

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

MISSION TO THE REPUBLIC OF CONGO

15-24 March 2010



African Commission on
Human and Peoples' Rights



International Work Group
for Indigenous Affairs



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

MISSION TO THE REPUBLIC OF CONGO
15-24 March 2010

The African Commission on Human and Peoples' Rights
adopted this report at its 49th ordinary session, 28 April-12 May 2011



African Commission on
Human and Peoples' Rights
(ACHPR)



IWGIA

International
Work Group
for Indigenous Affairs

2011

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

MISSION TO THE REPUBLIC OF CONGO

15-24 March 2010

© Copyright: ACHPR and IWGIA - 2011

Typesetting and Layout: Jorge Monrás

Prepress and Print: Eks-Skolens Trykkeri, Copenhagen,
Denmark

ISBN: 978-87-92786-08-1



Distribution in North America:
Transaction Publishers
390 Campus Drive / Somerset, New Jersey 08873
www.transactionpub.com



**AFRICAN COMMISSION ON HUMAN
AND PEOPLES' RIGHTS (ACHPR)**

No 31 Bijilo Annex Layout - Kombo North District,
Western Region - P.O.Box 673, Banjul, The Gambia
Tel: +220 441 05 05 / 441 05 06 - Fax: +220 441 05 04
au-banjul@africa-union.org - www.achpr.org



**INTERNATIONAL WORK GROUP
FOR INDIGENOUS AFFAIRS**

Classensgade 11 E, DK-2100 Copenhagen, Denmark
Tel: +45 35 27 05 00 - Fax: +45 35 27 05 07
iwgia@iwgia.org - www.iwgia.org

*This report has been produced with financial support from
the Danish Ministry of Foreign Affairs and
the Norwegian Ministry of Foreign Affairs*

TABLE OF CONTENTS

ABBREVIATIONS AND MAIN TERMS	8
ACKNOWLEDGEMENTS	9
MAP OF THE REPUBLIC OF CONGO	10
PREFACE	11
EXECUTIVE SUMMARY	14
I. INTRODUCTION	26
II. BACKGROUND INFORMATION	
Brief political history of the Congo	29
Geographic and linguistic background	30
Economic background	30
Administrative background	31
The Republic of Congo's Indigenous Communities	31
The Republic of Congo's International Obligations	31
Previous mission	33
III. MEETINGS HELD DURING THE MISSION	
Meetings in Sibiti	35
Meeting with the Sibiti Prefecture.....	35
Meeting with the Sibiti Sub-Prefect.....	39
Meeting with the Health, Education, Social Affairs and other departmental delegations	39
Meeting with the Sibiti Public Prosecutor.....	41
Meeting with local NGOs in Sibiti	42
Meeting and visits to indigenous communities	44

Meetings held in Brazzaville

Meeting with the Ministry of Foreign Affairs.....	46
Meeting with the Ministry of Justice.....	48
Meeting with the Ministry of Social Affairs.....	49
Meeting with the National Assembly	54
Meeting with the Ministry of Primary and Secondary Education.....	56
Meeting with the President of Senate	58
Meeting with the Ministry of Forestry.....	60
Meeting with the Legal Advisor to the President of the Republic	63
Meeting with the Representative of UNESCO	66
Meeting with the Representative of UNDP	70
Meeting with United Nations Children's Fund (UNICEF)	72
Meeting with the Human Rights Commission.....	77
Meeting with NGOs	80

IV. DELEGATION'S ANALYSES AND OBSERVATIONS

Mission's General Observations	83
Draft bill on the promotion and protection of indigenous peoples' rights.....	83
Right to citizenship and civil status	84
Right to justice	84
Right to non-discrimination and equality before the law	85
Right to information and participation in the management of public affairs	85
Right to education.....	85
Right to health	86
Right to land, cultural identity and employment	87

V. CONCLUSION AND RECOMMENDATIONS.....89

ABBREVIATIONS AND MAIN TERMS

ACHPR	African Commission on Human and Peoples' Rights
ADHUC	Association pour les Droits de l'Homme et l'Univers Carcéral / Association for Human Rights and Prisons
AFLEG	Africa Forest Law Enforcement and Governance
COMIFAC	Commission des Forêts d'Afrique Centrale / Central African Commission on Forest
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 / National Network for Indigenous Peoples of Congo
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund

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 placing 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 REPUBLIC OF CONGO

PREFACE

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

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

Commission's official conceptualisation of indigenous populations' human rights in Africa.

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

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

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

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

are also intended to facilitate constructive dialogue between the African Commission, the various African Union member states, and other interested parties.

To date, the Working Group has undertaken visits to Botswana, Burkina Faso, Burundi, Central African Republic, Democratic Republic of Congo, Gabon, Kenya, Namibia, Niger, Libya, Republic of Congo, Rwanda and Uganda. These country visits have been undertaken over the 2005-2011 period, and the reports are published once adopted by the African Commission. Hopefully, the reports will contribute to raising awareness of indigenous populations' situation in Africa, and prove useful for establishing dialogue and identifying appropriate ways forward for improving indigenous populations' situation in Africa.

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

Musa Ngary Bitaye

Commissioner

Chairperson of the African Commission's Working
Group on Indigenous Populations/Communities

EXECUTIVE SUMMARY

The African Commission's Working Group on Indigenous Populations/Communities (WGIP) 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 their role in the promotion and protection of the rights of the 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 indigenous women and children;
- Engage with the stakeholders in connection with the new law 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 from the following public institutions: the Presidency, National Assembly, Senate, Ministries of Justice, Social Affairs, Education and Forestry, and representatives of the National Human Rights Commission. The delegation also met representatives from 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.

Mission's General Observations

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 particularly focused on the draft bill on the promotion and protection of indigenous peoples' rights in the Republic of Congo.

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

The delegation took note of the bill on the promotion and protection of the rights of the indigenous population in the Republic of Congo. The process leading to the passage of the law has been ongoing for more than four (4) years and many interested parties have been brought on board, including, 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 addressing the following respectively: general provisions, civil and political rights, cultural rights, the right to education, health, property, 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 a lack of disaggregated statistical data on the status or level of enjoyment of several rights on the part of indigenous communities in the Republic of Congo. Alienation, a 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 preventing 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 the majority of them are illiterate but also to the fact that public services have not taken their lifestyle into consideration and, even where these services exist, they are situated in distant urban locations far removed from the communities. The delegation also noted that few indigenous people are employed as public servants. In fact, the delegation did not come across any indigenous government employees 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 govern-

ment resources 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 people to their rights by the Public Prosecutor's Office at the Court in Sibiti, in collaboration with local NGOs. The delegation was, however, informed that in certain places like Sibiti, there are few judicial officers, especially lawyers, to assist the needy among the indigenous people. Furthermore, the delegation observed widespread mistrust of the public justice system on the part of the indigenous people.

