want to repeat everything the General Secretary of the department had already said to the Delegation, and simply wished the mission a successful visit.

Commissioner Bitaye thanked the Sub-Prefect for his time and provided him with several copies of the African Commission's publications.



### ***Meeting with the Health, Education, Social Affairs and other departmental delegations***

The Delegation held a working meeting with departmental representatives from the Ministries responsible for Social Affairs, Education and Health. Representatives of the local press and some NGOs also took part in this meeting. Commissioner Bitaye, as Head of the Delegation, thanked the participants for their time; he presented the members of the Delegation, the aims of the visit and the role and activities of the African Commission on Human and Peoples' Rights. He then handed over to Commissioner Maiga to lead the discussions.

Commissioner Maiga briefly re-explained the aim of the meeting and the role of the Working Group on Indigenous Populations/Communities. She particularly emphasised the fact that the Delegation wanted to gain a good understanding of the government structures and services in place at departmental level as these could be useful for promoting indigenous rights in the Republic of Congo.

The departmental representative responsible for education highlighted a number of difficulties facing education in general in the Republic of Congo. These difficulties relate, particularly, to a lack of qualified teachers prepared to go and work in the provinces, inadequate infrastructure, low salaries, the remoteness of schools and the growing poverty of the parents.

With regard more specifically to indigenous children, the departmental delegate for education highlighted the inappropriateness of school timetables in relation to the indigenous way of life, the distance of schools from indigenous villages, the inability of indigenous parents to feed, clothe or provide school materials for their children and the approach of wanting to sedentarise indigenous families. The representative also mentioned the positive actions of the NGO International Partnership for Human Development (IPHD) in the area of indigenous children's education in the department. Through this NGO, indigenous children were obtaining the things they needed to be able to go to school. However, the departmental delegate also stressed that the efforts of IHPD had to be supported or picked up by the government as, in his opinion, whilst getting an indigenous child into school was clearly a challenge, keeping him or her there was a bigger one. He suggested, in particular, that monitoring and support of indigenous parents should be combined with efforts to enrol and keep their children in school. He finally recalled the importance of the law on indigenous peoples, which he hoped would enable the government to initiate more substantial actions with regard to educating indigenous children.

The representative of the Departmental Delegation for Health, Dr Prosper Odimba, highlighted three characteristic features of the health problems facing indigenous peoples in his department and surrounding area. Firstly, their extreme poverty prevents them from attending hospitals and health centres, where most care still has to be paid for. Secondly, indigenous peoples continue to depend on their traditional medicine. This is, however, becoming ever more difficult due to their increasing lack of access to forests. Thirdly, the doctor underlined the vulnerability of indigenous communities to epidemics and illnesses that have been virtually or completely eradicated in other communities. This situation was probably down to the low vaccination uptake in indigenous areas, due in particular to the mobility and remoteness of these communities, the lack of resources for the vaccination teams and the indigenous communities' mistrust of outside initiatives. Dr Odimba noted that

his vaccination department had implemented various strategies, notably the recruitment and training of health workers from within the indigenous communities, awareness raising and training of indigenous midwives and the offer of small donations of salt or soap to make vaccinations, and even ante-natal check-ups, more attractive. He finally brought to the attention of the Delegation the government policy of free treatment for children aged 1 to 15 with malaria, which indigenous peoples did not seem to be benefiting from because of the distance they live from hospitals and health centres.

The representative from the Departmental Delegation for Social Affairs presented the provisions of the government's social policy which, he said, anticipate - among other things - the provision of medical/social care to people from vulnerable social groups, including indigenous people. At the same time, however, he stressed that nearly all of these measures were not currently being applied through lack of means and resources at government and, above all, departmental delegation, level.

### ***Meeting with the Sibiti Public Prosecutor***

The Delegation met the Sibiti Public Prosecutor, Mr Ngoulou, in his office. The Head of the Delegation, Commissioner Bitaye, thanked the Public Prosecutor for his time and introduced the members of the mission and its aim. He then explained the work of the African Commission in general, and that of the Working Group on Indigenous Populations/Communities in particular. The Commissioner noted the importance, for indigenous communities, of the right to access justice, given the marginalisation and discrimination that characterises their living conditions.

The Public Prosecutor welcomed the Delegation before emphasising the fact that, in the Republic of Congo, everyone was equal before the law and this was guaranteed in the Constitution; consequently, his department had no legal programme in place aimed specifically at indigenous peoples who, he stressed, could even be found amongst his prison population. Nevertheless, the Public Prosecutor noted that a lack of awareness of the law and their rights on the part of the indigenous people in his constituency, their poverty and alcoholism, were all factors that exposed them to criminality, as victims, accomplices, co-authors or authors. The free legal aid provided for in Congolese law was mentioned as a method of correcting the indigenous peoples' lack of access to justice but the Public Prosecutor stressed that there were very few lawyers in the department. Moreover, he suggested awareness raising actions among the indigenous people and their neighbouring communities, a majority of whose members continue to have negative prejudices against, and stereotypical views of, indigenous people. He also stated his intention to produce a list, with the help of local NGOs, of the indigenous people within his jurisdiction with a view to better adapting the actions of the Public Prosecutor's Department to their needs.

During the meeting, the Delegation mentioned the case of a young indigenous girl who, according to information obtained from various local sources, had been abducted by a non-indigenous person. The Public Prosecutor confirmed the facts and informed the Delegation that a case was being prepared in this regard. Commissioner Maiga pursued the issue and asked the Public Prosecutor what the situation was with regard to sexual violence against indigenous women within his jurisdiction. The Public Prosecutor stressed that very few acts of sexual violence against indigenous women were reported to his office.

Commissioner Bitaye concluded the interview by thanking the Public Prosecutor for the meeting; he provided him with a number of African Commission publications before encouraging him to continue to pay attention to the indigenous communities.

### ***Meeting with local NGOs in Sibiti***

There are very few non-governmental organisations in Sibiti. The Delegation met with some of them in a room at one of the local hotels. Commissioner Maiga introduced the session by presenting the members of the Delegation, its aim and the work of the African Commission in general, and that of the Working Group on Indigenous Populations/Communities in particular. Commissioner Maiga also shared information on the status of the process for adopting a bill on the protection of indigenous rights in the Republic of Congo. As Special Rapporteur for Women's Rights within the African Commission, she also noted the importance of the gender dimension in the issue of indigenous rights. Commissioner Maiga urged the participants to share as much detailed information with the Delegation as possible regarding the current situation, progress made and obstacles encountered in the context of their activities, along with any suggestions.

Commissioner Maiga continued by stating that NGO cooperation was of crucial importance for the success of the African Commission's mandate, conferred on it by African States and Governments.

The local NGOs noted the problem of access to healthcare on the part of indigenous communities, who very often live far from health centres. Indigenous families' inability to pay for appointments and medical care was also pinpointed as a major obstacle to their access to healthcare.

The NGOs also highlighted indigenous children's lack of access to school. Like health centres, there are no schools close to the indigenous villages. On top of this, indigenous peoples have insufficient financial and material means to keep their children at school with the necessary supplies. The local NGOs noted the contribution, in this area, of the activities of the NGO International Partnership for Human Development (IPHG), which provides a school kit and material support to indigenous children in the department. But they also condemned the fact that this international NGO very rarely involves them in implementing its programmes and activities. The local NGOs think that, apart from the school kit, there is a need to monitor indigenous children and their parents, and that the support programme should be extended to secondary school level. The local NGOs also raised questions as to the sustainability of programmes such as the IPHG's, and suggested that the government should rapidly take over responsibility for this.

The failure to register births and the problem of identification of indigenous children was also noted by the NGOs. The phenomenon consists of indigenous parents not declaring their children at birth, as required by law, and it is common that several indigenous children are given a single, identical name. No clear explanation was given as to why this practice was so common. Could it be that indigenous people have no notion of name? Or that they do not want to be identified for fear of something? Or that they completely mistrust the system? No-

one could answer these questions and yet this practice prevents many indigenous people from taking part in elections and accessing other public services.

Access to justice was another problem highlighted by the local NGOs in relation to the situation of indigenous rights. Mention was made of practices of arbitrary arrest and the absence of judicial monitoring of rights violations committed against indigenous peoples who, through ignorance of their rights or for other reasons, do not make complaints to the legal bodies. The Delegation was informed, for example, of the case of a young indigenous girl abducted by a non-indigenous person. The young girl was finally found and the Public Prosecutor's Department informed of the case following interventions from local NGOs.

In terms of obstacles encountered in the context of their work, the NGOs shared with the delegation the isolation and lack of communication resources, particularly Internet access, the lack of donors at the local level and the absence of active indigenous individuals within local civil society. The NGOs consequently asked the Delegation to act as their spokesperson and share their difficulties with partners and actors who might be willing to offer them assistance with a view to contributing effectively to the implementation of the UN Declaration on the Rights of Indigenous Peoples in the Republic of Congo and the bill currently under consideration by the Congolese State.

### ***Meeting and visits to indigenous communities***

The Delegation visited three indigenous communities in Mayoko, Montélé and Mabembe respectively. It should be noted that indigenous villages, disparagingly known as 'encampments', are generally located on the edges of Bantu villages. A village almost never contains both Bantu and indigenous people. In each of these villages, the Delegation met an average of 30 indigenous people, including children, women and men. Everywhere, Commissioners Bitaye or Maiga introduced the Delegation and briefly explained the mission of the Working Group on Indigenous Populations/Communities, focusing particularly on the principles of the African Charter in terms of equality of rights and protection of the cultural values of all African communities.

The members of the indigenous communities were open to the Delegation and explained in detail the significant violations or deprivations of rights from which they were suffering. They particularly highlighted the expropriation of their lands by Bantu or other non-indigenous groups. "Whenever Bantu villages expand towards ours, we are forced to move elsewhere, all we do is move back, we want the right to our land to be guaranteed," stated the indigenous people of Mayoko village, for example. They said that they continued to depend on the forest for their day-to-day survival but that their rights to these areas were no longer guaranteed or secure. Logging operations, protected areas and farming activities by the private sector, governments and Bantu non indigenous were underlined as main causes of loss of their ancestral lands.

Their children's lack of access to school was also highlighted by the indigenous villages visited, none of which had a school based within it. The indigenous people told the Delegation that their children were forced to travel long distances to go to school, that many of the children were often badly dressed and unable to cope for lack of food, and that others had dropped out of school because of the bullying, stereotyping, scorn and mockery that they

were subjected to on the part of their fellow pupils and even some teachers. “For all these reasons,” they told the Delegation, “our children prefer to follow us in the forest than go to school, which does not seem to have been made for us.” And yet, they also said, “We do want our children to study like the children from other communities.” The Delegation observed that many of the children in the communities visited were not attending school because there were school-age children present in the village at the time of the visits, some of which took place during school hours.

