

THE ACADEMIC APPROACH OF THE BAKA PYGMIES FROM CAMEROON. CONCEPTUAL AND ETHICAL PROBLEMS

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Abstract:

The problems of the Baka pygmies is an interesting but a delicate subject at the same time. Compared to any other indigenous population, "pygmies" in general and the Baka in particular are dependant on rainforest resources. The economy of Cameroon is largely based on the exploitation of natural resources, especially logging industry, a fact that makes the Baka face even more pressure than other indigenous people in Africa. This mainly happens because of conflicting interest on rainforest resources. There are international provisions which define and safeguard the indigenous populations. Unfortunately the Cameroonian legislation often does not put in practice the conventions that they sign. The present paper found its legal roots in UN, WLO, and World Bank provisions regarding the rights of the indigenous people and data analysis will be undertaken according to these international standards. The paper will analyse the current status of the Baka people of Cameroon, accordingly to the literature available.

Key words: Baka pygmies; racism; Africa; Cameroon; international provisions; governmental discourse.

Introduction

There are many indigenous and tribal groups around the world that have been called 'pygmies' at one time or another but the vast majority live in Central and West Central Africa. The Baka are one such 'pygmy' group, inhabiting large rainforest areas in Cameroon, Gabon, the Republic of Congo and the Central African Republic. One of West Central Africa's oldest ethnic groups, the Baka are believed to have descended from Stone age hunter gatherers¹ and they maintain a hunter-gatherer lifestyle to this day. The Baka are semi-nomadic, deriving most of their resources from the rainforest and living in semi-permanent roadside encampments, often leaving for weeks at a time to hunt or forage. Because of their lifestyle the Baka are difficult to census and estimates for Baka numbers range from eight thousand to thirty thousand or about 0.4% to 1.5% of the entire population², though confusions with the related Aka and Twa pygmies contribute to these estimate errors.

Due to their lifestyle, the Baka are almost exclusively hunter-gatherers and, thus, dependent on trade in order to obtain agricultural products. Their main trade partners are their Bantu neighbours, with whom the Baka have shared a co-dependence, almost symbiotic, relationship for centuries. The Bantu provide the Baka with grain, taro,

¹ Luigi Luca CAVALI-SFORZA, ed. *African Pygmies*. Academic Press, Orlando, 1986, pp. 148.

² Belmond TCHOUMBA "PeuplesIndigènes et Tribaux et stratégies de réduction de la pauvreté au Cameroun", International Labour Organization, 2005, p. 17.

manioc and vegetables and in return the Baka trade bush meat, honey and other forest products.

This relationship has stayed the same for several centuries but it altered dramatically with the dawn of European Colonialism. German colonial administrators sought to re-organize nomadic populations such as the Baka or other forest and river people in roadside villages to better manage them. The Baka were particularly targeted due to their perceived value as great hunters, especially big game hunters. German colonists in search of ivory and animal pelts often employed the Baka to hunt for them or serve as scouts and the convenient roadside resettlement of the Baka meant that they would be easier to find and employ. The German authorities built schools and permanent buildings in or around these new encampments and tried to educate the Baka in order to increase their utility but the German rule was short-lived. The laws set in place by the German protectorate and subsequent French rule disregarded the Baka as a people instead focusing on their assimilation. Missionary work by Christian clergymen had a modest impact on the Baka, as their focus was primarily on the dominant Bantu population and to this day the Baka maintain their animist religion³.

Nowadays, the Baka people live mostly as they have always had, in separate communities from the other populations, oftentimes along well travelled roads. They have preserved their traditional way of life, tribal culture and animist religion but with modernity encroaching on their areas they are under constant pressure to change, both from the neighbouring communities, no longer content with the barter system the Baka employ and from within the tribes themselves. Dwindling natural resources, severe hunting restrictions placed by the state, discrimination and disregard of indigenous rights are altering the Baka way of life.

Current Problems of the Baka

The threats against the Baka people today are similar to the threats faced by all indigenous people in Africa and the world, chief amongst which is deforestation. A problem to all the people in the region and particularly to the Baka who rely on the rainforest to survive, deforestation is rampant in Cameroon with legal logging almost being surpassed by illegal logging⁴.