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 fully-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. Inequalities also persist in the area of employment, and the salaries of indigenous persons can in no way be compared to the work they do and are far from being equal to those of their colleagues from the dominant groups. Some local authorities disclosed the situations 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 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 to understand their rights and duties as full nationals or 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 employees from the indigenous communities. There are no indigenous individuals, for example, in the legislature, the executive or the judiciary. Even at local level, the indigenous people do not form part of the decision-making organs or institutions. Furthermore, the traditional institutions are not recognised or 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 being undertaken by the NGO called the *International Partnership for Human Development* (IPHD) in Lékoumou administrative district, where the positive impact is felt and appreciated although the sustainability of their intervention is doubtful. In spite of the favourable legal framework and ongoing efforts by non-state actors, the delegation observed a lack of teachers and schools in the indigenous villages and their immediate surroundings, including the persistently high school drop-out rate, which applies to more than 80% of indigenous children. For example, the delegation was informed that there is only one indigenous student pursuing secondary education in Sibiti. Moreover, the delegation noted a large number of children of school age 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 indigenous parents has a negative effect on the education of their children, as indicated in the report on a study into education conducted by the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), which establishes a direct correlation between indigenous poverty and the education of their children. The phenomenon of early marriages was also emphasised as one of the major obstacles to sending indigenous girls to school and keeping them there. Furthermore, cases of abuse 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 mistreated or teased by other children or teachers, who treat them as dirty and uncivilised people. The school system furthermore does not correspond to the lifestyle, culture and living conditions of the indigenous communities. The indigenous children are to a large extent compelled to drop out of school to participate in activities related to their communities' way of life.

Right to health

The delegation noted a general problem of access to health care in the Republic of Congo due mainly to a lack of infrastructure, resources and qualified staff. The delegation was informed, for instance, that there is only one medical doctor for more than 80,000 inhabitants in 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, which are the bane of indigenous peoples' lives, as they are constantly subjected to such practices by the health personnel. Most of the indigenous communities in the Republic of Congo rely on traditional medicine although the growing lack of access to forests and lack of support from government is seriously eroding indigenous peoples' knowledge and skills in traditional medicine. In spite of the adoption of some positive national policies, such as free treatment of malaria for the under 15s, the health status of indigenous people is still worrying because of a combination of factors, including their state of extreme poverty, the failure to adapt national health policies to their way of life, and the level of mistrust on both sides. For example, a certain level of mistrust was observed on the part of indigenous people in respect of the immunization campaign and antenatal checks, despite the incentives introduced by the local authorities in this regard. The delegation also noted the dearth of decent housing, potable water and toilets, a situation which poses a real public health and hygiene hazard in the places visited. The delegation also observed that almost all indigenous births are supervised by traditional birth attendants who say that they have never benefitted from any assistance programme

or any form of training. The lack of support for traditional medicine, which is widely used by the communities in question, is a major concern raised by the mission.

Right to land, cultural identity and decent employment

The delegation noted that the rural indigenous communities are not land-owners as are 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, as these villages spread, the indigenous people are compelled to move further away. The delegation did not come across any village where the indigenous people live 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 land ownership is not guaranteed to the indigenous communities. The Congo's tropical forests are known to be the ancestral lands of these indigenous communities and yet large portions of the forest have been handed over as logging concessions 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 ways of life and land use are viewed as a waste of government resources. This is partly explained by indigenous peoples' growing lack of access to forests in the Republic of Congo.

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

Finally, the delegation noted that the indigenous people have competencies, skills and know-how and are engaged in traditional vocational trades capable of generating incomes. These skills are, however, neither developed nor promoted at the national level.

Conclusions

This report presents an account of the visit undertaken to the Republic of Congo from 15-24 March 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 covered by this report is a follow-up to a previous research and information mission undertaken by the Working Group in 2005, which raised numerous concerns and also outlined ongoing positive actions being undertaken by the different stakeholders. The earlier mission of the Working Group targeted the indigenous communities living in the north of the country. This 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 indigenous communities living in Lékoumou administrative district, specifically in Sibiti Prefecture, which is mostly inhabited by indigenous people. The mission held working sessions with the Prefecture, local government officials, the Public Prosecutor's Office and local NGOs operating in the field of indigenous peoples' rights. The mission also visited three indigenous villages where, in discussions, the communities clearly outlined their concerns, namely a lack of access to land, health care, education and employment, including their lack of 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 as the dominant groups spread and their health and hygiene conditions are a source of great concern.

This mission is in line with a national concern, characterised by a process of discussing a bill on the promotion and protection of the rights of indigenous populations. It is a major government initiative intended to create a specific legal framework to guarantee the different aspects of indigenous peoples' rights. 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 met by the delegation expressed the firm determination of the

government and National Assembly to carry the process to its logical conclusion within the shortest possible time.

It is worth mentioning that, at the time of adopting 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 further delay the process of implementing Act No. 5-2011 of 25 February 2011 on the promotion and protection of the rights of the indigenous population;
2. Organise a national census of the indigenous population and ensure that the technical institutions produce disaggregated statistical information on their living conditions;
3. Guarantee the representation of the indigenous population in public and community institutions and ensure gender equity;
4. Guarantee access to the justice system by the indigenous population, especially by establishing a free legal aid mechanism within their immediate surroundings;
5. Take all appropriate steps to issue identity cards and systematically register 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 staff to work in 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 technical and professional teaching by taking into account indigenous know-how and economies;
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 checks, HIV/AIDS screening, and the monitoring of chronic parasitic diseases among the indigenous communities;
13. Provide support in different ways, including the 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, and 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 the economic activities and traditional vocations of the indigenous population;
17. Guarantee the indigenous populations equitable conditions for accessing and enjoying the right to employment;
18. Take appropriate measures to ensure the effective protection of 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 the cultural rights and identity of the indigenous populations by organising Inter-State festivals and meetings as a means of encouraging ownership of said initiatives and policies on the part of the communities themselves;
20. Support and strengthen the capacity of indigenous organisations as well as civil society organisations working in the field of indigenous peoples' rights;
21. Take appropriate measures to ratify and implement Convention No.169 of the ILO concerning indigenous people.

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 law on the promotion and protection of the rights of the 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 to enhance the harmonisation of programmes, actions and plans among all stakeholders operating in the area of indigenous peoples' rights in order to maximize the impact on indigenous communities.

To the National Commission on Human Rights, NGOs and other civil society organisations:

1. Contribute to the popularisation of the law on 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 with regard to their rights and take measures to sensitise the dominant groups as to the rights of the indigenous population.