The right to access healthcare, particularly on the part of indigenous women, was also highlighted to the Delegation by the indigenous communities visited. Commissioner Maiga, as Special Rapporteur on Women’s Rights, particularly wanted to find out more about specific issues related to maternal health. The members of the indigenous communities visited emphasised their lack of access to hospitals and health centres, which are not only of far distance but also, most importantly, require a financial outlay that is way beyond their capacity. “We would also like to access modern medicine but a lack of money prevents us from doing so; even women who are expecting babies do not receive the necessary care as this requires money,” emphasised the communities. In fact, it was noted that ante-natal check-ups were virtually non-existent in indigenous communities, where the majority of babies are still delivered by indigenous midwives, who have no supervision or training.

Employment and participation in the management of public affairs were also pinpointed as areas of marginalisation and discrimination. In fact, the community members noted the conditions under which they work for the Bantu, who employ them as labourers in the fields and elsewhere. They noted, for example, that they are paid little or nothing for their labour. Indigenous peoples have no available means to contest when they are not paid or unfairly remunerated for their work. The indigenous communities also mentioned electoral promises that had not been kept, including the protection of their ancestral lands. The indigenous population probably represents around 25% of Lékoumou department’s total population. They are thus a target of election campaigns but they say that the promises made at that time are never kept. The Delegation noted that, despite their significant number, there were no indigenous individuals elected at national level.

The Delegation informed the indigenous communities of the efforts being made by the government, particularly the bill on indigenous rights, which addresses and deals with different issues, including land, access to school and other rights. Moreover, the Delegation urged the indigenous communities to remember that the success of the government’s and other actors’ efforts to improve their living conditions also depended on their own desire to take their communities destiny into their own hands. For example, indigenous communities’ had to be supportive of their children’s education and improve some aspects of their living conditions, particularly in terms of hygiene.

## **Meetings held in Brazzaville**

### ***Meeting with the Ministry of Foreign Affairs***

The Delegation met with HE Ambassador Daniel Owassa, Permanent Secretary of the Ministry of Foreign Affairs. In his introductory statement, the head of the Delegation, Commissioner Musa NGary Bitaye and Chairperson of the Working Group thanked the

Government representatives for their warm welcome, presented the member of the Delegation and the purpose of the visit.

Commissioner Bitaye highlighted the work undertaken so far by the African Commission on indigenous peoples' rights, including a previous mission of the Working Group in the Republic of Congo back in 2005, when were noted a number of encouraging actions and programmes by the Government of Congo. He underlined that the African Commission was following with interests these initiatives by the Congolese Government, including the draft law for the protection of the rights of indigenous peoples. He explicitly commended the Government of Congo for it and expressed interest in knowing more on the process of passing this domestic legal instrument.

HE Ambassador Daniel Owassa responded by first welcoming the Delegation on behalf of the Congolese Government, which he said, felt honoured by the visit and the interest of the African Commission in its national policies and endeavours for the sake of its most vulnerable and poor sections of its national population. He asserted to be familiar with the work of the African Commission because of having attended a number of its ordinary sessions. He further said that 'Babendjele and Baka' are recognised by the majority of Congolese people as having a unique culture and way of life that deserve protection and special care. In this regard, he highlighted the initial dissensions within the Government and explained how a number of strong opinions had objected to the idea of having a special law for the protection of one section of a national population. But he concluded by saying that the Government as a whole was determined to go ahead and push through Parliament this law as a way to bridge social and economical inequalities between indigenous peoples and the rest of Congolese national population.

Commissioner Maiga commented on the subject matter by first indicating that she has previously visited the Republic of Congo in her capacity as Special Rapporteur on women for the African Commission. She then emphasised the importance of the draft law on Congolese indigenous peoples as an appropriate way to address social inequalities in a similar way as it has been done for women in several countries. Commissioner Maiga encouraged the Government of Congo to finalise quickly the process of adoption of the draft law.

Before ending the meeting, Commissioner Bitaye handed to Ambassador Daniel Owassa a number of publications by the African Commission, including a copy of the 2003 Working Group's report on indigenous peoples and several other relevant documents.

Ambassador Daniel Owassa thanked the Delegation for the publications, promised to put them in good use and wished the Delegation a good continuation of its mission.

### ***Meeting with the Ministry of justice***

The Delegation met with the Deputy Director of Cabinet of the Minister of Justice. The Minister was out of the country on a mission during the visit. The Delegation's interlocutor is also a judge at the Supreme Court. The Chairperson of the Working Group, Commissioner Bitaye presented the delegation and explained the purpose of the mission, particularly its interests in the draft law on indigenous peoples. Commissioner Bitaye said that given the key role of the Ministry of Justice in the drafting process of the law, the Delegation would like to

hold a debriefing session with it at the end of its mission, when the Minister of Justice might have returned.

The Deputy Director of Cabinet welcomed the delegation to the Ministry of Justice, and presented its structures and the mandate. He particularly insisted on the key role of the Ministry of Justice in the drafting process of the law on indigenous peoples, which is indeed an initiative of the human rights Department of his Ministry. He then provided detailed information on the current state of the drafting process as follow: At the time of the Delegation's visit, the draft Law had passed three key stages, which are its adoption by the Cabinet, a non-objection by the Constitutional Court and its handing over to Parliament for adoption. In his view the text was at its final stage and could be passed by Parliament very soon.

Commissioner Bitaye welcomed the detailed technical update on the drafting process of the law and presented to the Deputy Cabinet Director several copies of publications by the African Commission on human rights issues, including indigenous peoples.

### ***Meeting with the Ministry of Social Affairs***

The delegation met with the Minister of Social Affairs who expressed appreciation for the visit. After an introduction of the delegation, the Minister was briefed on the purpose of the mission by Commissioner Bitaye. He also described the mandate of both the African Commission and the WGIP.

Commissioner Bitaye informed the Minister that the WGIP visited the Republic of Congo in 2005 but concentrated in the North of the country and as such the current visit was the second, and will concentrate in the South.

He indicated that as the ministry responsible for social affairs, the delegation had noticed that since 2005, the ministry has been involved in issues related to indigenous populations in the country. He noted that the ministry has been involved in the implementation of the National Action Plan of 2008, especially in respect of the *Projet d'Appui pour l'Etat de Droit*, which is supported by the European Union.. He said the delegation would like to know the impact of the project, the target group as well as the challenges the ministry might be facing in the implementation of the National Action Plan as a whole.

With respect to the Presidential Decree providing free health care to people suffering from HIV/AIDS, TB and Malaria, the Commissioner said the delegation would like to know how successful this has been.

He also wanted to know how the 'Prior Base Project' was implemented. The project concerns the education of indigenous children, and aims at alleviating the consequences of the separation of at least 4,000 children from their parents when they go to school.

The Commissioner also wanted to know the relationship of the ministry with CSOs as well as with UN agencies such as UNICEF, especially with respect to the implementation of programs which involve indigenous peoples.

Commissioner Bitaye informed the Minister that the delegation was aware of the draft law on the rights of indigenous peoples prepared by government and the Commission would like to have his opinion on the expectations concerning the implementation of human rights of indigenous populations when this law is adopted.

On her part, Commissioner Maiga thanked the Minister for receiving the delegation, emphasising that the work that the ministry does was very important to the work of the Commission as a whole and the WGIP in particular.

Commissioner Maiga informed the Minister that the WGIP works with various stakeholders on the continent with the ultimate goal of improving the rights of indigenous populations. She informed the Minister that about 28 countries in Africa have indigenous communities, and these communities are often discriminated, marginalised and their rights are violated simply because of their lifestyle. She said measures have to be taken at national, regional and international level to protect their rights.

She said to introduce development programmes to indigenous communities, there was need to sensitise them and involve them in making the decisions, adding that there was need to involve international organisations such as UN Agencies – because they have an obligation under the UN Declaration to mobilise resources and work closely with different actors on the ground.

She said that as a member of the African Commission responsible for the rights of women in Africa, she would like to know what programs there are for indigenous women, as these women run the risk of suffering double discrimination, first as women and secondly as indigenous women.

In his response, the Minister of Social Affairs thanked the delegation for coming. He said that there are many ministries dealing with indigenous issues in the country, including the ministries of justice, health, environment, interior, social affairs, as well as communication.

He said that his ministry has included indigenous peoples as vulnerable groups, and classified vulnerable groups to include the aged, children, handicap, and minorities.

He said the ministry has worked much more closely with UN agencies than with other ministries and it is these agencies that create the link with the other ministries. .

He said that the entry point of the ministry regarding indigenous populations was with children, through the introduction of birth certificates. He said that the ministry has gone to villages and distributed birth certificates and raised awareness and they later realised that the children were integrated into mainstream society.

On health, the Minister said that they were able to distribute health kits and sensitise on HIV/AIDS.

The Minister informed the delegation that despite the measures adopted by the government, it was obvious that the protection of the rights of indigenous peoples in the country has also a lot to do with how other populations threat them. He said that in Likwala, it is common to see a person who will say that he/she has 10 – 12 servants of the indigenous populations. He



said that this is a problem which may be one of the most difficult because it has to do with mentality. He said that if one tries to tell the indigenous population to leave the slave situation they will refuse, adding that the Bantus too would like to remain masters over them.

He said that the government has tried several times to liberate the indigenous populations with little success. He noted however that while some of the indigenous people have left the forest and were now fully integrated in the cities, there are others who are out of reach because they are permanently in the forest and not in contact with the people.

On the draft law, the Minister said that it has been reviewed at by the government, and it is hoped that it will enhance the protection of the rights of indigenous peoples. He noted however that law alone cannot change things, adding that a lot will depend on the local authorities.

He noted further that there is the challenge of sensitising indigenous children who go to school that they live in a country where there is diversity and they have to integrate with other peoples and communities to promote good relationship between the Bantu and the indigenous peoples.

The delegation was further informed that since 2007 the ministry succeeded in creating a National network of indigenous peoples of Congo (*Réseau National des Peuples autochtones du Congo*) (**RENAPAC**) to deal exclusively with the rights of indigenous populations and enhance their capacity.

Commissioner Bitaye indicated that the delegation was glad to note that the ministry, in partnership with UNICEF was taking action on the ground especially with respect to citizenship, education and sensitisation to improve the lives of indigenous populations.

He said that the impression that the delegation gets is that the work of the ministry is concentrated only in the north – in the Likwala region, and wanted to know whether the activities of the ministry cover the country as a whole. Commissioner Bitaye further wanted to know whether there has been a study to determine the number of indigenous peoples in the country; if not, whether there were any plans for a census.

With respect to the ministry's categorisation of indigenous peoples, Commissioner Bitaye said the ministry should reconsider its categorisation so that Indigenous Populations are considered and treated as indigenous peoples and not as mere minorities.