Traditional hunting grounds that have been used by the Baka for hundreds of years are diminishing under the advance of civilisation and agriculture. Poaching and overhunting are making game scarce as well. The dwindling of forest resources are rapidly pushing the Baka away from their rich cultural heritage, as more and more men are forced to abandon the traditional hunter-gatherer lifestyle, getting jobs to provide for their families. However accessing the labour market is not easy for them.

The Baka have a very low literacy rate and a similarly low rate of speaking or understanding French, a fact that makes them virtually unemployable. There is also the matter of racism, as many Baka complain of severe discrimination in work environments and in school.

³ Luigi Luca CAVALI-SFORZA, (editor) *African Pygmies*. Academic Press, Orlando, 1986, pp. 162.

⁴ UK Government Department For International Development – *Crime and Persuasion: Tackling illegal logging, improving Forest Governance* p. 40.

More importantly, the Baka are denied access to communal hunting grounds, chased off lumber exploitation areas and forbidden from entering the large swathes of rainforest that have recently become wildlife reserves⁵. The Baka tribe encampments are not recognized as administrative units, instead being considered part of larger Bantu villages and, in consequence, the Baka do not get represented in local government, nor do they receive a fair part of the annual forest tax paid by the logging companies, a major source of development funds for communities in impoverished rural Cameroon.

Purpose of the Research

The following paper aims to investigate the status of the Baka pygmies, i.e. the lack of recognition as indigenous people, and to discern the relationship between that status and their treatment under state and international laws. Many of the problems highlighted above stem from the fact that the Baka pygmies do not presently possess all the rights granted to other indigenous people around the world such as the Inuit tribes in Canada, the Aborigines in Australia or even other indigenous tribes in Africa.

Therefore we must ask whether dispensations under their status as indigenous would improve their way of life. In order to do this we must first verify if the Baka people fulfil all the necessary requirements under several widely accepted definitions of the term indigenous people. Secondly we must compare this definition with that given by the state and see if the two definitions are compatible with each other and the actual condition and treatment by the state of the Baka people. Lastly we must see if by granting full indigenous rights to the Baka the state of Cameroon would improve the way of life of the Baka.

The current study has the role to draw the public attention to the problems the Baka people face because they are not recognised as indigenous. Moreover, there is little known in Europe in general and in Romania in particular even about the existence of these people. A secondary purpose of this paper is to put the Baka pygmies in the spot light and to encourage further research on the subject.

Also the context was very favourable for this study, working with an NGO which was trying to better the life of marginalized people from Cameroon, in 2010 I got in contact with the Baka people during my one month study visit to Cameroon. I consider that besides the valuable field data that I gathered during my stay, the present study will constitute an aid to the Baka pygmies because the public through the current study will know their problems.

The current research does not aim in militating for granting the Baka people more rights but rather underlines the big status difference and demonstrates how many of their problems are generated by the lack of recognition as indigenous population. Moreover, it is observed how the Cameroonian government signs international treaties and agreements but forgets to apply them by transcribing them into the national legislation and by creating a procedure in the field. This paper does not aim to discredit Cameroon internal and foreign policy but rather to draw the attention upon an aspect that is neglected by this state.

⁵ Indigenous Peoples and Protected Areas in Africa: From principles to practice, Forest Peoples Programme, 2003, pp. 35-39. Available at: http://www.forestpeoples.org/documents/africa/foreword_and_intro_eng.pdf, accessed on 24.10.2013.

Research Method

The current paper starts from the general question of research would any problems of the Baka be solved if they would be recognised as indigenous population? From this question a hypothesis was created, mainly that, if the Baka will be granted full indigenous status, then many of their problems will be solved or at least ameliorated. The best way to verify this hypothesis seemed to combine the literature review with a case study analysis.

For this research, literature review was extensively used, as well as the international and national legal provisions. The fact that there are lots of studies made on the status of Baka people meant considering a literature review, in combination with the critical survey, the most suitable method of analysis for this paper.

Theoretical Framework:

The term 'Indigenous People' has been widely used around the world to refer to a large number of ethnic groups (over 5000⁶ groups according to the International Work Group on Indigenous Affairs) or 300 to 350 million people worldwide. As an adjective it is usually used to refer to someone as being 'from' or 'originally inhabiting' a certain area. There is, however, no strict and clear definition of what indigenous people actually are, a major source of the confusion behind the term owing a lot to this fact.

Several definitions exist at the proposal of competent bodies and persons. One of the most widely used is the Definition put forward by the landmark International Labour Organization Convention no. 169 (1989) regarding the rights of Indigenous People which states as follows:

(a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

(b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions⁷.