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 28th 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 46th Ordinary Session held in November 2009 in Banjul, The Gambia, the African Commission discussed the possibility of its WGIP

undertaking a promotion mission to the Republic of Congo. A note verbale 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, 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 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 the 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 adopting 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 Office, 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 km² 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, 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 from 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 the 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.¹ The expanding exploitation of forest-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:

1 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

- 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, which are equally relevant to the rights of indigenous communities:

- 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 its Working Group on Indigenous Populations/Communities from 5-19 September 2005, led by working group member Zéphyrin Kalimba, accompanied by 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 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 three 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 five 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 Ngonu, 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 IPHD 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 delegation's attention the government policy of free malaria treatment for children aged 1 to 15, 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 Office 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 (IPHD), 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 IPHD'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 Office 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 retreat, 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 were underlined as the 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 far distant 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 ways of challenging the issue when they are not paid or are 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 in the Ministry of Foreign Affairs. In his introductory statement, the Head of the Delegation, and Chairperson of the Working Group, Commissioner Musa Ngary Bitaye, thanked the government rep-

representatives for their warm welcome, and presented the members of the delegation and the purpose of the visit.

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

The Ambassador Daniel Owassa responded by first welcoming the delegation on behalf of the Congolese government which, he said, was honoured by the visit and the African Commission's interest in its national policies and endeavours for the sake of the most vulnerable and poorest sections of its national population. He stated his familiarity with the work of the African Commission because he had 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 the national population. He concluded, however, by saying that the government as a whole was determined to go ahead and push this law through Parliament as a way of bridging social and economic inequalities between indigenous peoples and the rest of the Congolese national population.

Commissioner Maiga commented on the subject matter by first indicating that she had 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 of addressing social inequalities, similar to efforts that have been made for women in several countries. Commissioner Maiga encouraged the Government of Congo to finalise the process of adopting the draft law quickly.

Before ending the meeting, Commissioner Bitaye handed Ambassador Daniel Owassa a number of the African Commission's publications,

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 to 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 at the time of the visit. The delegation's interlocutor is also a judge in the Supreme Court. The Chairperson of the Working Group, Commissioner Bitaye, presented the delegation and explained the purpose of the mission, particularly its interest 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, by which time the Minister of Justice might have returned.

The Deputy Director of Cabinet welcomed the delegation to the Ministry of Justice, and presented the ministry's structures and mandate. He particularly insisted on the key role of the Ministry of Justice in the drafting process of the law on indigenous peoples, which was 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 follows: at the time of the delegation's visit, the draft law had passed three key stages, namely, its adoption by the Cabinet, a non-objection by the Constitutional Court and its submission to Parliament for adoption. In his view, the text was in its final stages and could be passed by Parliament very soon.

Commissioner Bitaye welcomed the detailed technical update on the drafting process of the law and presented the Deputy Director of Cabinet with several copies of the African Commission's publications 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 his appreciation of the visit. After an introduction by the delegation, Commissioner Bitaye briefed the Minister on the purpose of the mission. He also described the mandate of both the African Commission and the WGIP.

Commissioner Bitaye informed the Minister that the WGIP had visited the Republic of Congo in 2005 but had concentrated on the north of the country and thus this second visit would concentrate on the south.

He indicated that, as the ministry responsible for social affairs, the delegation had noticed that since 2005, the ministry had been involved in issues related to indigenous populations in the country. He noted that the ministry had been involved in the implementation of the National Action Plan 2008, especially in respect of the *Projet d'Appui pour l'Etat de Droit* (Project in support of the Rule of Law), 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 healthcare to people suffering from HIV/AIDS, TB and malaria, the Commissioner said the delegation would like to know how successful this had 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 about the relationship of the ministry with CSOs as well as with UN agencies such as UNICEF, especially with regard to implementing programmes 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 that the Commission would like to have his opinion of the expectations related to implementing the human rights of indigenous populations when this law is adopted.

For her part, Commissioner Maiga thanked the Minister for receiving the delegation, and emphasised that the work the ministry does is 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 throughout the continent with the ultimate goal of improving the rights of indigenous populations.

She informed the Minister that around 28 countries in Africa have indigenous communities, and that these communities are often discriminated against, marginalised and their rights violated simply because of their lifestyle. She said measures had to be taken at national, regional and international level to protect their rights.

She said that, in order to introduce development programmes to indigenous communities, there was a need to sensitise them and involve them in decision making, adding that international organisations such as the UN agencies needed to be involved 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 programmes there were for indigenous women, as these women run the risk of suffering double discrimination, firstly as women and secondly as indigenous people.

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

He said that his ministry included indigenous peoples as vulnerable groups, and classified vulnerable groups as including the elderly, children, the disabled and minorities.

He said that the ministry was working much more closely with UN agencies than with other ministries and that it was through these agencies that they linked with the other ministries.

He said that the entry point of the ministry to indigenous populations was through children, through the introduction of birth certificates. He said that the ministry had gone to villages and distributed birth certificates and raised awareness.

With regard to health, the Minister said that they were able to distribute health kits and raise awareness of HIV/AIDS.

The Minister informed the delegation that, despite the measures adopted by the government, it was obvious that protecting the rights of the country's indigenous peoples was also closely related to how other populations perceive them. He said that, in Likwala, it was common for a person to have 10 – 12 indigenous servants. He said that this could well be one of the most difficult problems because it was an issue of mentality. He said that if you try to tell the indigenous population to reject the situation of slavery they will refuse, adding that the Bantus, too, would like to remain masters over them.

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

On the draft law, the Minister said that it had been reviewed by the government, and it was hoped that it would lead to improved protection of the rights of indigenous peoples. He noted, however, that laws alone cannot change things, adding that much would depend on the local authorities.

He noted further that there was the challenge of raising indigenous schoolchildren's awareness to the fact that they live in a country where there is diversity and they have to integrate with other peoples and communities in order to promote good relationships between the Bantu and the indigenous peoples.

The delegation was further informed that, in 2007, the ministry had 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 had was that the work of the ministry was concentrated only in the north – in Likwala region,

and wanted to know whether the activities of the ministry covered the country as a whole. Commissioner Bitaye further wanted to know whether there had 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 were considered and treated as indigenous peoples and not as mere minorities.

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

He added that this project notwithstanding, the delegation had noticed that there was still a huge drop-out in school attendance among indigenous children, as well as a high failure rate, and the reasons given included the fact that the children prefer to accompany 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 had to be paid for and that the population was very poor formed a major challenge. He wanted to know whether the ministry's attention had been drawn to this.

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

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

For her part, Commissioner Maiga said that she had followed the activities of the ministry with great interest and wanted to know if there were areas where action needed to be taken. She said it seemed there was a need to reinforce capacities in order to be able to provide indigenous communities with the necessary services. She said that if these programmes existed, they should be strengthened, and if they did not, 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 further noted that the delegation had observed that there was an absence of statistics and that this made 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 there was a chain of responsibility right down to the local level when implementing government policies.

On interaction with CSOs, she said the delegation had seen only their limited impact at the local level. She said that there did not seem to be any close relationship between CSOs and the administration.

In his response, the minister thanked the Commissioners for raising these issues, and said that it would 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 as yet no forum where all the ministries could meet to consider the issue of the country's indigenous populations.