He informed the minister that the delegation visited Sibiti and did not seem to have seen any specific impact of the Ministry on the societies that were visited. Rather, it was the work of CSOs which was recognised - including the activities of an American NGO which has a project to give uniforms, books, food to encourage children to attend primary school. He also said that the delegation would like to know whether the Ministry is involved in that project or has any project similar to the one in Sibiti.

He added that this project notwithstanding, the delegation noticed that indigenous children still register a huge drop out in school attendance, as well as a high failure rate, and the reasons given included the fact that the children preferred accompanying their parents to the bush because the teachers discriminate against them.

On health, he said that the delegation was aware of the many challenges. He said that the fact that the health services are paid for and the population is very poor poses a major challenge. He wanted to know whether the ministry's attention had been drawn to this.

On the birth certificates, Commissioner Bitaye wanted to know the distribution pattern - where they were distributed, to whom they were distributed, the population to which the birth certificates were distributed, and how many had received the birth certificates.

On RENAPAC, Commissioner Bitaye said the delegation would like to know how it was created, its composition, structure and effectiveness.

On her part, Commissioner Maiga said that she has followed with great interest the activities of the ministry and wanted to know if there were areas where action needed to be taken. She said it seemed there was need to reinforce capacities to be able to provide indigenous communities with the necessary services. She said that if these programs exist, they should be reinforced, and if they did not exist, they should be introduced.

She said that it was important for the delegation to know whether there were resource constraints so that the African Commission could include this in its recommendations to the government.

Commissioner Maiga noted further that the delegation has observed that there was an absence of statistics and this makes it difficult to undertake concrete actions.

With respect to sensitisation and capacity building at the local level, she said that it was important that there was decentralisation so that in implementation of government policies, there was a chain of responsibility right to the local level.

On interaction with CSO, she said the delegation saw limited impact of CSO at the local level. She said that there didn't seem to be any close relationship between the CSO and the administration.

In his response, the minister thanked the Commissioners for raising all the issues, and said that it will help the ministry look into its policy on vulnerable groups and indigenous peoples. He said that the concept of indigenous peoples was new to many and that there was no forum yet where all the ministries could meet to look at the question of indigenous populations in the country

He said that for example, health and education issues are run by different ministries. He indicated that the Ministry of Justice could adopt a law to guarantee the rights of all, but it will not be on the ground to ensure its implementation, noting that it is other ministries on the ground which could ensure its implementation, but if there is no proper coordination, this may not happen.

The Minister noted that in the past the government avoided using the term indigenous populations and preferred the word Babendjele and Baka. But because the term pygmy itself is pejorative, the government didn't want to use it, so the ministry decided to group them as minorities.

On the number of indigenous populations in the country, the Minister said the Ministry did not have the figures but that it could be obtained from the Ministry of Planning. However, he said that there were about 300,000, indigenous people, found in all the provinces, but mostly in Likwala.

On the distribution of birth certificates, he said about 4,000 certificates have been distributed throughout the country and over 2000 of these to indigenous children.

On the issue of school drop outs of indigenous children, the Minister said that the children were sometimes driven from school by their friends and even teachers, as some of the Bantu children and teachers regard indigenous peoples as sub-humans. The Minister added that there might be need to adjust their school calendar to adapt to their lifestyle, as they have a certain lifestyle which is deeply rooted and forces them to go to the forest at particular times.

On RENAPAC, the minister said that it was a new association formed in 2008. He said that all members of its executive board are indigenous people.

The Minister identified a number of challenges that restrict the effective implementation of policies generally and the improvement of the welfare of indigenous populations in particular. These challenges according to the Minister include the lack of coordination among the different relevant ministries working on the question of indigenous populations and insufficient staff capacity. According to the Minister there are very few staff on the ground working on indigenous populations. He said that the ministry's budget was not enough to deal with the many social problems faced by the country as a whole and indigenous peoples in particular.

He concluded by stating that the Bantu community must change its attitude towards indigenous people, noting that the Bantus should ask themselves whether there was anything that they could learn from indigenous peoples. He said that he thought that there was a lot to learn from indigenous peoples, and if there was no acceptance in the wider community, there was a risk of losing the wide experience they have.

### ***Meeting with the National Assembly***

The delegation had a meeting with the Second Vice President of the National Assembly. After introducing the delegation, Commissioner Bitaye informed him of the purpose of the mission.

Commissioner Bitaye said that the delegation was encouraged by the understanding that the government has shown on the issue of indigenous populations in the country, adding that this understanding has made it easier for the African Commission to engage with the government. He said it was particularly gratifying to note that the concept of indigenous populations as applied in the continent has been well understood in the Republic of Congo and has been resolved in the draft law such that they are not called vulnerable group but indigenous populations. He said the Commission was happy that the international community was supporting the process.

Commissioner Bitaye indicated that the delegation has reminded the UN agencies of the responsibilities that they have under the UN Declaration to work closely with local actors to give effect to the Declaration, including the mobilisation of funds and supporting actors on the ground.

He said the delegation was glad to note that the draft law protects more or less the rights contained in the UN Declaration, adding that the delegation appreciates the political will of the government on this matter, through the adoption of the 2008 action plan being supported by the EU and UNICEF.

He said the delegation saw in the field that local authorities are committed to the implementation of the rights of indigenous peoples but realise there were resource constraints. He said the delegation hopes the government will bear these constraints in mind when it adopts the law.

He said other challenges observed include the lack of human capacity and financial constraints. He noted further that certain policies such as the payment of fees for health services pose serious challenges to the population.

In his response, the Honourable Vice President indicated that the government has been working with all stakeholders to improve the welfare of indigenous populations. He said that there are three main aspects that have been identified in dealing with the indigenous question: dealing with the fact that the Bantu population fear losing indigenous cheap labour force; the efforts made by civil society organisations to empower indigenous organisations and the efforts by the state – including the personal involvement of the President – to empower indigenous populations. He said that the President of the Republic had requested the drafting of a law since 2004 that would cover every aspect of the life of indigenous peoples, including health, education, employment, land and to see how to integrate them into society.

He said the development of the law encountered some technical delay, but the government was determined to adopt the law and be an example to Africa. He said the draft law will be considered by the Council of Ministers and then referred to Parliament. He added that as soon as the draft law comes before parliament it will be examined and adopted.

He noted that it is not enough to adopt laws, but measures should be taken to implement them. He said in this regard that parliament has a follow-up committee that is responsible for follow – up and once adopted, the law will be submitted to this committee.

He said a mechanism will also be put in place to disseminate this law. This will include activities such as the organisation of seminars in Brazzaville as well as in the different regions bringing together NGOs and representatives of indigenous communities to sensitise them about the law, and build their capacity to be able to ensure they benefit from the law. He said responsibility for the implementation of the law rests with each and every stakeholder.

### ***Meeting with the Ministry of Primary and Secondary Education***

The delegation visited the Ministry of Primary and Secondary Education. In the absence of the Minister, the delegation was received by the Director of Cabinet – Mr. **Thomas Mokosso**.

After introducing the delegation, Commissioner Bitaye informed the Director of cabinet of the purpose of the mission. He indicated that the mission was the second visit of the Working Group as there was a visit of the latter in 2005. He informed the Director that the delegation was happy to note that since the 2005 visit, there had been considerable improvement in the promotion of the rights of indigenous peoples in the country. He said the delegation was particularly encouraged by the draft law on the rights of indigenous peoples. He noted that one of the rights contained in the draft law is the right to education, and wanted to know the programmes that the ministry had with respect to indigenous populations.

Commissioner Bitaye informed the Director of Cabinet that when the delegation visited Sibiti, it observed that indigenous children were faced with several challenges forcing many of them to either drop out from school or perform poorly. He recognised the efforts some NGOs were making in the area through the provision of books, uniforms and food.

He said these efforts were however inadequate to meet the serious challenges, some of which include discrimination against indigenous children from teachers and other pupils, the lack of statistics, and the poor attendance of indigenous children at the secondary level.

He concluded by noting that education is key to the development of the indigenous people and was happy that this has been taken into account in the draft law. He urged government to put in place measures to implement the law when it is adopted.

On her part, Commissioner Maiga indicated that there is the will and desire from the government to protect indigenous populations, adding that it is not in all countries that the Commission has noticed such commitment.

She reiterated the importance of education in the development of indigenous populations. She said that there have been suggestions for the pupils to be closer among themselves. She said while this could be a temporary measure, it is not suitable for national unity. She wanted to know whether the ministry has put in place plans for the implementation of the law when it comes into force – especially with respect to access to education and school attendance. She wanted to know whether the ministry was facing any challenges in this regard.

In his response Mr. Thomas Mokosso welcomed the delegation on behalf of the Minister, and expressed the apologies of the Minister for not being able to receive the delegation personally.

He indicated that the ministry has worked over the years to sensitise the population on various issues, including cultural diversity and accepting the lifestyle of those who live differently from the mainstream population. He said there is a lot of work to be done and the ministry was collaborating with various partners, including NGOs in the process.

He informed the delegation that education in Congo is for all without discrimination of any kind - gender, sex, social origin, etc. He said the ministry has developed a new structure a literacy programme which has a section dealing with indigenous populations.

He said implementation is still difficult and there are challenges because these are people with a certain lifestyle and it is not easy to change their lifestyle. He said the ministry has adopted a progressive approach which involves gradual sensitisation and education.

Mr. Thomas Mokosso informed the delegation that the Ministry and the World Bank conducted a study on the illiteracy and education of indigenous populations to see how to support them. He said the study reveals that there are statistics and different indicators on the attendance rate, drop out, and recommendations have been made on how to ameliorate the situation.

He said UNICEF has been working a lot on specific programmes to help enhance the education of indigenous populations and integrate them into mainstream society. He said the ministry has established a technical follow – up Committee to look at the question of the effectiveness of the action of all the various stakeholders with a view to avoid duplication and ensure a coordinated approach.

On women and young girls, he said there was a huge problem with access to schools and there wasn't any adequate data on indigenous women or young girls.

### ***Meeting with the President of Senate***

The delegation met with the President of the Congolese Senate. In his welcoming remark, the President of the Senate, Honourable André OBAMI ITOU stated that he was happy to personally receive the delegation and was prepared to provide whatever support the delegation needed to accomplish its mission.

On his part, Commissioner Bitaye, head of delegation stated that the delegation was grateful that the President could find time to receive the delegation and for the interest shown in the work of the African Commission. He said this interest is also reflected in the commitment the country has shown in the protection of human rights generally and the rights of indigenous peoples in particular. He said the delegation was particularly encouraged by the draft law on the rights of indigenous peoples which mirrors the principles in the UN Declaration on the rights of indigenous peoples.