It is furthermore specified that self-identification as indigenous shall be considered a deciding factor rather than recognition of said status by the state though self-identification is not required⁸. ILO 169 is the most important international document safeguarding the rights Indigenous people although it is heavily dependent on ratification. To this day the only African country to ratify ILO 169 is the Central African Republic in late April 2010.

A second definition was put forth by the now defunct Working Group on Indigenous Populations which functioned between 1982 and 2006 as a second tier subsidiary of the also defunct United Nations Commission on Human Rights. In 1986 the following

⁶ Caecilie MIKKELSEN (Editor), *The Indigenous World 2010*, International Work Group on Indigenous Affairs, Eks-Skolens Trykkeri, Copenhagen, 2010, pp.10.

⁷ Convention no. 169, Art 1, Sec 1 of the International Labour Organization.

⁸ Ibid. Art 1 Sec 2.

definition was put forward by Special Rapporteur José R. Martínez Cobo as a working definition for the Martínez Cobo Report:

“Indigenous populations are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them, by conquest, settlement or other means, reduced them to a non-dominant or colonial condition; who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they now form part, under a state structure which incorporates mainly national, social and cultural characteristics of other segments of the population which are predominant”⁹.

This definition was recognized as incomplete and annotated in the following years:

a) they are the descendants of groups, which were in the territory at the time when other groups of different cultures or ethnic origin arrived there;

(b) precisely because of their isolation from other segments of the country's population they have almost preserved intact the customs and traditions of their ancestors which are similar to those characterised as indigenous;

(c) they are, even if only formally, placed under a state structure which incorporates national, social and cultural characteristics alien to their own.

In 1986 it was also specified that any individual that identified himself as indigenous and was accepted by the community as such had the right to be called and considered indigenous. After more than twenty years of work and after its dissolution the Martínez Cobo Work Group saw fruition when the General Assembly adopted a Declaration on the Rights of Indigenous Peoples in 2007. The Declaration is non-binding and also fails to provide a definition for Indigenous People as, traditionally ‘indigenous people have suffered as a result of definitions’¹⁰.

Finally, another definition that is widely used was put forth by the World Bank¹¹ in 1991:

Indigenous Peoples can be identified in particular geographical areas by the presence in varying degrees of the following characteristics:

- a) close attachment to ancestral territories and to the natural resources in these areas;
- b) self-identification and identification by others as members of a distinct cultural group;
- c) an indigenous language, often different from the national language;
- d) presence of customary social and political institutions;
- e) primarily subsistence-oriented production.

An analysis of the three accepted definitions reveals several distinct traits that Indigenous populations are expected to have.

- Traditional territory that they have been inhabiting since before any other population.

⁹ Study of the Problem of Discrimination against Indigenous Peoples 1983, chapter V E.CN 4/Sub.2/1982/2/Add. 6/20 June 1982 – http://www.un.org/esa/socdev/unpfii/documents/MCS_v_en.pdf, accessed on 01.10.2013.

¹⁰ Declaration on the Rights of Indigenous Peoples (61/295) from 2006 – http://www.un.org/esa/socdev/unpfii/documents/dec_fa.pdf, accessed on 10.10.2013.

¹¹ World Bank, OP 4.20, 1991.

- Dependence on a traditional way of life
- Partial or total preservation of traditions, institutions and/or language.
- Identification by themselves and others as culturally distinct.

We can identify the prior traits in the lifestyle that the Baka have guarded for centuries:

- They have inhabited their areas of rainforest before the Bantu migrations¹² and have maintained their way of life.

- They live a semi-nomadic lifestyle, strongly dependent on the natural resources existent only in the rainforest.

- They conserve their language, traditional institutions (chefferiesystem, social hierarchy) and cultural heritage (traditional dances, craftwork, tools and practices)

- They are considered wholly distinct by both other representatives of the Baka, themselves and other peoples.

As the Baka fulfil all the above criteria they have, for the purpose of the present paper they are considered Indigenous People, according to International Definitions and treated as such.

Indigenous Population provisions according to International Law

It is important to keep in mind that besides the fact that the Baka pygmies are indigenous, as respecting all the characteristics of all the presented definitions on indigenous people; they are without any doubt a minority in Cameroon. It will be observed that their international granted rights as a minority (status accepted even by Cameroon's Government) are violated systematically by the state, loggers and other populations. Being such a delicate and general subject, discrimination of minority groups was treated by international forums such as UN, International Labour Organisation and World Bank.