He said that, for example, health and education issues were run by different ministries. He indicated that the Ministry of Justice could adopt a law to guarantee the rights of all, but that it did not have a presence on the ground to ensure its implementation, noting that it was other ministries that could do this, if there were proper coordination.

The Minister noted that, in the past, the government had avoided using the term indigenous populations and preferred the words "Babendjele and Baka". Because the term "Pygmy" was itself pejorative, the government had not wanted to use it, however, so the ministry decided to group them as minorities.

On the size of the country's indigenous population, the Minister said the ministry did not have the figures but that these could be obtained from the Ministry of Planning. However, he said that there were around 300,000 indigenous people, found in all the provinces but mostly in Likwala.

On the distribution of birth certificates, he said that approximately 4,000 certificates had been distributed throughout the country and over 2,000 of these to indigenous children.

On the issue of school drop-out rates among 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 regarded indigenous peoples as sub-humans. The Minister added that there might be a need to adjust their school calendar to adapt to their lifestyle, which was deeply rooted and which required them to go into 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 were indigenous people.

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

He concluded by stating that the Bantu community had to change its attitude towards indigenous people, noting that the Bantus should ask themselves whether there was anything 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 had shown on the issue of indigenous populations in the country, adding that this understanding had 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 had been well understood in the Republic of Congo and had been resolved in the draft law such that they were not called a 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 had reminded the UN agencies of the responsibilities 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 broadly encompasses the rights contained in the UN Declaration, adding that the delegation appreciated 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 had seen in the field that local authorities were committed to implementing the rights of indigenous peoples but realised that there were resource constraints. He said the delegation hoped the government would bear these constraints in mind when it adopts the law.

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

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

He said the development of the law had encountered some technical delays but that the government was determined to adopt the law and set an example to Africa. He said the draft law would be considered by the

Council of Ministers and then submitted to Parliament. He added that, as soon as the draft law came before Parliament, it would be examined and adopted.

He noted that it was not enough to adopt laws but that measures needed to be taken to enforce them. He said in this regard that Parliament had a follow-up committee and that, once adopted, the law would be referred to this committee.

He said a mechanism would also be put in place to raise awareness of the law. This would include activities such as organising 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 so that they are able to benefit from the law. He said that responsibility for implementing the law rested 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 it had already visited in 2005. He informed the Director that the delegation was pleased to note that, since the 2005 visit, there had been considerable improvements in promoting 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 was the right to education, and wanted to know what programmes the ministry had with regard to indigenous populations.

Commissioner Bitaye informed the Director of Cabinet that, when the delegation visited Sibiti, it had observed that indigenous children were faced with several challenges that forced many of them either to drop out of 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 on the part of teachers and other pupils, a lack of statistics, and the poor attendance of indigenous children at secondary level.

He concluded by noting that education was key to indigenous peoples' development and was happy that this had been taken into account in the draft law. He urged government to put measures in place to implement the law once adopted.

For her part, Commissioner Maiga indicated that there was the will and a desire on the part of government to protect indigenous populations, adding that the Commission had not noticed such commitment in all countries.

She reiterated the importance of education in indigenous populations' development. She said that there had been suggestions that the pupils from the different communities should become closer among themselves. She said while this could be a temporary measure, it was not good for national unity. She wanted to know whether the ministry had put in place plans for the implementation of the law when it comes into force – especially with regard to accessing 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 offered the Minister's apologies for not being able to receive the delegation personally.

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

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

He said that implementation was still difficult and that there were challenges because these were people with a certain lifestyle and it was not easy to change this. He said the ministry had adopted a progressive approach which involved gradual sensitisation and education.

Mr Mokosso informed the delegation that the Ministry and the World Bank had conducted a study on illiteracy and the education of indigenous populations to see how best to support them. He said the study revealed that there were statistics and different indicators on the attendance rate and drop-out rate, and that recommendations had been made to improve the situation.

He said that UNICEF had been doing a great deal of work on specific programmes to help enhance the education of indigenous populations and integrate them into mainstream society. He said the ministry had established a technical follow-up committee to look at the question of the effectiveness of all the various stakeholders' actions with a view to avoiding duplication and ensuring a coordinated approach.

On women and young girls, he said there was a huge problem of ensuring access to schools and that there was no adequate data on indigenous women or young girls.

Meeting with the President of the Senate

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

For his part, Commissioner Bitaye, Head of the Delegation, stated that the delegation was grateful that the President could find time to receive it and for the interest shown in the work of the African Commission. He said this interest was also reflected in the commitment the country had shown to protecting 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 established 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 had undertaken a visit to the country in 2005 and that the current mission was a follow up to that visit. He said the delegation was glad that

considerable progress had been made in promoting the rights of indigenous peoples since the 2005 mission, and that this progress would be concretised in the draft law. He said it was important that all the stakeholders were involved in drafting the law. Commissioner Bitaye informed the President of the Senate that, during a visit to Sibiti region, the delegation had been pleased to note that even the indigenous populations themselves recognised that progress was being made. He said that, to consolidate this progress, government had to move fast to ensure that the draft law was adopted and to put measures in place to ensure its effective implementation.

For her part, Commissioner Maiga thanked the President of the Senate for giving the delegation the opportunity to exchange views on the rights of indigenous populations in the country. She said there were over 20 African countries with indigenous populations. She informed the President of the Senate that the African Commission had 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 had participated and none had voted against. She said the Declaration provided specific rights for indigenous peoples. She said the African Commission wanted to work with states to ensure the effective implementation of the Declaration.

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

experience and information to assist the country in developing 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 reached the legislature, it would be adopted without delay. He said the Bantu community was beginning to move closer towards the indigenous populations and that this could lead to integration. He said the government had opened schools and provided potable water in some indigenous villages. He said there remained some psychological, attitudinal and historical challenges to be confronted by all stakeholders if the government's efforts were to bear fruit. He said sensitisation was very important – sensitising not only the indigenous communities themselves but also the Bantu population. He indicated that, once the law had been adopted, it would be incumbent on the law makers to go out into their constituencies to raise the population's awareness.

Meeting with the Ministry of Forestry

The delegation met with the Director of Cabinet of the Ministry of Forestry, Mr Lambert Imbalo, who apologised for the Minister's absence. 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 relied on it for everything affecting their lives – culture, religion, clothes, health, etc. He noted that the nomadic lifestyle of indigenous peoples raised a number 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 had noted with encouragement the improvements that had been made in terms of protecting the rights of indigenous peoples since 2005, including studies that had culminated in the drafting of a law on the rights of the country's indigenous populations. He said the law was likely to address several issues affecting the lives of indigenous people, including ownership of land and forests, and the exploitation of

the forest for commercial and communal purposes. He said the delegation hoped the government would monitor the activities of companies working in the forestry sector. He said the delegation had 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 aware of 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.