Commissioner Bitaye described the establishment, mandate and activities of the African Commission as well as of the WGIP. He said the WGIP undertook a visit to the country in 2005 and the current mission is a follow up to the 2005 mission. He said the delegation was glad that considerable progress had been made in the promotion of the rights of indigenous peoples since the 2005 mission, and this progress would be concretise in the draft law. He said it was important that all the stakeholders were involved in the elaboration of the law. Commissioner Bitaye informed the President of Senate that on a visit to the Sibiti region, the delegation was pleased to note that even the indigenous populations themselves recognised that there was progress being made. He said to consolidate this progress, government has to move fast to ensure the adoption of the draft law and put in place measures to ensure its effective implementation.

On her part, Commissioner Maiga thanked the President of Senate for giving the delegation the opportunity to exchange views on the rights of indigenous populations in the country. She

said there were over twenty African countries where indigenous populations were found. She informed the President of the Senate that the African Commission has visited many of these countries to exchange views on how to improve the lives of these communities and engage with stakeholders on the very concept of indigenous peoples. She said that when the UN Declaration was adopted in 2007 all African countries participated and none voted against. She said the Declaration provides for specific rights for indigenous peoples. She said the African Commission wants to work with States to ensure the effective implementation of the Declaration

Commissioner Maiga indicated that the delegation was aware that the government has been in the process of drafting a law on the rights of indigenous peoples since 2004, adding that UN Agencies and civil society organisations were committed to ensure the implementation of the law when adopted was encouraging. She said the delegation would like to see a speedy adoption of the law, noting that it was important for the draft law to go through the various law making processes but was equally important that its adoption is not delayed. She said it was also important for the population and different stakeholders to be sensitised, for capacity to be built, for research and consultations to be undertaken to make sure the required effect is obtained. She further urged the President to ensure that gender issues are taken into consideration when adopting the law.

In his response, the President of the Senate said that he was pleased to have received the delegation adding that the visit brings in more experience and information to assist the country develop its legal and institutional frameworks. With respect to the adoption of the draft law, he said there was no obstacle to the process adding that as soon as it reaches the legislature, it will be adopted without delay. He said the Bantu community was beginning to move closely towards the indigenous populations and this could lead to integration. He said the government has opened schools and provide portable water in some of the villages of indigenous communities. He said there remain some psychological, attitudinal and historical challenges which must be confronted by all stakeholders if the government's efforts were to bear fruits. He said sensitisation was very important – sensitising not only the indigenous communities themselves but also the Bantu population. He indicated that after the adoption of the law, it will be incumbent on law makers to go out into their constituencies to sensitise the population.

### ***Meeting with the Ministry of Forestry***

The delegation met with the Director of Cabinet of the Ministry of Forestry, Mr. Lambert Imbalo, who apologised on behalf of the Minister who was unavoidably absent. After introducing the delegation, Commissioner Bitaye informed Mr. Imbalo of the mandate of both the African Commission and the WGIP, as well as the purpose of the mission. He said that the WGIP was visiting Congo for the second time, having visited the north of the country in 2005.

He said the forest was very important for the livelihood and lifestyle of indigenous peoples in the country because they are attached to it for everything affecting their lives – culture, religion, dressing, health, etc. He noted that the nomadic lifestyle of indigenous peoples raises a lot of challenges to the normative framework of many countries, but that if concerted efforts were deployed, these challenges would be overcome. He said the delegation has noted

with encouragement the improvements that have been made in the protection of the rights of indigenous peoples since 2005, including studies that have culminated in the drafting of a law on the rights of indigenous populations in the country. He said the law is likely to deal with several issues affecting the lives of indigenous people, including ownership of land or forest, the exploitation of the forest for commercial and communal purposes. He said the delegation hopes the government will monitor the activities of companies working in the forestry sector. He said the delegation has been informed that many of the companies were not sensitive to the welfare of the indigenous communities, but was pleased to note that the *Congolese Exploitation des Bois (CIB)* was very sensitive to the lifestyle of the communities. He urged the Ministry to intervene in cases where companies do not show sensitivity in their exploitation of the forest.

On her part, Commissioner Maiga indicated that the WGIP was established to engage with relevant stakeholders to explore ways and means to enhance the protection of the rights of indigenous populations on the continent. She said this is done through information and research visits, country visits, and dialogue with stakeholders, sensitisation seminars, etc. She said the delegation was pleased that the draft law developed by the government takes into consideration the principles enunciated by the UN Declaration and the African Commission was in Congo to encourage the government to move ahead with the adoption of the law to be an example on the continent. She said the African Commission has been to many African countries where the very concept of indigenous people was frowned at, adding that the initiative taken by the government to adopt a law on the rights of indigenous peoples was the correct one. She noted that the adoption of the law in itself was not enough, measures have to be taken, including the introduction of programmes, to ensure the effective implementation of the law. On the rights of indigenous women, she said the government should ensure that gender issues are mainstreamed in the draft law.

In his response, the Director of Cabinet stated that the Ministry was happy to have received a delegation of the African Commission, noting that the protection of indigenous peoples was at the core of not only the reflection of the government but also of its action. He said the government cannot afford to exclude a certain segment of its population when dealing with national development. He said there was a close link between forest management and the rights of indigenous populations, noting that the policy of the government was based on sustainable management – to use resources today but at the same time making sure there are resources for future generations.

He informed the delegation that 2010 had been declared a year of biodiversity, which requires the better management and sharing of resources to ensure future generations are not deprived. He said forestry is the second employer after the public service and among the employees are indigenous peoples who play a very important role because they live in the forest so they know it better and there are certain jobs that no other person can perform better than the indigenous people themselves, for instance, the tracing and identification of trees. He said that is why all companies working in the forestry sector recruit indigenous peoples. He said the government was proud of the action it has so far taken to enhance the rights of indigenous peoples in the country, and would have to take steps to concretise these achievements by adopting a law. He said the draft law on the protection of indigenous peoples was developed in a transparent manner to ensure effective participation.



Mr. Imbalo noted that the management of natural resources, especially forestry depends very much on the know-how of those who work in the forest because they have a lot to offer given their natural knowledge of the forest. He said as Congo celebrates its 50<sup>th</sup> independence anniversary it is important to reflect on what steps or dimension the country wants to take and that is why the theme of the celebration will be looking at the way forward after 50 years.

He informed the delegation that the government was inviting countries from the Central African region to a conference on indigenous peoples to be held in Congo in April 2010. This conference will discuss the plight of indigenous peoples in the region and it is hoped the conference will come up with concrete actions, including an action plan to deal with the problems facing indigenous peoples in the region. He invited the African Commission to attend the Conference.

Commissioner Bitaye thanks Mr. Imbalo for the information given to the delegation as well as the invitation extended to the African Commission to attend the Conference. He said the delegation was grateful that the government has thought of inviting the Commission because most often there is a dysfunction in the manner African countries operate, either because they do not know or they forget the institutions they themselves have established to help them deal with challenges and prefer to deal with UN bodies.

He informed the Director of Cabinet that in 2006, Central African States held a meeting in Yaoundé – Cameroon and the very rich information from that meeting could be useful in the planned April conference.

Commissioner Bitaye indicated that the delegation was glad to know that the Ministry has adopted a rights based approach in the management of the forest, adding that the knowledge of the indigenous peoples – in medicines, and other forest products – are attributes that need to be preserved.

Commissioner Bitaye wanted to know whether the government has adopted specific laws or programmes to preserve the sites, indigenous knowledge or ensure that any forest exploiter employs indigenous peoples for the purpose of identifying trees and other activities in which they are naturally gifted. He said the UN Declaration does not remove from the government the leadership role it should play in the formulation of programmes; it simply calls on UN Agencies to assist the government in the implementation of the programmes that the government presents to them.

In his response, Mr. Imbalo informed the delegation that the government has a forest law which requires that the forest be managed in a sustainable manner, adding that the strategy is participatory and to ensure that the exploitation of the forest and the benefit is shared with all the communities. He noted that concession and improvement plans for the communities are monitored. He said before any exploration begins, the economy of the community is studied, the ecology, the nature of exploitation, including the quantity to be explored in order not to cause environmental degradation. The study also looks at the benefit that has to accrue to the community. He said all companies must comply with these guidelines and the indigenous communities themselves are involved to decide what they want – a school, a health centre etc, and there is no discrimination between Bantus and indigenous peoples.

### ***Meeting with the Legal Advisor to the President of the Republic***

The delegation met with a Legal Adviser to the President of the Republic. After introducing the delegation, Commissioner Bitaye informed the Legal Adviser of the purpose of the mission. He said the delegation was visiting the country under the auspices of the African Commission's WGIP which has been mandated to among other things; undertake visits to African countries to engage relevant stakeholders on the question of indigenous populations. He said since the WGIP's visit in 2005 there has been considerable progress made in the area of indigenous populations, including the debate surrounding the draft law on the rights of indigenous populations. He said the delegation was aware of the personal commitment of the President of the Republic to the finalisation of the law as well as to the plight of indigenous peoples. He said the delegation has been assured by both Senate and Parliament that the law will be adopted as soon as it is introduced to these legislative bodies. He said the delegation has made an appraisal of the draft law and was glad to note that it includes all the rights contained in the UN Declaration. He said the delegation however notes that there is a section of the draft law which requires that only indigenous peoples themselves can bring a complaint to the courts on matters relating to land and natural resources. Commissioner Bitaye indicated that this requirement should be reconsidered as it does not provide action to be instituted on behalf of indigenous peoples, who in most cases may not even have the resources or ability to do so.

On her part, Commissioner Maiga informed the Legal Adviser that the WGIP has done a lot of research and produced reports on the rights of indigenous populations, and there is indication that in spite the progress made by many countries, the plight of indigenous peoples still remains precarious. She said fifty years after independence we should be able to ask what we have done for indigenous peoples and see, what within the next fifty years, would like to do for indigenous peoples. She said the delegation has met with UN Agencies and has made it clear to them that they have an obligation under the UN Declaration to provide support to government and local actors to ensure the realisation of the Declaration.

In response, the Legal Adviser thanked the delegation and assured the latter that measures will be taken to ensure the speedy adoption of the draft law, and measures put in place to ensure effective implementation. He said contrary to what many people think, indigenous peoples are integrated into mainstream society. He said if one travels to the interior of the country one may have the impression that there are some areas inhabited by indigenous peoples, whereas that was not the case. He said even in those areas, there are efforts being made to ensure equitable distribution of resources. He noted that the difficulty in bringing development is the same for all communities in the interior, adding that if there are no roads, water or electricity, they are absent for all communities, not only indigenous communities.