The first international decision regarding non-discrimination was given in the framework of the League of Nations on 10th April 1923 by the Permanent Court of International Justice (PCIJ) regarding the German colonists from Poland. This decision was mentioning that there are two types of equality – equality of fact and legal equality and at the same time by respecting the rights of the minorities they shall enjoy the same treatment as the others¹³.

The Charter of the UN, signed in 1945 stated in the first article, third section as purpose of the UN: "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion"¹⁴. This path was continued in 1948 by the Universal Human Rights Declaration which states in the first two articles that:

Art. 1 All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

¹² World Bank OP 4.10 Art. 4.

¹³ Permanent Court of International Justice (PCIJ), Advisory Opinion Cases <http://www.indiana.edu/~league/pcijcases.htm> – accessed on 04.10.2013.

¹⁴ Charter of the UN, <http://www.un.org/en/documents/charter/chapter1.shtml> – accessed on 04.10.2013.

Art. 2 Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

One of the most important contributions to the international provisions for indigenous populations was brought by the International Labour Organisation by the Conventions no. 169. The Convention no. 169 from 1989 supplements the Convention no. 107 from 1957 which did not recognize indigenous peoples' right to exist as separate, distinct peoples. The ILO Convention 169 protects the rights of indigenous peoples and their land rights. According to the Convention adopted 21 years ago, it recognizes:

- Land and property rights for indigenous peoples: The Convention recognizes that indigenous and tribal peoples' cultures and identities form an integral part of their lives – and that their way of life often differs from that of the dominant population.

- Equality and Liberty for indigenous peoples.

- Autonomy of indigenous peoples¹⁵.

The Baka culture is very different in comparison with the Bantu – the majority group of the region they inhabit. For this reason we consider that the international provisions regarding cultural identity are very important to be mentioned. There are international agreements which take into account the issue of cultural identity. The first important act that does that is the UNESCO Declaration on Race and Racial Prejudice from 1987. Article 2 of these declarations states the following: „All individuals and groups have the right to be different, to consider themselves as different and to be regarded as such. However, the diversity of life styles and the right to be different may not, in any circumstances, serve as a pretext for racial prejudice; they may not justify either in law or in fact any discriminatory practice whatsoever, nor provide a ground for the policy of apartheid, which is the extreme form of racism”¹⁶.

Another important international act regarding the protection of the minority cultures is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (A/RES/47/135), adopted by the UN in 1992. In the very first article it states that: „States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity”¹⁷. As it will be observed later on, the Government from Cameroon, instead of encouraging conditions for the promotion of that identity – in our case Baka, it engages in policies that suppress their basic rights.

The Convention on Biological Diversity states in Article 8 j that: "...respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity..."¹⁸. As it will be observed further on, the state tries to assimilate and convert the Baka lifestyle to the one of the majority.

¹⁵ ILO Convention 169: 20 Years Later, <http://www.unpo.org/content/view/9746/81/>, accessed on 04.10.2013.

¹⁶ UNESCO Declaration on Race and Racial Prejudice from 1987, Art. 2.

¹⁷ UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (A/RES/47/135), 1992, Art. 1.

¹⁸ Convention on Biological Diversity, Art. 8j, <http://www.cbd.int/traditional/> accessed on 06.06.2009.

The most important international act regarding the rights of indigenous people is the UN Declaration on the Rights of Indigenous Peoples (61/295) from 2006 of which Cameroon is a Party State. The text of this declaration was drafted and debated for more than 20 years. This Declaration represents a major asset for indigenous peoples because it defines the term and moreover it emphasises their rights to maintain and strengthen their own institutions, cultures and traditions and to pursue their development in keeping with their own needs and aspirations¹⁹. On short, "the Declaration addresses both individual and collective rights, cultural rights and identity, rights to education, health, employment, language, and others. The text says indigenous peoples have the right to fully enjoy as a collective or as individuals, all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law. Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity. Indigenous peoples have the right to self-determination. By that right they can freely determine their political status and pursue their economic, social and cultural development. They have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they choose to, in the political, economic, social and cultural life of the state"²⁰.