For her part, Commissioner Maiga indicated that the WGIP was established to engage with relevant stakeholders in order to explore ways and means of enhancing the protection of the rights of the continent's indigenous populations. She said this was 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 took the principles enunciated in the UN Declaration into consideration and that the African Commission was in Congo to encourage the government to move forward with the adoption of the law so as to set an example on the continent. She said the African Commission had been to many African countries where the very concept of indigenous people was frowned upon, adding that the initiative taken by the government to adopt a law on the rights of indigenous peoples was the correct path. She noted that the adoption of the law in itself was not enough, and that measures had 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 were mainstreamed in the draft law.

In his response, the Director of Cabinet stated that the Ministry was happy to have received a delegation from the African Commission, noting that the protection of indigenous peoples was at the core not only of the government's reflections but also of its actions. He said the government could not afford to exclude a certain segment of its population when addressing national development. He said there was a close link between forest management and the rights of indigenous populations, noting that the government's policy was based on sustainable management – using resources today while making sure there were resources for future generations tomorrow.

He informed the delegation that 2010 had been declared a year of biodiversity, and that this required a better management and sharing of resources to ensure that future generations were not deprived. He said forestry was the second largest employer after the public service and among these employees were indigenous peoples, who were playing a very important role because they lived in the forest and so knew it better and because there were certain jobs that no other person could perform better than the indigenous people themselves, for instance, the tracing and identification of trees. He said that this was why all companies working in the forestry sector recruit indigenous peoples. He said the government was proud of the action it had taken so far to enhance the rights of indigenous peoples in the country, and wanted 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 in order 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 that as Congo celebrated its 50th anniversary of independence, it was important to reflect on the steps the country wanted to take and this was why the theme of the celebrations would be looking at the way forward in the future.

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 would discuss the plight of indigenous peoples in the region and it was hoped that it would come up with concrete actions, including an action plan to deal with the problems facing the region's indigenous peoples. He invited the African Commission to attend the conference.

Commissioner Bitaye thanked Mr Imbalo for the information as well as the invitation extended to the African Commission to attend the conference. He said the delegation was grateful that the government had thought of inviting the Commission because most often there was a dysfunction in the way in which 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 they prefer to deal with UN bodies.

He informed the Director of Cabinet that, in 2006, Central African states had held a meeting in Yaoundé – Cameroon and that 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 had adopted a rights-based approach to forest management, adding that the knowledge of the indigenous peoples – in medicines and other forest products – was an attribute that needed preserving.

Commissioner Bitaye wanted to know whether the government had adopted specific laws or programmes to preserve sites and indigenous knowledge or to ensure that forest operators employ indigenous peoples for the purpose of identifying trees and other activities in which they are naturally gifted. He said the UN Declaration did not remove the leadership role governments should play in programme formulation; it simply called on UN agencies to assist governments in implementing the programmes they present to them.

In his response, Mr Imballo informed the delegation that the government had a forest law which required that the forest be managed in a sustainable manner, adding that the strategy was participatory and aimed at ensuring that the exploitation of the forest and its benefits were shared by all communities. He noted that concessions and improvement plans for the communities were monitored. He said that before any exploration begins, the economy of the community is studied, the ecology and the nature of exploitation, including the quantity of timber to be exploited in order not to cause environmental degradation. The study also looks at the benefit that must accrue to the community. He said all companies had to comply with these guidelines and that the indigenous communities themselves were involved in deciding what they wanted – a school, a health centre, etc, and that there was no discrimination between Bantus and indigenous peoples.

Meeting with a 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 Advisor 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, among other things, to undertake visits to African countries to engage relevant stakeholders on the question of indigenous populations. He said that, since the WGIP's visit in 2005, there had 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 President of the Republic's personal commitment to finalising the law as well as to the plight of indigenous peoples. He said the delegation had been assured by both Senate and Parliament that the law would be adopted as soon as it was introduced to these legislative bodies. He said the delegation had made an appraisal of the draft law and was glad to note that it included all the rights contained in the UN Declaration. He said the delegation noted, however, that there was a section of the draft law which stated that only indigenous peoples themselves could 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 did not provide for action to be instituted on behalf of indigenous peoples, who in most cases may not even have the resources or ability to do this for themselves.

For her part, Commissioner Maiga informed the Legal Adviser that the WGIP had done a great deal of research and produced reports on the rights of indigenous populations, and that there were indications that, in spite of the progress made in many countries, the plight of indigenous peoples still remained precarious. She said that 50 years on from independence, we should be able to ask what we have done for indigenous peoples and see what, within the next 50 years, we would like to do further for them. She said the delegation had met with UN agencies and had made it clear to them that they had 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 would be taken to ensure the speedy adoption of the draft law, and measures put in place to ensure effective implementation. He said that, contrary to what many people think, indigenous peoples are integrated into mainstream society. He said that if one travelled to the interior of the country one might have the impression that there are some

areas inhabited only by indigenous peoples, whereas this is not the case. He said that, even in those areas, efforts were being made to ensure the equitable distribution of resources. He noted that the difficulty in bringing development was the same for all communities in the interior, adding that a lack of roads, water and electricity affected all communities, not only indigenous ones.

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

Commissioner Bitaye informed the Legal Adviser that the delegation was in Congo to express its appreciation of the political will and commitment demonstrated by the President and the Congolese authorities in giving a normative framework to the question of the country's indigenous peoples. He asked that this appreciation be transmitted to the President. Commissioner Bitaye said the delegation agreed with the Legal Adviser with regard to the fact that poverty affects all sectors of the population, but said that poverty was relative because even though the Bantus were poor they could still 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 benefit from it. He said the delegation hoped that the draft law would take all these issues into consideration.

In his reaction, the Legal Adviser indicated that the government had had a great deal of discussion on how to approach the question of indigenous peoples, and that there was a strong political will to adopt regional and international instruments to ensure greater protection of their rights. He said that indigenous peoples might be more vulnerable than the Bantus but that they were still Congolese and had to be treated like any other Congolese. He said there seemed to be a challenge with regard to implementation but that the political will and commitment were clear. He said

there was still room for amendments – to include more provisions – as the legislature was the body that would finally adopt the draft law.

He said the draft law had been through all the processes at the executive level and it was just a matter of time before it was submitted to the legislature. He said he was confident the draft law would be adopted during the next session of Parliament.

Meeting with the representative of UNESCO

The delegation met with the UNESCO country representative, Mr Abdourahamane Diallo, on 20 March 2010, at UNESCO's offices.

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 that of the WGIP. He particularly underlined the fact that, when 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 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 had conducted an Information and Research Visit to the country in 2005, concentrating on the 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 the UN specialised agencies and civil society organisations had done in the area of indigenous rights in the country. He said the UN Declaration enjoins UN agencies to work with local actors, including support and resource mobilisation to ensure that the Declaration's objectives are achieved. He said the delegation would like to know what UNESCO was doing to promote and/or protect the rights of indigenous populations.

Commissioner Bitaye emphasised, among other things, the fact that most African countries had voted in favour of the UN Declaration and that, even though a few had abstained, 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.