With respect to the section in the law that requires that any action on land and natural resources should be instituted by indigenous peoples themselves, he said this is a matter that should be left to the wisdom of the legislature. He said in his view indigenous organisations should be able to bring action as well and so there was no problem with the law. He said there was a strong political will to adopt the draft law, noting that it has taken time for the draft law to get to where it is, but that the time was needed to involve all the stakeholders. He said it was time for the law to be debated and adopted/

Commissioner Bitaye informed the Legal Adviser that the delegation was in Congo to express appreciation to the political will and commitment demonstrated by the President and the Congolese authorities by giving a normative framework to the question of indigenous peoples in the country. He said the appreciation of the delegation should be transmitted to the President. Commissioner Bitaye said the delegation agrees with the Legal Adviser that the poverty affects all sectors of the population, but that poverty was relative because even though the Bantus are poor they can afford to employ indigenous peoples. He added that given the nomadic lifestyle of indigenous peoples, when the government constructs a health centre it is likely that it will be the sedentary Bantu population that will benefit from it. He said the delegation hopes that the draft law would take all these issues into consideration.

The Legal Adviser in his reaction indicated that the government has had a lot of debate on how to approach the question of indigenous peoples, and there was a strong political will to adopt regional and international instruments to ensure greater protection of the rights of indigenous peoples. He said indigenous peoples may be more vulnerable than the Bantus, but they are still Congolese and must be treated like any other Congolese. He said there seems to be a challenge with implementation, but the political will and commitment was clear. He said there was still room for amendments – to include more provisions – as the legislature is the one to finally adopt the draft law.

He said the draft law has been through all the processes at the executive level and it was just a matter of time for it to be transmitted to the legislature. He said he was confident the draft law will be adopted during the next session of parliament.

### ***Meeting with the representative of UNESCO***

The delegation met with the country representative of UNESCO, Mr. Abdourahamane Diallo, on 20 March 2010 at the premises of UNESCO.

After introducing the delegation, Commissioner Bitaye informed the UNESCO representative of the purpose of the mission. He said the delegation was in the country to consult with various stakeholders working with indigenous populations and to explore ways and means of enhancing the protection of the rights of indigenous populations.

He informed Mr. Diallo of the mandate of the African Commission as well as the mandate of the WGIP. He particularly underlined the fact that in promoting and protecting human rights, the African Commission works within the framework of international and regional human rights instruments, in particular the UN Declaration on the Protection of the Rights of Indigenous Peoples (UN Declaration) and the African Charter on Human and Peoples' Rights (the African Charter).

He informed Mr. Diallo that the WGIP undertook an Information and Research Visit to the country in 2005 concentrating on indigenous population in the North of the country, adding that the current mission was a follow up to the 2005 visit and was concentrating on indigenous populations in the South of the country.

He said that the African Commission was aware of the work Specialised Agencies of the UN and civil society organisations have done in the area of indigenous populations rights in the country. He said the UN Declaration enjoins UN Agencies to work with local actors,

including support and the mobilisation of resources to ensure the realisation of the Declaration objectives. He said the delegation would like to know what UNESCO was doing in the promotion and/or protection of the rights of the indigenous populations.

Commissioner Bitaye underlined among others the fact that most of the African countries voted in favour of the UN Declaration and even though a few abstained from voting, and that it was important for the African Commission to engage with African States and other stakeholders to ensure the protection of the rights of indigenous peoples in accordance with international norms.

On her part, Commissioner Maiga indicated that the protection of the rights of indigenous populations has been very controversial in Africa, and that there was need to engage governments and other stakeholders on the concept and encourage them to develop programmes that would enhance their rights. She pointed out that in the development of such programmes, it is important that consideration be given to gender issues. She said emphasis should be given to education, as education is a major instrument to development.

In his response, Mr. Diallo welcomed the delegation and indicated that the mission had come at the right time as UNESCO and other UN Agencies, together with civil society organisations were engaged with the government in developing activities aimed at promoting and protecting the rights of indigenous populations. He said the issue of indigenous populations was a new niche for UNESCO. Existing activities by UNESCO to protect the rights of indigenous populations include the protection of their culture – music, dance and knowledge systems.

However, Mr Diallo said that, in implementing the objectives of the Declaration, due regard should be given to the sensitivity of the issue in different countries and a balance struck with local realities. He said also that while protection and preservation should be encouraged, indigenous populations should also be encouraged to interact with the wider community so as to encourage evolution – an evolution which the UNESCO representative said should be at the rhythm of the indigenous peoples.

Mr. Diallo said that UNESCO was also working to improve the level of education of indigenous communities in Congo, and that to this end UNESCO was working with the Ministry of Education on how to develop an adjusted curriculum for indigenous peoples. However, he said the challenge was how to keep these communities in one place in order to facilitate the access of indigenous children to education.

UNESCO's Representative said Africa and gender are this organisation's two priorities that have to feature all programmes and policies. He added however that it was important that in its relationship with the African Union, the question of indigenous populations was taken into account.

Reacting to the intervention of Mr. Diallo, Commissioner Bitaye said that he agrees with the point that indigenous populations should be protected and their culture preserved just like the culture of other groups. He said the culture and language of indigenous communities are often degraded and that if actions are not taken to protect them, they may be lost forever. He said that the African Commission welcomes the initiative to develop a special curriculum for indigenous populations, but added that such education must be adapted to their culture and

way of life, and that indigenous communities need to be represented in decision making bodies that take decisions that affect their way of life.

He said the African Commission has followed keenly the developments in the field of indigenous populations since 2005, in particular the drafting of a law to protect the rights of indigenous populations in the country. He said a lot of progress has been made including the recognition of indigenous populations as marginalised and disadvantaged, the indigenous populations do not regard themselves as slaves, in spite the vestiges of slavery in some areas, the government policy to ensure that all citizens, including indigenous peoples obtain birth certificates, National Identity Cards and Voters cards.

Commissioner Bitaye noted that these initiatives notwithstanding, there were still major challenges (as revealed in the field visit to Sibiti), including the fact that the population was unaware of the measures that have been put in place, the structural and functional difficulties. The Sub-Prefecture of Sibiti for example did not have the necessary resources to go into the communities to sensitise them, the population seemed to be distrustful of the authorities and because of lack of trust did not provide the proper information to the authorities (e.g. names, place of residence, number of children etc) for statistical and planning purposes.

Commissioner Bitaye noted that if the State and other stakeholders want to enhance the protection of indigenous populations and allow them to protect their culture and way of life, there was need for capacity building of not only the indigenous populations themselves, but also NGOs and other organisations working with them. He said that is why in the opinion of the African Commission, UN Agencies have an important role to play in collaboration with local actors, in accordance with Articles 41 and 42 of the UN Declaration. He said in terms of these two Articles, the Declaration is seeking cooperation beyond intergovernmental level to the local level, directly with the actors on the ground.

Commissioner Bitaye indicated that cooperation should not be limited to the normative framework, such as the UN Declaration, the African Charter and the draft law, but should include concrete programmes to give effect to the normative framework adopted. He said the African Commission will be working with various stakeholders in the country to develop concrete programmes which can be funded by UN Agencies. He said when the draft law is finally adopted, it will have implications on the implementation of the Declaration and on the laws of other African countries on the issue, as the law will be the first of its kind in Africa. He said given its importance, it is important to support the government to ensure that the law is a success.

Commissioner Maiga added that one of the purposes of the mission is to encourage the government to move quickly towards the adoption of this law, and to know that Congo was playing a leadership role in this regard and can count on the support of the African Commission for the implementation of the law when adopted. She added that the question of indigenous women should be integrated in the global quest to address the plight of indigenous populations, noting that women suffer double discrimination, first as women and secondly as indigenous peoples.

On his part, Dr. Albert Barume wanted to know the content of the special curriculum that UNESCO in collaboration with the Ministry of Education was developing for indigenous populations. He wanted to know whether the aka indigenous community in particular had

been taken into account. He also wanted to know whether UNESCO planned to implement a similar programme that it introduced for indigenous populations in the Central African Republic.

Mr. Diallo responded by noting that he was not sure whether the aka community was taken into account in the development of the special curriculum. However, he explained that the work was still in progress and that a Working Group could still be established on adapting schools' curriculum to indigenous peoples' lifestyle.

He said it is important to address the education gap of the indigenous communities in Congo and welcomed the Commission's recommendation that UNESCO and other UN agencies work closely with local actors on the ground. He said programmes for indigenous peoples should be properly coordinated to avoid duplication and that the programmes should seek to empower indigenous communities so that they see themselves as human beings with something to offer to the rest of the world.

### ***Meeting with the Representative of UNDP***

The delegation met with **Mr. Lamin Manneh** Country Representative of the United Nations Development Programme, UNDP in Congo. After introducing the members of the delegation, Commissioner Bitaye informed the UNDP Representative of the purpose of the mission, described the mandate of the African Commission as well as the mandate of the WGIP.

He informed the UNDP Representative that the African Commission visited Congo in 2005 on an Information and Research visit in which it concentrated in the North of the country. He said the current mission was a follow up to the 2005 visit and focused in the south of the country. He said the delegation was pleased that since 2005, a lot of progress has been made towards enhancing the plight of indigenous populations in the country.

He said the delegation has been informed that the UN, EU and the government were working closely to promote the rights of indigenous populations in the country. He said the delegation was particularly appreciative of the government's draft law on indigenous populations, adding that the draft law to a large extent takes into account the provisions and principles contained in the UN Declaration on Indigenous Peoples.

He said that in terms of Articles 41 and 42 of the Declaration, UN Agencies are required to provide support to local actors to ensure the effective implementation of the Declaration. He said UN Agencies should be able to give technical and financial support to local organisations to help them in the process.

On her part, Commissioner Maiga indicated that the African Commission was in Congo in 2005, and noted that following the adoption of the UN Declaration the government should be encouraged to continue efforts to adopt the draft law. She said UNDP can play a great role in resource mobilisation as well as coordination. She said in the process, she would like to see gender issues incorporated in the conception of policies at all levels.

She said indigenous women in particular suffer issues of discrimination, health related problems which other groups may not face. She said there was need for sensitisation and education.

In his response, the UNDP Representative indicated that the organisation has been deeply involved in the process of developing policies in support of the promotion and protection of the rights of indigenous populations. He said the UNDP coordinates the activities of other UN agencies.

He said that they have been working very closely with the Ministry of Forestry and Environment, which is the one coordinating the issues of indigenous populations in the country.

He said that beyond their policy framework, they are also involved in activities to ensure that these policies go beyond advocacy. He also said that UNICEF has a major program on indigenous populations including education programs and the fight against HIV/AIDS in indigenous communities.

He said that the whole of the UN system is actively involved in ensuring the rights of indigenous peoples, as well as their material need and their upward mobility in society. He said that this however has to be balanced against respect for their lifestyle and the protection of their culture.

He said that in protecting the rights of indigenous people, they also look at the special needs of women and children adding that the Republic of Congo pays a lot of attention to gender equality and UNESCO works with the Ministry of Gender closely.