Being part of the UN and party state to this convention Cameroon is obliged to follow these international laws. It is often observed that this state does not do its best to enact regulations in order to follow up with the international provisions. Moreover, it is observed that the Cameroonian government is taking active measures against the Baka people. For example the creation of natural reserves where hunting is totally forbidden in the places inhabited by the Baka without consulting them is a case in which Cameroon infringed the provisions mentioned in the Declaration on the Rights of Indigenous Peoples and more than that an direct offence to the basic rights of the individuals.

Local Law and the general position of the government

In its treatment of the various populations inhabiting the territory of the country, the state of Cameroon has a very peculiar approach towards its indigenous population.

The state of Cameroon is, according to the Constitution's preamble, obliged to ensure the protection of minorities and shall preserve the rights of indigenous populations in accordance with the law²¹. There are, however, no other constitutional provisions regarding the status of minorities or indigenous people in the text nor is there any article dealing with minority issues in the text of the Constitution proper. The National Law however has several provisions regarding the treatment and protection of so-called 'marginal' populations, by that meaning various ethnic groups such as the Mbororo, the highland peoples, the island and creek populations and last but not least the pygmies. Chief amongst these initiative was a call for the drafting of a marginal

¹⁹ Frequently asked questions, Declaration on the Rights of Indigenous Peoples (61/295) from 2006, http://www.un.org/esa/socdev/unpfii/documents/dec_faq.pdf, accessed on 06.10.2013.

²⁰ Ibid.

²¹ Constitution of Cameroon, Preamble; available at <http://confinder.richmond.edu/admin/docs/Cameroon.pdf>, accessed 06.10.2013.

population bill from 2008²². As many NGOs have pointed out this draft was largely written with minimal participation from the people it would affect and their representatives. Furthermore, the term ‘marginal’ populations was widely considered derogatory, demeaning and stigmatising the populations it refers to as well as impeding their acceptance as indigenous people²³. Several issues also sprouted from the Cameroonian understanding of the term indigenous. The abovementioned term ‘marginal’ is preferred by the state when referring to isolated people with traditional ways of life but its use in connection with indigenous issues causes many problems in the implementation of international conventions. The state still guards a colonial understanding of indigenous peoples and qualifies these as people that have not migrated into an area from another. Therefore one may understand that all people native to an area are considered indigenous. Indeed, this has been the position of the state for the last decade and a half since this issue was first clarified during a constitutional amendment session in 1995²⁴.

However, mention must be made that Cameroon is Party State to the United Nations Declaration on the Rights of Indigenous Peoples as previously stated. In an address by the Committee for the Elimination of Racial Discrimination in April 2010 towards the state of Cameroon, the committee urged the reformation of the proposed draft on marginal populations and the compliance with the Declaration in order to ensure the rights of Indigenous people. It added that the current laws and terminology does not comply with the Declaration although the state recognises indigenous populations living on its territory²⁵. The state responded by stating that the terminology regarding indigenous people has been recently introduced and its adaptation is not yet complete.

Therefore, one can only conclude that the categorising of the Baka people as marginal people and the severe lack of legislative measures to grant them full rights in accordance to their indigenous status means that the State of Cameroon does not fully respect the letter of the law in regards to Declaration 61/295. Therefore, one will assume that it does not view the Baka as indigenous.

Literature review:

Over the course of the last ten years the Baka problem has been carefully observed and a significant number of articles have been written on the subject. However, most of the texts on the Baka have either been articles or op-ed pieces for various magazines or have sometimes failed to take into account the stringent need for on-site research with the Baka themselves.

²² Ministry of Social Affairs: "Étude en vue de l'Élaboration d'un Projet de Loi sur la Promotion des Droits des Populations Marginales", Cabinet d'Experts Multidisciplinaires Associés-SARL (CEMA-SARL), Yaoundé, November 2008.

²³ Cameroon: The Committee for the Elimination of Racial Discrimination recommends adoption of a law to protect the rights of indigenous peoples, available at http://www.forestpeoples.org/documents/africa/cameroon_cerd_update_apr10_eng.shtml, accessed 04.10.2013.

²⁴ National Assembly, 5th Legislature 1995/1996, Extraordinary session, December 1995.

²⁵ Cameroon: The Committee for the Elimination of Racial Discrimination recommends adoption of a law to protect the rights of indigenous peoples, available at http://www.forestpeoples.org/documents/africa/cameroon_cerd_update_apr10_eng.shtml, accessed 04.10.2013.