For her part, Commissioner Maiga indicated that the protection of indigenous rights had been very controversial in Africa, and that there was a need to engage governments and other stakeholders around the concept and encourage them to develop programmes that would enhance their rights. She pointed out that when developing such programmes, it is important that consideration be given to gender issues. She said emphasis should be given to education, as education was a major instrument for 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 engaging with the government to develop 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 UNESCO activities 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 needed to be given to the sensitivity of the issue in different countries and a balance struck with local realities. He also said 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 pace 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 to develop an adapted curriculum for indigenous peoples. However, he said the challenge was keeping these communities in one place in order to facilitate indigenous children's access to education.

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

Reacting to Mr Diallo's comments, Commissioner Bitaye said that he agreed 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 were often eroded and that, if actions were not taken to protect them, they might be lost forever. He said that the African Commission welcomed the initiative to develop a special curriculum for indigenous populations but added that such education had to be adapted to their culture and way of life, and that indigenous communities needed to be represented on the decision-making bodies that take decisions affecting their way of life.

He said the African Commission had keenly followed 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 great deal of progress had been made, including recognising indigenous populations as marginalised and disadvantaged, the government policy to ensure that all citizens, including indigenous peoples obtain birth certificates, National Identity Cards and voter 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 had been put in place, and the structural and functional difficulties. The Sub-Prefecture of Sibiti, for example, did not have the necessary resources to visit the communities to sensitise them, the population seemed distrustful of the authorities and, because of this 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 wanted to improve the protection of indigenous populations and allow them to protect their culture and way of life, there was a need for capacity building among not only the indigenous populations themselves but also NGOs and other organisations working with them. He said that this was why, in the African Commission's opinion, UN agencies had an im-

portant role to play in collaborating with local actors, in accordance with Articles 41 and 42 of the UN Declaration. In terms of these two articles, he said that the Declaration seeks cooperation beyond intergovernmental level, with 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 would be working with various stakeholders in the country to develop concrete programmes that could be funded by UN agencies. He said that, when the draft law was finally adopted, it would have implications for implementation of the Declaration and for the laws of other African countries in this regard, as the law would be the first of its kind in Africa. He said that, given its importance, it was crucial to support the government in order to ensure that the law was a success.

Commissioner Maiga added that one of the purposes of the mission was to encourage the government to move quickly towards adopting this law, and so that Congo would know that it was playing a leadership role in this regard and could count on the support of the African Commission when implementing the adopted law. She added that the question of indigenous women should be integrated into the global quest to address the plight of indigenous populations, noting that women suffer double discrimination, firstly as women and secondly as indigenous peoples.

For his part, Dr Albert Barume wanted to know the content of the special curriculum that UNESCO was developing for indigenous populations in cooperation with the Ministry of Education. 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 programme similar to the one that it had introduced for indigenous populations in the Central African Republic.

Mr Diallo responded by noting that he was not sure whether the Aka community was being 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 to adapt schools' curricula to indigenous peoples' lifestyle.

He said it was important to address the education gap of the indigenous communities in Congo and welcomed the Commission's recom-

mentation 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, describing the mandate of the African Commission as well as the mandate of the WGIP.

He informed the UNDP Representative that the African Commission had visited Congo in 2005 on an Information and Research visit that had concentrated on the north of the country. He said the current mission was a follow up to the 2005 visit and was focusing on the south of the country. He said the delegation was pleased that a great deal of progress has been made towards enhancing the plight of the country's indigenous populations since 2005.

He said the delegation had 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 the Rights of Indigenous Peoples.

He said that, in terms of Articles 41 and 42 of the Declaration, UN agencies were 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.

For her part, Commissioner Maiga indicated that the African Commission had visited 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 could play a great role in resource mobilisation as well as coordination. She said she would like to see gender issues incorporated into policy design at all levels.

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

In his response, the UNDP Representative indicated that the organisation had 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 had been working very closely with the Ministry of Forestry and Environment, which was the ministry coordinating indigenous issues in the country.

He said that, in addition to their policy framework, they were also involved in activities to ensure that these policies went beyond advocacy. He also said that UNICEF had a major programme on indigenous populations, including education programmes and the fight against HIV/AIDS in indigenous communities.

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

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

He said that the government's commitment and efforts, coupled with the specific government constraints, gave reason to believe that they were going in the right direction. He informed the delegation that, in cooperation with the UN and other institutions, the government 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 had limited time and resources, and spent little time on missions, so they only obtained a limited picture of things. He explained the procedure – from debriefing, to the Commission's adoption of the report, to sending the report to the government for comments and publication.

The delegation also noted that there were structural challenges to implementing 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 the registration of citizens and this could be supported by intergovernmental organisations.

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

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

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

He said the role of the Commission was to encourage Congo to adopt the law, and the Commission had to ensure that this did not fail. The international community had a great role to play as the government could not be left on its own on this.

Meeting with United Nations Children's Fund (UNICEF)

The delegation met with representatives of UNICEF at this latter's offices. 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 had undertaken 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.

He said the African Commission was aware that UNICEF was involved in protecting 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 had supported UNICEF to undertake a project on indigenous populations in 2008.

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

He said that from the visit to the south of the country, it seemed that indigenous communities were still being left out of socio-economic and political programmes. He said that the delegation had noted 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 he wanted to know whether the situation was the same across the country.

He wanted to know whether UNICEF was involved in producing the draft law. He said the delegation had looked at the law and was satisfied that even though its drafting had commenced in 2004, it incorporated the principles contained in the 2007 UN Declaration. He said the Declaration required UN agencies to mobilise resources to support local actors for the effective implementation of the Declaration.

For her part, Commissioner Maiga indicated that the African Commission worked 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 was to obtain as much information as possible to enable the Commission to make appropriate recommendations to the authorities. She said the period since 2004 had been devoted to discussing the draft law with major stakeholders. She indicated that the adoption of the law would usher in a very important phase, that of implementation, monitoring and execution. She said the fact that the government had recognised the existence of indigenous populations was a commendable one, as some countries were still struggling with the concept. She said Congo had passed that stage and had now moved onto 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 wanted to see gender issues, especially girls' education, incorporated into UNICEF's programmes and policies at all levels.

In response, the representative of UNICEF thanked the delegation for its visit. She said that UNICEF did a great deal of work with indigenous populations in the country. She said there was much interest within the UN regarding the work UNICEF was doing with indigenous populations in the country. She said the government, in cooperation with the UN and other partners, was organising FIPAC2, a meeting which - according to the UNICEF representative - would be very important as it would focus entirely on the rights of indigenous populations, tackling issues such as birth certificates, school drop-out rates and health. She said the Forum would increase the participants' understanding of why indigenous peoples should be protected. She said a great deal could be learned from indigenous peoples, especially from their culture, music, dance and indigenous knowledge.

She said UNICEF had long been involved with the country's indigenous populations, ranging from 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 people in the country. She said the plight of these people had been brought to the attention of the Congolese authorities and the government and cooperation partners had focused on this.