He said that the commitment of the government and the efforts they are making, coupled with the specific constraints of the government gives reason to believe that they are in the right direction. He informed the delegation that the government in collaboration with UN and other institutions was organising a regional conference in April 2011 on the rights of indigenous peoples in central Africa.

Commissioner Bitaye asked whether the Commission would be invited to the International Conference – as the regional body dealing with human rights in general and group rights in particular.

He said that the Commission has limited time and resources, and spends little time during missions, so they have only a limited picture of things. He explained the procedure – from debriefing, adopting the report by the commission, sending the report to the government for comments and publication.

The delegation also noted that there are structural challenges in the implementation of government policies, for example, the people are poor and do not have the resources to meet some of the basic amenities such as acquiring birth certificates, registration and voting cards.

He said that the challenge of citizenship could be tackled by facilitating registration of citizens and this could be supported by intergovernmental organisations.

He said that there were other practical challenges relating to access to health, including the fact that people are not able to pay health fees and health centres are not accessible.

On education, he said an American NGO - IPHD is very active in the Sibiti Region, at least in the planning framework, but the implementation of policies remains a challenge. There were complaints from the families that the kids refuse to go to school.

Commissioner Bitaye recommended that NGOs should be capacitated to be able to monitor implementation of government policies. He further noted that the draft law on the rights of indigenous peoples in Congo is the first of its kind in Africa and it incorporates the principles enshrined in the UN Declaration.

He said the role of the Commission is to encourage Congo to adopt the law, and the Commission has to ensure that this does not fail, and the international community has a great role to play as the government cannot be left on its own on this.

### ***Meeting with United Nations Children's Fund (UNICEF)***

The delegation met with representatives of UNICEF at the premises of the latter. After introducing the delegation, Commissioner Bitaye described the African Commission, including its mandate and activities. He also described the establishment, mandate and activities of the WGIP.

He said the WGIP undertook a visit to Congo in 2005 and concentrated on indigenous populations in the north of the country, adding that the current visit was focusing on indigenous populations in the South of the country.

He said the African Commission was aware that UNICEF was involved in the protection of the rights of indigenous populations, in particular, indigenous children. He said the Commission was also aware that UN Agencies were supporting the government's National Action Plan, and that the European Union supported UNICEF to undertake a project on indigenous populations in 2008.

Commissioner Bitaye indicated that the delegation has noted with satisfaction the draft law on indigenous populations in the country and would like to know why the bill is yet to be adopted. He said the delegation would also appreciate information on the 4,000 children who received birth certificates as part of the UNICEF programme to register children. He said the African Commission wanted to get precise information, including statistics especially in the number of indigenous populations in the country, indigenous children, and general disaggregated data on the indigenous population. He noted that it has been difficult to get information.

He said from a visit to the South in the country, it may seem that indigenous communities continue to be left out of socio-economic and political programmes. He said that the delegation observed in Sibiti that the only support was from an American NGO that was providing assistance to indigenous populations with school needs. He said the drop out rate for pupils in the South was very high and wanted to know whether that was the situation across the country.



He wanted to know whether UNICEF was involved in the elaboration of the draft law. He said the delegation has looked at the law and was satisfied that even though its elaboration started in 2004, it incorporates principles contained in the 2007 UN Declaration. He said the Declaration requires UN Agencies to mobilise resources to support local actors in the effective implementation of the Declaration.

On her part, Commissioner Maiga indicated that the African Commission works with governments as well as other relevant stakeholders, including UN Agencies and NGOs to ensure the effective discharge of its mandate.

She said one of the purposes of the mission is to get as much information as possible to enable the Commission make appropriate recommendation to the authorities. She said the period from 2004 to date has been dedicated to discussing the draft law with major stakeholders. She indicated that the adoption of the law will usher in a very important phase, that of implementation, monitoring and execution. She said the fact that the government has recognised the existence of indigenous populations is a commendable one, as some countries are still struggling with the concept of recognition. She said Congo has passed that stage and has now moved to another stage – that of adopting appropriate laws to protect the rights of indigenous peoples. She said that as Special Rapporteur on the rights of women, she would like to see gender issues, especially education of the girl child, incorporated in the programmes and policies of UNICEF at all levels.

In response, the representative of UNICEF thanked the delegation for the visit. She said that UNICEF does a lot of work with indigenous populations in the country. She said there was a lot of interest within the UN on the work UNICEF was doing with indigenous populations in the country. She said the government, in collaboration with UN and other partners was organising FIPAC2 - a meeting which according to the UNICEF representative was very important as it will focus entirely on the rights of indigenous populations, and issues such as birth certificates, school drop out, health of indigenous populations would be tackled. She said the Forum should be able to sensitise participants to understand why indigenous peoples should be protected. She said a lot could be learned from indigenous peoples, especially from their culture, music, dance and indigenous knowledge.

She said UNICEF has been involved with indigenous populations in the country for a long time, starting with small health and sanitation projects in 2001 to a global vision and national strategy on the protection of indigenous peoples.

According to her, indigenous populations in Congo are among the most vulnerable populations. She said the plight of these people has been brought to the attention of the Congolese authorities and the government and cooperation partners have placed focus on this.

She said UNICEF has developed films and a lot of documentation on the rights of indigenous peoples in the country, adding that apart from these documentations, UNICEF has developed programmes that provide free access to water, health services, education, acquisition of citizenship, birth certificates (about 3,000 indigenous children have been given birth certificates), fight against violence, access to information, especially information on HIV/AIDS. She said their activities have enabled them to travel to very inaccessible areas

such as Likwala, Lingola and the Plateau region. The activities fall within the framework of the government's programme of action for 2009-2013.

She said UNICEF has also contributed in building the capacity of indigenous populations and NGOs, and to this end convened a national conference of indigenous populations which contributed in developing a National Action Plan. She said UNICEF contributed in setting up an umbrella organisation of indigenous peoples called RENAPAC and helped to establish a Secretariat for indigenous peoples, train their leaders and provide them with basic services. She added that UNICEF has a standing Memorandum of Understanding with RENAPAC.

On the legal front, she said UNICEF assisted the government to adopt a law on the protection of children, including the protection of indigenous children. She said UNICEF continues to work with government towards the finalisation and adoption of the draft law on the protection of indigenous populations. She said necessary technical support, including seminars, training for parliamentarians and other stakeholders have been provided. She noted that the question of indigenous rights is very sensitive and thus a lot of consultation was necessary.

She said UNICEF signed an agreement with the EU to undertake a series of activities, including the registration of 4,000 children.

The UNICEF representative indicated that there was need to develop a national strategy to change the mentality and attitude to change incidences of discrimination, to change the social norm that will encourage cooperation and interaction among the different groups.

On the collection of data, UNICEF informed the delegation that it has not been able to develop disaggregated data, but was in the process of developing a project with the EU to undertake a study on indigenous peoples and develop a database.

On education, the UNICEF representative indicated that the organisation has introduced preparatory schools in indigenous communities for three years before they go into normal schools. This according to UNICEF, is aimed at adapting indigenous children into the regular school system. There are about 14 such schools and involve about 1,800 pupils. Under the scheme, indigenous teachers are trained to teach the children and about 23 teachers are taught each year.

UNICEF indicated that the main challenge is inadequate resources, noting that the government does not have sufficient resources to ensure the effective implementation of activities, adding that the budget for social services is very meagre.

Asked whether UNICEF monitors the activities of RENAPAC and whether it works with other NGOs apart from RENAPAC, the representative indicated that it is important that the indigenous peoples are left to run their own affairs. She added that UNICEF is open to work with any other NGO that it thinks has the capacity to undertake activities to work on indigenous issues.

Commissioner Bitaye noted that RENAPAC as well as UNICEF were not known in the South of the country and wanted to know whether their activities were nationwide. In response, the representative indicated that RENAPAC was established only in 2008 and as such has not

established a national reach. She also said that UNICEF does not have the capacity to be in all places but its action plan covers the entire country.

On whether the UNICEF's policy of integrating indigenous populations through education does not affect their identity and way of life, the representative noted that it seems to be the impression but added that what is clear is that change cannot be achieved without education. She said consultations and exchanges have been made with a wide range of stakeholders on how to encourage indigenous children go to school. The representative however indicated that UNICEF has taken note of the concern raised by the delegation and will discuss it with the Ministry. She indicated that the Congolese school system does not have a separate system for indigenous populations and the Bantus. She reiterated that education is vital to development and that UNICEF takes due consideration to the culture and identification of indigenous peoples.

Commissioner Maiga noted that the question of gender doesn't seem to be properly addressed. She wanted to know whether in UNICEF's support to RENAPAC, whether it is envisaged that a female indigenous organisation will be established. In response, UNICEF indicated that it is trying to develop specific programmes to enhance the lives of young girls and ensure that indigenous children at least complete primary school. She said UNICEF has encouraged coordination of indigenous issues at national level and would like to see that activities are coordinated nationwide.

### ***Meeting with the Human Rights Commission***

The delegation met with the Human Rights Commission at the premises of the latter. The Commission was represented by the Secretary General, the Rapporteur and the Presidents of four sub-committees, including the Sub-committees on religious affairs, on international relations, on human rights and freedoms, on gender and on economic, social and cultural rights.

After introducing the delegation, Commissioner Bitaye informed the members of the Human Rights Commission of the purpose of the mission to Congo. He said that the African Charter is a regional human rights mechanism established to monitor respect for the rights guaranteed in the African Charter. He said the African Charter requires States Parties to establish institutions such as the Human Rights Commission, because even though the primary responsibility to protect human rights rest with the States, other institutions are relevant to support the efforts of the State, especially where the latter is unable or unwilling to comply with its human rights obligations.

He said he was encouraged that the mandate of the Human Rights Commission includes the promotion and protection of economic and social rights which is central to the protection of the rights of indigenous populations. He noted that the enjoyment of these rights by indigenous populations is usually problematic due to the vulnerable situation of indigenous peoples, including poverty, marginalisation and stereotyping.

Commissioner Bitaye wanted to know whether the Human Rights Commission has undertaken any activity aimed at protecting the rights of indigenous populations, and if not whether there were plans in place to do so or whether there were any difficulties.

On her part Commissioner Maiga indicated that during her recent visit to the country in her capacity as country rapporteur she was concerned about the insufficient resources given to the Human Rights Commission to discharge its mandate. He said the delegation would like to know whether there had been any improvement of the situation following recommendations made by the African Commission.

She described the establishment and mandate of the WGIP and noted that on the basis of the African Charter and the UN Declaration on Indigenous Peoples, the WGIP was engaging States and other relevant stakeholders on how to effectively protect the rights of indigenous peoples.