One of the major subjects in the literature concerning the Baka is the very issue of them being indigenous or at least considered indigenous people. It has been stated²⁶ that one of the main reasons for the disregard of Baka as autochthonous people is their lack of 'roots in the soil', i.e. their nomadic lifestyle that somehow makes them less autochthone than their pastoral counterparts. Indeed, much of the literature focuses on land law and the severe deficiencies that it presents in Cameroon when dealing with the status of indigenous populations²⁷. The land is the crux of the issue as Cameroon has an out-dated colonial era remnant land law that still uses colonial terminology in regards to land ownership²⁸ and incorporates Bantu customary law typical to pastoral people but ill-suited to hunter-gatherers like the Baka and other 'pygmy' populations²⁹. Since 1974, the only way to gain ownership of the land currently inhabited by a population is by registration³⁰ under conditions difficult to comply with by indigenous populations. Under Cameroonian law in order to be granted the right to exploit and own land the inhabitants must prove man's clear control of the land and evident development³¹, that is, permanent dwellings for inhabited land and clear seasonal cultivation on land marked as fields. This does not suit the way of life of the Baka who live off the land and leave little trace of their passage.

Furthermore, a recurring issue is the ambiguity of the language used by the State to define indigenous people³². The term 'marginal' population is predominately used, a fact widely considered detrimental and insulting³³. In local laws the situation is even worse, with several terms used at the same time to refer to groups that might include the Baka in different articles of the same law³⁴. Terms such as 'population riveraine', 'population locale', 'communautes villageois' and 'population autochtone' are used separately and independently though their exact meaning seems to be interchangeable, further adding to the linguistic confusion³⁵. It has been argued that the term indigenous, used in its 'aboriginal' sense is inapplicable to Africa, where the realities of autochthony are somewhat different but distinguished sources such as UN Special Rapporteur Rodolfo Stavenhagen have mentioned that people such as the Baka and other Pygmy peoples

²⁶ Alec LEONHARDT 'Baka and the Magic of the State: Between Autochthony and Citizenship' in *African Studies Review* vol. 49, Number 2, pp 69-94 September 2006.

²⁷ Samuel NGUIFFO, Pierre Étienne KENFACK and Nadine MBALLA, "The influence of historical and contemporary land laws on indigenous peoples' land rights in Cameroon", *Land rights and the forest peoples of Africa: Historical, legal and anthropological perspectives*, No 2, Forest Peoples Programme, 2009, p. 2. Available at: http://www.forestpeoples.org/documents/africa/cameroon_land_rights_study_09_eng.pdf, accessed on 06.10.2013.

²⁸ *Ibid.* p. 4.

²⁹ *Ibid.* p. 7.

³⁰ Cameroon – Ordonnance n° 74/1 du 6 juillet 1974 fixant le régime foncier, Art 8.

³¹ *Ibid.*, Art 15.

³² Cameroon: The Committee for the Elimination of Racial Discrimination recommends adoption of a law to protect the rights of indigenous peoples, available at http://www.forestpeoples.org/documents/africa/cameroon_cerd_update_apr10_eng.shtml, accessed 04.10.2013.

³³ *Ibid.*

³⁴ The situation of Indigenous people in Cameroon: a supplementary report submitted with Cameroon's 15th-19th periodic report CERD/C/CMR/19, pp. 14-15, 27 January 2010.

³⁵ Albert K. BARUME, "Etude sur le cadre legal pour la protection des droits des peuples indigenes au Camerun", *Bureau International de Travail*, Geneva, 2005, pp 52-56.

constitute a clear exception³⁶. Comparison has been further drawn in the case of the terminology employed by Cameroon to refer to its pygmy population to cases such as the Ainu in Japan or the ‘Amerindians’ in Guyana, cases where CERD has issued direct recommendations^{37 38}, for the adoption of international terminology and clarification of the status of the regarded people. Indeed in April of 2010 CERD has issued a similar recommendation to Cameroon, though its confirmation is still pending³⁹.

A second issue present throughout the literature is the incompatibility of Cameroonian Forestry Law with Cameroon’s indigenous populations as well as the laws regulating access to forest resources. Access to the resources is legally restricted to personal use according to a Cameroon law⁴⁰ a fact that severely hinders the Baka who live off the land and use forest products to craft trade goods, a good source of their income, now turned illegal⁴¹. Moreover the Baka have restricted access to forest resources for their own use as well, as logging exploitation rights and natural reserve boundaries have been drawn out without their consent, another indicator of the disregard of Baka native rights. There have been reports⁴² of violence against Baka trespassing on wildlife reserve grounds or logging exploitation areas. Indeed there are clear signs of a pattern of abuses in situations that are legal grey areas in Cameroonian Law, the enforcement of wildlife protection. There has been a disproportionate number of arrests and fines against the Baka hunters as well as accusations of poaching and overhunting of endangered species.