She said UNICEF had produced films and substantial documentation on the rights of indigenous peoples in the country, adding that, in addi-

tion to this, UNICEF had also developed programmes to provide free access to water, health services, education, citizenship, birth certificates (approx. 3,000 indigenous children had been given birth certificates), support to fight against violence, and provided with access to information, especially on HIV/AIDS. She said their activities had enabled them to travel to highly 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 had also contributed to building the capacity of indigenous populations and NGOs and, to this end, had convened a national conference of indigenous populations which had contributed to developing a National Action Plan. She said UNICEF had contributed to setting up an umbrella organisation for indigenous peoples called RENAPAC and had helped to establish a secretariat for indigenous peoples, to train their leaders and provide them with basic services. She added that UNICEF had a standing Memorandum of Understanding with RENAPAC.

On the legal front, she said UNICEF had assisted the government to adopt a law on the protection of children, including the protection of indigenous children. She said UNICEF was continuing to work with government towards finalising and adopting the draft law on the protection of indigenous populations. She said necessary technical support, including seminars, training for parliamentarians and other stakeholders, had been provided. She noted that the question of indigenous rights was very sensitive and that much consultation was therefore necessary.

She said UNICEF had 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 a need for a national strategy in order to change the mentality and attitude and thus reduce the incidence of discrimination, changing social norms in order to encourage cooperation and interaction among the different groups.

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

On education, the UNICEF representative indicated that the organisation had introduced preparatory schools in indigenous communities for

the three years before they go into normal schools. This, according to UNICEF, was aimed at adapting indigenous children to the regular school system. There are around 14 such schools involving approximately 1,800 pupils. Under the scheme, indigenous teachers are trained to teach the children and around 23 teachers are taught each year.

UNICEF indicated that the main challenge was inadequate resources, noting that the government did not have sufficient funds to ensure the effective implementation of activities, and adding that the budget for social services was 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 was important that the indigenous peoples were left to run their own affairs. She added that UNICEF was open to working with any other NGO that it thought had the capacity to undertake activities on indigenous issues.

Commissioner Bitaye noted that neither RENAPAC nor UNICEF were known in the south of the country and wanted to know whether their activities were nationwide. In response, the representative indicated that RENAPAC had only been established in 2008 and, as such, had not yet achieved national coverage. She also said that UNICEF did not have the capacity to be in all places at once but that its action plan covered the entire country.

On whether UNICEF's policy of integrating indigenous populations through education affected their identity and way of life, the representative noted that it did not seem to but added that it was clear that change could not be achieved without education. She said consultations and exchanges had taken place with a wide range of stakeholders on how to encourage indigenous children to go to school. The representative indicated, however, that UNICEF had taken note of the concern raised by the delegation and would discuss it with the Ministry. She indicated that the Congolese school system did not have separate systems for indigenous populations and Bantus. She reiterated the point that education is vital to development and that UNICEF takes due consideration of the culture and identity of indigenous peoples.

Commissioner Maiga noted that the question of gender did not seem to be properly addressed. She wanted to know whether UNICEF's support to RENAPAC envisaged establishing a women's indigenous organi-

sation. In response, UNICEF indicated that it was trying to develop specific programmes to enhance the lives of young girls and to ensure that indigenous children at least complete primary school. She said UNICEF had encouraged coordination of indigenous issues at national level as it felt this to be important.

Meeting with the Human Rights Commission

The delegation met with the Human Rights Commission at this latter's offices. The Commission was represented by the Secretary General, the Rapporteur and the Presidents of four sub-committees, including the sub-committees on religious affairs, international relations, human rights and freedoms, gender and 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 Commission was 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 important in terms of supporting the state's efforts, especially where this latter is unable or unwilling to comply with its human rights obligations.

He said he was encouraged by the fact that the mandate of the Human Rights Commission included 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 on the part of indigenous populations was usually problematic due to their vulnerable situation, including poverty, marginalisation and stereotyping.

Commissioner Bitaye wanted to know whether the Human Rights Commission had undertaken any activities 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.

For her part, Commissioner Maiga indicated that during her recent visit to the country in her capacity as country rapporteur she had been concerned at the insufficient resources received by the Human Rights

Commission for the purposes of discharging its mandate. She said the delegation would like to know whether there had been any improvement in the situation following the 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 the Rights of Indigenous Peoples, the WGIP was engaging states and other relevant stakeholders in how to effectively protect the rights of indigenous peoples.

She said the issue of indigenous populations posed a series of challenges to states but that Congo seemed to be ahead of other African countries. She said the draft law on indigenous populations, which had been very participative, was the first of its kind in Africa and could serve as an encouragement to other countries. She said measures should be put in place to ensure the 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 had 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 in 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 what role the Human Rights Commission was playing in protecting the rights of indigenous peoples, in particular whether the Human Rights Commission had specific programmes on indigenous populations, whether it was involved in the production 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 for the Human Rights Commission thanked the delegation and gave a short presentation of the Commission, including its mandate and structure.

She said that, with respect to indigenous populations, the Human Rights Commission had established a committee for gender and vulnerable peoples. She said the Commission would hold its General Assembly

in April 2010 at which its Plan of Action would be adopted. She said the rights of indigenous peoples would feature in this plan. She said the Human Rights Commission had not been particularly involved in producing the draft law but was well informed of developments in this regard as members of the Commission had taken part in the process in a personal capacity and they 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 on how to disseminate the law.

She said there was a need for more interaction between indigenous and Bantu populations as they were all Congolese, adding that the Human Rights Commission would play its part in ensuring this interaction. According to the Rapporteur, the Human Rights Commission had begun to find its place in the country's institutional framework. She said this meant the Commission would be able to work effectively in the field, receive complaints from the public and create public awareness of human rights.

Commissioner Bitaye appreciated the work that the Human Rights Commission was doing to promote human rights in the country and the way it was involving civil society in this regard. He observed that, in her presentation, the Rapporteur had used two terms to describe indigenous populations: vulnerable peoples and minorities. He said that it was important that the term used by the international community was consistent, that is, indigenous peoples.

He said the draft law provided an opportunity for the Human Rights Commission to play a very important role in ensuring that the protection provided by the law was felt on the ground. He said the law would be the first of its kind in Africa and, being the first, would be a role model; as such, the country and other stakeholders had a huge responsibility.

Commissioner Maiga, for 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 made. She said the Commission would 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 the dissemination of information.

Meeting with NGOs

The delegation met with NGOs at the offices of the *Association pour les Droits de l'Homme et l'Univers Carcéral* (ADHUC). Most of the more than 10 NGOs were working on indigenous issues while the rest were working on human rights generally.