She said the question of indigenous populations poses a series of challenges to States, but Congo seems to be ahead of other African countries. She said the draft law on indigenous populations which has been very participative is the first of its kind in Africa and may serve as an encouragement to other countries. She said measures should be put in place to ensure an effective implementation of the law once adopted, in particular measures should include effective dissemination, translation into local languages, monitoring of compliance, etc.

She said UN Agencies have an obligation under the Declaration to provide assistance to States and local actors to ensure the effective implementation of the Declaration.

Commissioner Maiga indicated that the Human Rights Commission was an important partner on the promotion and protection of human rights generally and the rights of indigenous populations in particular. She said that the delegation would like to know the role of the Human Rights Commission in the protection of the rights of indigenous peoples, in particular, whether the Human Rights Commission has specific programmes on indigenous populations, whether it was involved in the elaboration of the draft law and whether there were any programmes earmarked for indigenous populations when the law comes into force.

In response to the issues raised by the delegation, the Rapporteur on the Human Rights Commission thanked the delegation and gave a short presentation of the Human Rights Commission, including its mandate and structure.

She said that with respect to indigenous populations, the Human Rights Commission has established a Committee responsible for gender and vulnerable peoples. She said the Commission will hold its General Assembly in April 2010 in which its Plan of Action will be adopted and the rights of indigenous peoples will feature in the plan. She said the Human Rights Commission was not particularly involved in the elaboration of the draft law but was well informed of developments regarding the law, as there were members of the Commission who took part in the process in their personal capacities who briefed the Commission on a regular basis. She said the Commission was working on measures to ensure the effective implementation of the law once adopted, as well as how to disseminate the law.

She said there was need for more interaction between indigenous and Bantu populations as they were all Congolese, adding that the Human Rights Commission will play its part in ensuring this interaction. According to the Rapporteur, the Human Rights Commission has begun to find its place among the institutional framework of the country. She said this will

enable the Commission to be able to work effectively in the field, receive complaints from the public and create public awareness about human rights.

Commissioner Bitaye appreciated the work that the Human Rights Commission was doing in the promotion of human rights in the country and its involvement of civil society in this regard. He observed that in her presentation, the Rapporteur used two terms to describe indigenous populations, that is, vulnerable peoples and minorities. He said that it was important to consistently use the term used by the international community, that is, indigenous peoples.

He said the draft law provides an opportunity for the Human Rights Commission to play a very important role to ensure that the protection provided in the law is felt on the ground. He said the law will be the first of its kind in Africa, and being the first, it will be a role model and as such the country and the other stakeholders have a huge responsibility.

Commissioner Maiga on her part encouraged the Human Rights Commission to apply for affiliate status with the African Commission.

In her response the Rapporteur thanked the Commissioners for their observations and indicated that by the next visit of the African Commission, some improvements would have been done. She said the Commission will try to apply for affiliate status as soon as possible and that it was important that the same terms be used to describe indigenous peoples as this would facilitate dissemination of information.

### ***Meeting with NGOs***

The delegation met with NGOs at the premises of the Association pour les Droits de l'Homme et l'Univers Carcéral (ADHUC). Most of the over ten NGOs work on indigenous issues while the rest work on human rights generally.

After a brief introduction of the delegation and an explanation of the purpose of the mission, the NGOs each made a presentation describing their mandates and activities in the field of human rights in general and the area of indigenous populations in particular.

After the individual presentations, a representative of the NGOs made a presentation on the situation of indigenous populations in the country. In the presentation, the NGOs indicated that one third of the population of the Republic of Congo is composed of indigenous populations and the latter was present in almost all the regions of the country. They indicated that indigenous populations in the country face numerous challenges, including exploitation at places of employment, through inadequate pay and slave labour. It was submitted that the master/slave relationship still existed and indigenous peoples were paid very little salaries and in some cases were paid in kind with items such as alcohol, cassava, etc. The main job they do is hunting and in the course of hunting they are not supposed to lose any bullet, that is, each bullet must be accompanied by an animal otherwise they are strongly reprimanded or asked to pay for the lost bullets. They do not have National Identity Cards and this prevents them from taking part in civic activities such as voting. They are not represented in decision making bodies at local, regional or national level.

On education, it was indicated that indigenous peoples in Congo lag behind other groups, and the main reasons were identified as the absence of schools, hostilities from pupils and teachers of other dominant groups, and the inability to adapt to the school calendars, which tend not to take into account the life style and ways of life of indigenous communities.

On health, they raised the high cost of medicines, the lack of health centres, and discrimination against indigenous peoples by health workers as major challenges. It was indicated that health workers give priority to other populations, even if an indigenous person was the first to consult, and that health workers do not want to get in contact with indigenous peoples alleging that they smell.

The lack of financial resources and inaccessibility of the courts were also identified as challenges. It was noted that lack of resources prevents indigenous people from taking alleged violations of their human rights to courts resulting in the perpetrators going unpunished.

The NGOs also informed the delegation that some steps have been taken by UN agencies and the government to improve the plight of indigenous populations in the country, including the adoption of a Forest Code that provides for specific usage rights for local communities and their involvement in forest management. The draft law developed by the government dealing with the protection of indigenous populations was also mentioned as positive trend in the country.

Commissioner Bitaye thanked the NGOs for the presentations, in particular the analysis of the situation of indigenous populations. He indicated that all the activities were very important because human rights issues were in most cases cross-cutting.

He said that since the visit of the African Commission in 2005, there has been significant progress in improving the plight of indigenous populations, the most important being the elaboration of the draft law on the protection of the rights of indigenous populations. He said that when the law is adopted it will be the first of its kind in Africa. He encouraged the NGOs to continue their advocacy work to ensure that indigenous peoples are aware of their human rights.

On the question of impunity, he indicated that the delegation has been advised that there was no discrimination in the law and that if the indigenous population or person can report any alleged violation of his/her rights to the *procureur general*, the latter would prosecute the alleged perpetrator. He encouraged the NGOs to use the law to protect the rights of indigenous populations.

On citizenship, he indicated that the delegation has identified difficulties, including the remoteness of communities, the lack of understanding as well as de facto constraints that prevent indigenous communities from accessing to a number of civil rights. He said there doesn't seem to be any legal constraint preventing indigenous peoples from acquiring identity cards. He encouraged indigenous populations to use the law to apply for identity cards and acquire citizenship.

He said Congo was one of the first African countries to recognise indigenous populations, and the challenge did not lie at recognition, but was at the level of implementing laws that protect the rights of indigenous populations.

He said consultation with NGOs was important for the work of the Commission as they work closely with the populations. He said the delegation noticed considerable improvements in Sibiti which were attributed to the work of NGOs. He said the Commission will work closely with the government to ensure that the draft law was adopted and ensure that it is implemented effectively.

Commissioner Bitaye indicated that the delegation observed in Sibiti that indigenous communities were not as organised as their counterparts in Brazzaville and that they did not seem to be in contact with indigenous populations in other parts of the country. He encouraged the NGOs to develop a structure which will enable indigenous communities to meet regularly to empower them speak for themselves.

On her part, Commissioner Maiga encouraged the NGOs to pay attention on the plight of indigenous women. She said focus should be on education of the indigenous girl child who faces difficulties accessing education. She said NGOs should analyse the draft law to ensure that it takes into account gender issues.

She encouraged the NGOs to maintain a close relationship with the African Commission, and in particular, its Working Group on Indigenous Populations. She further encouraged those NGOs that have not already done so, to apply for observer status with the Commission.

## **IV. DELEGATION'S ANALYSES AND OBSERVATIONS**

### **Mission's General Observations**

Following the interviews, discussions and consultations conducted during the 10 days of the mission, the Delegation analysed the information and produced observations on the following areas of rights: citizenship, justice, non-discrimination, involvement in public administration, education, health, land and resources, indigenous women, and employment. The analysis also focused on the bill on the promotion and protection of indigenous peoples' rights that was being discussed by the Government of the Congo at the time of the visit.

#### ***Draft bill on the promotion and protection of indigenous peoples' rights***

The Delegation took note of the draft bill on the promotion and protection of indigenous peoples' rights in the Republic of Congo. The process of adopting this law has been underway for more than 4 years and several stakeholders, including the indigenous communities, civil society organisations and international partners, are involved in it. At the time of the Delegation's visit, the draft bill had already passed through various important stages, namely its adoption by the Council of Ministers and its consideration by the Supreme Court. It only remained for it to be submitted to Parliament, placed on this legislative body's agenda and eventually adopted and enacted by the President of the Republic. The version that was presented to the Delegation consisted of 11 Chapters relating to: general provisions, civil and political rights, cultural rights, right to education, right to health, right to work, right to property, right to the environment, and other and final provisions. A good many of its provisions are closely related to different international instruments, particularly the African Charter on Human and Peoples' Rights and the UN Declaration on the Rights of Indigenous Peoples.

#### ***Rights to citizenship and participation on public affairs***

The Delegation noted that there was no disaggregated data on the situation or extent of indigenous peoples' enjoyment of a number of rights in the Republic of Congo. Their remoteness, the centralist approach, the mistrust of indigenous peoples in relation to the systems in place and the extreme poverty of these communities are all important factors that prevent them from fully enjoying the right to citizenship. Indigenous peoples do not get the births of their children and their marriages registered because not only most of them are illiterate but also because these public services are located in towns far from indigenous communities. The Delegation noted also that there are very few indigenous persons civil servants. In fact, the Delegation found not one indigenous staff member involved in the public administration of the places it visited.

#### ***Right to justice***

The Delegation noted that there was a legal framework in the Republic of Congo that guaranteed free legal aid for the poor. This mechanism could be beneficial to indigenous communities, who experience high levels of poverty and have no established knowledge of



the legal system. Unfortunately, it emerged that lack of resources make free legal aid ineffective. Meetings with various local authorities highlighted cases of unreported discriminations, abuses and attacks on indigenous by other individuals. The Delegation also noted encouraging actions of awareness raising of indigenous peoples on the part of the Sibiti Public Prosecution service, in association with local NGOs. The Delegation was, however, informed that in some departments, such as Sibiti, there are insufficient legal officers, particularly lawyers, to assist poor indigenous individuals. Moreover, the Delegation noted a widespread mistrust of the national justice system among the indigenous people.

### ***Right to non-discrimination and equality of all before the law***

The Delegation noted that there was no legal or institutional framework specifically established to counter the discrimination suffered by indigenous communities, who are unaware of their rights and not considered citizens like the rest of the population. For example, it is rare for a non-indigenous woman to marry an indigenous man and food prepared by an indigenous man or woman will not generally be eaten by non-indigenous people. Inequalities also persist in terms of employment, and an indigenous person's salary is often not commensurate with the work undertaken, nor equal to that of his/her non-indigenous colleagues. A number of local authorities underlined cases of slavery-like practices that indigenous peoples are still victims in some parts of the country. Individuals or entire indigenous family could be regarded as owned by a non-indigenous person, for whom they would labour for free and provide several other unpaid services.