A third issue of grave importance in the literature is the right of Baka to education. The Constitution of the state of Cameroon offers free primary education to all citizens⁴³ as do international treaties ratified by Cameroon such as the Convention on the rights of Children. In addition there are several national laws⁴⁴ adopted by the legislative instituting and guaranteeing a mandatory eight year primary education for all children that is, as of the year 2000, free⁴⁵. At first glance the laws are in total concordance with international guidelines, particularly those that refer to the education of indigenous people. It is every state’s right in conformity with international law to educate its citizens according to its means⁴⁶ in its official language or languages and there are few rules and regulations constraining states to provide special dispensation to indigenous people.

³⁶ Rodolfo STAVENHAGEN: "Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people", United Nations Paper E/C11.412002/97, paragr. 9.

³⁷ UN CERD recommendation for Japan, 27/04/2001, CERD/C/304/Add.114, at paragr. 5 and 17.

³⁸ UN CERD recommendation for Guyana, 04/04/2006, CERD/C/GUY/CO/14, at paragr. 10.

³⁹ UN CERD recommendation for Cameroon 10/05/2010 CERD/C/CMR/CO/15-19 at paragr. 7.

Albert K. BARUME ‘Etude sur le cadre legal pour la protection des droits des peuples indigenes au Camerun’ Bureau International de Travail, Geneva, 2005, pp 96-98.

⁴¹ Rapport d’etudesur les moyenstraditionnelles de subsistence et les nouvelles forms d’emploi durable chez les Pygmees de Cameroun, Jan 2002 p. 12.

⁴² The situation of Indigenous people in Cameroon: a supplementary report submitted with Cameroon’s 15th-19th periodic report CERD/C/CMR/19, pp. 18-19, 27 January 2010.

⁴³ Preamble of the Constitution of Cameroon.

⁴⁴ Albert K. BARUME ‘Etude sur le cadre legal pour la protection des droits des peuples indigenes au Camerun’ Bureau International de Travail, Geneva, 2005, pp 69-70.

⁴⁵ Ibid. p. 72.

⁴⁶ Ion DIACONU, Identitatea și Drepturile Specifice ale Minorităților, C.H. BECK, Bucharest, 2006, pp. 189.

However there has been evidence that there are severe problems maintaining and stimulating attendance in schools, particularly amongst minority groups in rural areas⁴⁷. Furthermore there is distinct evidence of grave problems in schools for Baka children⁴⁸. The constant bullying in school and discrimination based on their Baka origin⁴⁹, from both students and teachers, is pushing many children away from education. There is also a significant financial issue⁵⁰. Baka parents cannot pay the various school fees (books, uniforms) to keep their children in school. Although the taxes are not steep (cca 12 euro or equivalent/year⁵¹) the indigenous lifestyle of the Baka does not earn them money in general. A similar problem is the issue of proper documentation⁵². The majority of Baka do not possess any kind of identification nor do their children, especially those at or approaching school age. There are signs of the latter situation improving⁵³ but the issues of extreme poverty and discrimination are still far from being fixed.

Lastly, an often-mentioned issue in the literature is the rampant deforestation in Cameroon and its effect on indigenous people. It has been suggested that over 50% of the logging in Cameroon is done illegally⁵⁴. It has also been said that much of that illegal logging is done in community forestry areas where there is significantly less security than in private logging areas⁵⁵. This rampant exploitation of forest areas hits indigenous communities like the Baka worst of all. Each year illegal logging is pushing the Baka further into the rainforest⁵⁶ and there have been acts of violence against the Baka that resisted⁵⁷. There have been reports of Baka problems with legal logging as well, Baka often being chased off timber exploitations by company guards⁵⁸. The Baka often cut down sought-after trees in order to obtain honey or other PFNL and, lacking a law granting them preferential access to forest goods are actually unwittingly perpetrating criminal trespassing.