After a brief introduction by the delegation and an explanation of the purpose of the mission, the NGOs each gave 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 gave an overview of the situation of indigenous populations in the country. In this presentation, the NGOs indicated that indigenous populations made up one-third of the population of the Republic of Congo and that they were present in almost all regions of the country. They indicated that the country's indigenous populations were facing numerous challenges, including exploitation at their places of work, through inadequate pay and slave labour. It was submitted that the master/slave relationship still existed and that indigenous peoples were paid very little and, in some cases, paid only in kind, with items such as alcohol, cassava, etc. The main job they do is hunting and, in the course of such hunting, they are not supposed to lose any bullets, 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 on 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, the hostility of pupils and teachers from other dominant groups, and an inability to adapt to the school calendar, which does not tend to take the lifestyle and ways of life of indigenous communities into account.

On health, they raised the high cost of medicines, the lack of health centres, and discrimination against indigenous peoples on the part of health workers as major challenges. It was indicated that health workers

give priority to other populations, even if an indigenous person is the first to arrive, and that health workers do not want contact with indigenous peoples, alleging that they smell.

A lack of financial resources and of access to the courts were also identified as challenges. It was noted that a 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 had 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 a 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 had been significant progress made in improving the plight of indigenous populations, the most important being the production of the draft law on the protection of the rights of indigenous populations. He said that, when the law was adopted, it would be the first of its kind in Africa. He encouraged the NGOs to continue their advocacy work in order to ensure that indigenous peoples are aware of their human rights.

On the question of impunity, he indicated that the delegation had been advised that there was no discrimination in law and that if an indigenous population or person were to report any alleged violation of his/her rights to the Public Prosecutor then this 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 had identified difficulties, including the remoteness of communities, the lack of understanding as well as *de facto* constraints that prevent indigenous communities from accessing a number of civil rights. He said there did not seem to be any legal constraint preventing indigenous peoples from acquiring iden-

tity 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 now did not lie in achieving such recognition but 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 had noticed considerable improvements in Sibiti that had been attributed to the work of NGOs. He said the Commission would work closely with the government to ensure that the draft law was adopted and to ensure that it was implemented effectively.

Commissioner Bitaye indicated that the delegation had noted that indigenous communities in Sibiti 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 that would enable indigenous communities to meet regularly in order to empower them to speak for themselves.

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

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 had 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 made recommendations on the following areas: 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.

Right to citizenship and civil status

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 or their marriages registered partly because most of them are illiterate but also because these public services are located in towns far from indigenous communities. The delegation also noted that there were very few indigenous people employed as 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 a lack of resources makes free legal aid ineffective. Meetings with various local authorities highlighted cases of unreported discrimination, abuses and attacks on indigenous people by other individuals. The delegation also noted encouraging actions of awareness raising of indigenous peoples on the part of the Sibiti Public Prosecutor's Office, in association with local NGOs. The delegation was, however, informed that in some departments, such as Sibiti, there were 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 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 on a par with 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 to which indigenous peoples are still victim in some parts of the country. Individuals or entire indigenous families could be regarded as owned by a non-indigenous person, for whom they would provide labour for free along with 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 previously, the delegation did not come across any indigenous person working as a civil servant. It emerged that in almost all sectors of public life and institutions, including the Parliament, Government and the Judiciary, there are no indigenous persons. Even at the local level, indigenous peoples do not form 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 also face abuses from other school children and even some teachers. Several indigenous children were said to have abandoned school because of constantly being ill-treated or ridiculed by other children or teachers, who look at them as dirty and uncivilised. The education system is also inappropriate in terms of indigenous communities' lifestyle, culture and livelihood. Indigenous children often have to abandon school to take part in a number of family activities related to their way of life.

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. Lack of indigenous access to health services is widespread in

the Republic of Congo not only because there is a lack of resources but also because of the discrimination and prejudices that indigenous peoples continue to suffer at the hands of some health workers, who look down upon indigenous peoples. Most indigenous peoples in Congo still rely on traditional medicine although the increasing lack of access to forests and lack of support from government is 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 in 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 healthcare 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 the fact that indigenous peoples are suffering from persistent discrimination, prejudice and stereotyping and that they are 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 log-

ging concessions or transformed into protected areas and, in both cases, indigenous peoples' customary rights are not recognised. The general assumption is that indigenous peoples do not own any specific land because of their nomadic lifestyle. There is also a background of prejudice to the landlessness of indigenous peoples, whose way of life and land occupation are considered a waste of resources. Indigenous peoples' access to forests 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 numerous concerns and also outlined ongoing positive actions being undertaken by the different stakeholders. The earlier mission of the Working Group targeted the indigenous communities living in the north of the country. This 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 indigenous communities living in Lékoumou administrative district, specifically in Sibiti Prefecture, which is mostly inhabited by indigenous people. The mission held working sessions with the Prefecture, local government officials, the Public Prosecutor's Office and local NGOs operating in the field of indigenous peoples' rights. The mission also visited three indigenous villages where, in discussions, the communities clearly outlined their concerns, namely a lack of access to land, healthcare, education and employment, including their lack of 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 as the dominant groups spread and their health and hygiene conditions are a source of great concern.

The current mission is in line with a national concern, characterised by a process of discussing a bill on the promotion and protection of the rights of indigenous populations. It is a major government initiative intended to create a specific legal framework to guarantee the different aspects of indigenous peoples' rights. 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 the process to its logical conclusion within the shortest possible time.

It is worth mentioning that, at the 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 further delay the process of implementing Act No. 2011 of 25 February 2011 on the promotion and protection of the rights of the indigenous population;
2. Organise a national census of the indigenous population and ensure that the technical institutions produce disaggregated statistical information on their living conditions;
3. Guarantee the representation of the indigenous population in public and community institutions and ensure gender equity;
4. Guarantee access to the justice system by the indigenous population, especially by establishing a free legal aid mechanism within their immediate surroundings;

5. Take all appropriate steps to issue identity cards and systematically register 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 staff to work in 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 technical and professional teaching by taking into account indigenous know-how and economies;
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 checks, HIV/AIDS screening, and the monitoring of chronic parasitic diseases among the indigenous communities;
13. Provide support in different ways, including the 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, and 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 the economic activities and traditional vocations of the indigenous population;
17. Guarantee the indigenous populations equitable conditions for accessing and enjoying the right to employment;
18. Take appropriate measures to ensure the effective protection of 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 the cultural rights and identity of the indigenous populations by organising Inter-State festivals and meetings as a means of encouraging ownership of the said initiatives and policies on the part of the communities themselves;
20. Support and strengthen the capacity of indigenous organisations as well as civil society organisations working in the field of indigenous peoples' rights;
21. Take appropriate measures to ratify and implement Convention No.169 of the ILO concerning indigenous people.

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 law on the promotion and protection of the rights of the 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 to enhance the harmonisation of programmes, actions and plans among all stakeholders operating in the area of indigenous peoples' rights in order to maximize the impact on indigenous communities.

To the National Commission on Human Rights, NGOs and other civil society organisations:

1. Contribute to the popularisation of the law on 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 with regard to their rights and take measures to sensitise the dominant groups as to the rights of the indigenous population.