### ***Right to information and participation in the management of public affairs***

The Delegation noted that indigenous peoples have no access to public information. There is no government programme aimed at building indigenous capacity so that they can understand their rights and duties as citizens and contribute to the country's socio-economic development. For example, there is no radio station or radio broadcasts targeted at the indigenous communities. As indicated before the Delegation did not come across an indigenous person civil servant. It emerged that in almost all sector of public life and institutions including the Parliament, Government and the Judiciary there are no indigenous persons. Even at the local level indigenous peoples are not part of decision-making bodies and institutions. Nor are their traditional institutions recognised or given any consideration..

### ***Right to education***

The Delegation noted the existence of a favourable legal framework in terms of the country's indigenous children's right to primary school education. This relates to the law on free primary school education. The Delegation also noted the importance of the activities of the NGO 'International Partnership for Human Development' (IPHD) in Lékoumou department, where its positive impact is felt and appreciated, although the sustainability of its work was raised as a problem. Despite the favourable legal framework and the non-governmental efforts underway, the Delegation noted the rarity of teachers, the absence of schools near or in indigenous villages and the persistence of an estimated school drop-out rate of more than

80% among indigenous children. The Delegation was, for example, informed that only one indigenous child was at secondary school in Sibiti. The Delegation thus concluded that the efforts underway were still insufficient and also noted a high number of school-age children present in the indigenous villages during school hours. The Delegation also observed that the extreme poverty of indigenous parents has a negative impact on the education of their children, as also noted in the report of the study into education conducted by the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), which pinpoints the link between indigenous poverty and children's education. The phenomenon of early marriage was also condemned as a major obstacle to young indigenous girls' access to school. It was highlighted that in some cases indigenous children face also abuses from other school children and even some teachers. Several indigenous children were said to have abandoned schools because of constantly being ill-treated or ridiculed by other children or teachers who look at them as dirty and uncivilised. The schooling system is equally inadequate with indigenous communities' lifestyle, culture and livelihood. In numerous cases, indigenous children have to abandon school to take part in a number of culture-related activities by their families.

### ***Right to health***

The Delegation noted a general problem of access to health care in the Republic of Congo due, among other things, to a lack of infrastructure, resources and qualified staff. The Delegation was, for example, informed that there is only one general practitioner in Sibiti for more than 80,000 inhabitants. Inaccessibility of indigenous peoples to health services is almost generalised in the Republic of Congo not only because there is a lack of resources but also because of discrimination and prejudices that indigenous peoples continue to suffer in the hand of some health workers, who look down upon indigenous peoples. Most indigenous peoples in Congo still rely on traditional medicine but the increasing inaccessibility to forests and the lack of support from the Government are significantly eroding the medical knowledge of indigenous communities. Despite some positive national policies, particularly regarding free malaria treatment up to the age of 15, the health situation within the indigenous communities remains worrying given their high level of poverty, which prevents them from visiting a doctor. A Certain mistrust was also noted among the indigenous peoples with regard to vaccination campaigns and ante-natal check-ups, despite a number of one-off incentives. The Delegation further observed that levels of hygiene, housing and maternal health care were very poor in indigenous villages, where there are virtually no water points or toilets, far less clinics. The Delegation also noted that nearly all births were attended by traditional birth attendants, who do not receive any kind of support programme. An absence of any support for the pharmacopoeia that nearly all indigenous peoples continue to depend on for their care was also noted.

### ***Right to land, cultural identity and employment***

The Delegation observed that the indigenous people have no land or territories of their own, like other traditional communities in the Republic of Congo. The indigenous people tend to live on the edges of Bantu villages and, as these spread, they are forced to move further away. The Delegation did not come across a village where indigenous and non-indigenous people were living together. This widespread situation illustrates that indigenous peoples are

suffering from persistent discrimination, prejudice and stereotyping and that they are being considered dirty and uncivilised. The Delegation noted that customary land ownership is not guaranteed to indigenous communities. Congolese tropical forests are known to be the ancestral lands of indigenous peoples. The forest code and the land law do not recognise or protect this customary right of indigenous peoples. Consequently, most of the forests have been either allocated as logging concessions or transformed into protected areas, and in both cases, indigenous peoples' customary rights are not recognised. The generalised assumption is that indigenous peoples do not own any specific land because of their nomadic lifestyle. There is also a background of prejudices to the landlessness of indigenous peoples, whose way of life and land occupation are considered as wasteful of resources. The access to forests of indigenous peoples in Congo has become limited.

The Delegation also noted that most of the indigenous people of Sibiti spend their time working in the fields of Bantu or other non-indigenous people, for whom they also go hunting. It was noted that the indigenous people often undertake this work without a pre-agreed or negotiated salary. In such conditions, the indigenous people end up being paid whatever their Bantu employer feels like paying them, and they have no possibility of redress.

The Delegation finally noted that the indigenous people have skills, know-how and a traditional industry that has the potential to generate sufficient income for them. This know-how is not, however, valued or developed largely due to the fact that indigenous products are not accepted by other sectors of the national population.

## **V. CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

This report presents an account of the visit undertaken to the Republic of Congo from 15-24 April 2010 by the Working Group on Indigenous Populations of the African Commission. It includes the terms of reference of the Mission and details of discussions with members of Government, specialised agencies of the United Nations system and civil society organizations working on the status of the rights of indigenous communities in the Republic of Congo.

The mission, which is the focus of this report, is a follow-up to the previous research and information mission undertaken by the Working Group in 2005 which raised a lot of concerns and also outlined ongoing positive actions engaged in by the different stakeholders. The earlier mission of the Working Group targeted the indigenous communities living in the north of the country. The current mission was undertaken to the Southern part of the country where quite a sizeable number of indigenous populations live.

The mission also included a visit to the indigenous communities living in the Lékoumou administrative district, specifically in the Sibiti Prefecture mostly inhabited by indigenous people. The mission held working sessions with the Prefecture, officials of the local governments, the Public prosecutor's office and local NGOs operating in the field of rights of the indigenous people. The mission also visited 3 indigenous villages and had discussions with them during which the communities clearly outlined their concerns, characterised by lack of access to land, health care, education, employment including their non-participation in the management of national and community institutions. The indigenous populations do not live in the same villages as the Bantus; they abandon their own villages when the dominant groups spread out and their health and hygienic conditions are a source of great concern.

The current mission forms part of the national concern characterised by a process of discussion of a bill on the promotion and protection of the rights of indigenous populations. It is a major initiative by the Government intended to create a specific legal framework to guarantee the different aspects of rights of indigenous people. At the time of the mission, the process leading to the adoption of the law was at a very advanced stage and all the public authorities the delegation met expressed the firm determination of the Government and National Assembly to carry out the process to its logical conclusion within the shortest possible time.

It is worthwhile mentioning that at time of adoption of this report by the African Commission, Act No. 5-2011 of 25 February 2011 to promote and protect the rights of indigenous populations in the Republic of Congo had already been passed and promulgated.

In view of this, the African Commission makes the following recommendations to the various parties concerned with the aim of improving the status of the rights of the indigenous communities in the Republic of Congo:

## **Recommendations**

### **To the Government of the Republic of Congo**

1. Initiate without any further delay the process of implementation of Act No. no.5-2011 of 25 February 2011 on the promotion and protection of the rights of indigenous population ;
2. Organise a national census of indigenous population and ensure that the technical institutions produce disaggregated statistical information on the living conditions of the indigenous populations ;
3. Guarantee the representation of indigenous population in public and community institutions and ensure gender equity ;
4. Guarantee access to the justice system by the indigenous populations especially by establishing a free legal aid mechanism within the immediate surroundings ;
5. Take all appropriate steps towards the issuance of identity cards and systematic registration of births and marriages by equipping the technical agencies with adequate resources tailored to the lifestyle of the indigenous populations ;
6. Establish a school system adapted to the lifestyle, needs and inherent constraints in the daily lives of the indigenous population ;
7. Establish school canteens and operationalise free educational supplies including the introduction of incentives to encourage the teaching personnel to go to the indigenous communities and in particular provide training for indigenous teachers ;
8. Incorporate elements of indigenous culture and identity into teaching and literacy curricula ;
9. Develop a technical and professional teaching by taking into account indigenous know-how and economy ;
10. Provide well –equipped health centres stocked with adequate medicines and endowed with qualified staff within the communities where the indigenous people live ;
11. Provide training for health personnel from the indigenous communities in terms of supervision and capacity building for traditional birth attendants ;
12. Develop targeted sensitisation campaigns and initiate community actions to ensure that the indigenous population familiarise themselves with : immunisation, antenatal and postnatal controls, HIV/AIDS screening ; monitoring of chronic parasitic diseases among the indigenous communities ;

13. Provide support in different ways, including provision of financial assistance for the promotion and practice of traditional medicine by the indigenous population ;
14. Recognise and protect the customary land entitlement of the indigenous population, demarcate and provide title deeds for land ;
15. Guarantee the participation of the indigenous population in the exploitation, conservation and management of natural resources in their traditional native communities ;
16. Promote income-generating activities and facilitate market access for products originating from economic activities and traditional vocations of the indigenous population ;
17. Guarantee to the indigenous populations equitable conditions for access and right to employment ;
18. Take appropriate measures with a view to ensuring effective protection of the indigenous populations from all forms of violence, servitude and practices bordering on slavery and also ensure that the perpetrators and accomplices of these acts are prosecuted and punished according to law ;
19. Strengthen the sub-regional component of promoting cultural rights and the identity of the indigenous populations by way of organising Inter-State festivals and meetings as a means of ownership of the said initiatives and policies by the communities themselves;
20. Support and strengthen the capacity of indigenous organisations as well as civil society organisations working in the field of rights of indigenous people ;
21. Take appropriate measures for the ratification and implementation of Convention No.169 of the ILO concerning indigenous people.

**Recommendations to the International Community:**

1. Provide technical, material and financial assistance to the Government of the Republic of Congo for the effective implementation of the Act on promotion and protection of the rights of indigenous population;
2. Provide material and financial support for community, local and national stakeholders working towards promoting and protecting the rights of the indigenous population ;
3. Promote collaboration among all the stakeholders to enhance the harmonisation of programmes, actions and plans among all stakeholders operating in the area of rights of indigenous persons in order to maximize the impact on indigenous communities

**Recommendation to the National Commission on Human Rights, NGOs and other civil society organisations:**

1. Contribute to the popularisation of the Act concerning the promotion and protection of the rights of indigenous people, in particular, by organising seminars, translating the Act into local languages and engaging in mass media campaigns etc. ;
2. Initiate capacity building programmes among the indigenous people concerning their rights and take measures for the sensitisation of the dominant groups about the rights of the indigenous population.