Final Remarks

The current research has highlighted the sharp discrepancy between the international provisions regarding the indigenous populations on the one hand and the Cameroonian translation of these international provisions into national normative acts. Besides

⁴⁷ Albert K. BARUME 'Etude sur le cadre legal pour la protection des droits des peuples indigenes au Camerun' Bureau International de Travail, Geneva, 2005, pp 72-74.

⁴⁸ The situation of Indigenous people in Cameroon: a supplementary report submitted with Cameroon's 15th-19th periodic report CERD/C/CMR/19, pp. 11-13, 27 January 2010.

⁴⁹ Ibid. p. 12.

⁵⁰ Ibid. p. 11.

⁵¹ Ibid.

⁵² Albert K. BARUME 'Etude sur le cadre legal pour la protection des droits des peuples indigenes au Camerun' Bureau International de Travail, Geneva, 2005, p. 75.

⁵³ Ibid pp 75-76.

⁵⁴ UK Government Department For International Development – Crime and Persuasion: Tackling illegal logging, improving Forest Governance, p. 40.

⁵⁵ Ibid.

⁵⁶ Ibrahim NJOBODI, and Ramatu SALI – 'Cameroon' in Caecilie MIKKELSEN (Editor), The Indigenous World 2010, International Work Group on Indigenous Affairs, Eks-Skolens Trykkeri, Copenhagen, 2010, p. 536.

⁵⁷ Ibid p. 537.

⁵⁸ The situation of Indigenous people in Cameroon: a supplementary report submitted with Cameroon's 15th-19th periodic report CERD/C/CMR/19, p. 21, 27 January 2010.

observing a clear lack of interest in adapting the national legislation to the international provisions to which Cameroon takes part, the state, transposes those international provisions into laws without too much public consultation and in most cases with severe omissions in order to suppress the already limited rights that the Baka people enjoy. Issuing laws about land owning and development of the land and putting all the Cameroonian population in the same pot saying that indigenous population is any person who was born in Cameroon shows a clear sign of disregard for the Baka people.

Moreover, the state intolerance and lack of concern for a minority population is proofed by the numerous number of grassroots NGOs in Cameroon and beyond that tackles the issue of the Baka people. In general, the grassroots NGOs appear when the state fails to take care of a problem or deliberately creates one. The voice of these NGOs is rarely, if ever even listened by the Cameroonian government and legislature.

It is more than clear that in order to solve one's problems the first step in doing so is recognising the very existence of that person. Cameroonian state does sustained efforts to close its eyes and not even observe the Baka people. They have absolutely no agency that helps the Baka at least to register as Cameroonian citizens and to make them IDs. Moreover, drafting reservations without even considering the very existence of Baka camps in that region is a clear sign that Cameroon does not want to see, does not recognise the existence and does not want to take any active measures to provide the minimum conditions for a decent life for Baka people.

Even though some Baka camps can count as many as 1000 people, the state refuses to grant them any recognition as administrative units, mostly because they inhabit forest areas and by recognising their camps the state would have to pay them a per cent of the annual forest tax paid by the logging companies. Instead of doing so, the logging companies are encouraged, by being granted exploitation permits in areas inhabited by the Baka pigmies, thing which often leads to violence acts and to a decrease in the no. of wild animals in the exploited area – a vital source of food for the Bakas.

The literature review details about the basic problems of the Baka people. Some of the problems identified in the literature review are real ones such as: deforestation; spreading of agriculture; poaching and overhunting and racism. In order to even think about solving or at least ameliorating these problems, the Baka people need to be recognised as indigenous and their existence and presence has to be taken into account. Other problems such as the lack of education and a very low literacy rate, I consider to be artificial ones, more exactly no problems at all. Baka people do not adhere to our culture and in their system of values knowing how to read or to talk French is much less valued than knowing the plants of the forest or being a good hunter. Therefore, for them to be able to carry on their way of life and to preserve their values and identities, the majoritarian population and the state has to respect the set of values, norms and beliefs of the Baka people. They have the right to choose whether they want to learn to read or not.

The purpose of the current study was to put in spotlight the existence and the problems that the Baka pigmies confront with. Their situation remains unknown to the most of the world, maybe because of lack of interest or maybe because in Africa there are other populations that confront with bigger problems such as war and genocide. However, this does not mean that the problems that the Baka people confronts with is not a serious one or that less attention should be paid to it because it is in essence a clear breach of fundamental rights, aggravated by the fact that the Cameroonian state takes active part in this process.

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