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UN Committee on the Elimination of Racial Discrimination  
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**Parallel report submitted to the Committee in connection with the examination of the Republic of Cameroon during its 106<sup>th</sup> Session (11-29 April 2022)**

1. This report is submitted by Association Okani, a Baka association based in Bertoua, Cameroon, and by Forest Peoples Programme, an international NGO, (the **submitting organisations or authors**), to provide additional and alternative information to the Committee on the Elimination of Racial Discrimination (the **Committee**) in its upcoming examination of the State Report of Cameroon in respect of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (**ICERD**).
2. This alternative report follows the structure and numbering of the State Report submitted by Cameroon for examination. However, it does not provide information in respect of all the sections in the original report, but only those which are most pertinent to the information held by the submitting organisations, specifically related to the situation of forest indigenous peoples (Baka, Bagyeli and Bedzang, also called “pygmies”), in Cameroon.
3. The first annex to this report sets out a brief summary of each of the submitting organisations.

**Part I - Information on Articles 1 to 7 of the Convention**

**Article 3**

4. The government in its report refers to the “community-driven development of territories” as “one of the fundamental options of the territorial development policy”, and the preparation of a National Sustainable Development Plan based on a “participatory approach” (State report para 10). The authors however note that, while there may be some opportunities for input in land use planning processes, in reality (at least in rural areas) these are not community-driven but instead extremely top-down processes that prioritise industrial scale development that is favoured by Cameroon’s national economic development plan, Vision 2035, at the expense of local community priorities. It is equally clear that no land use planning process can be genuinely participatory when the customary land rights held by communities across the country are not recognised or respected as a starting point (see further paras 8ff below). A map (see annex II) showing industrial concessions and protected areas in the South, Centre and East regions of Cameroon – the three regions in which forest indigenous peoples live – demonstrates the significant extent to which the government has already appropriated customary lands

throughout these regions, putting the lie to the claim that development is community-driven. For the most part, only small areas around roads (where villages were forcibly located during sedentarisation policies from the 1970s onwards) have not been allocated to external third parties by the State.

#### **Article 5**

5. The authors have substantial information to provide in particular in relation to the issue outlined in paragraph 8 in the list of themes for this review (protection of land rights). In keeping with the approach adopted in the government's report, this information is set out at paras 8ff below, under the heading "Reply to paragraph 16".

#### **Part II – Responses to Committee Recommendations**

##### *Paragraph 6*

6. The authors note that the State provides no information on the reasons for the continued delay in publishing its long-awaited study defining indigenous peoples in Cameroon (see CERD Concluding Observations 2014, para 14). It has similarly not taken any steps to develop an indigenous peoples law, as recommended by the Committee in 2010 (CERD Concluding observations 2010, para 15). Protections in the Constitution are insufficient in the absence of clear protections under national law, and generating appropriate national laws and guidance should be a priority.

##### **Paragraph 11**

7. In relation to the information provided by the State about birth certificates and other citizenship documents (esp para 194ff), the authors wish to point out the report and declaration published in 2018 by Gbabandi on the subject of the right to citizenship of forest indigenous peoples.<sup>1</sup> A further report was published by Association Okani and Gbabandi in 2021.<sup>2</sup> Those reports note inter alia numerous barriers to better access by forest indigenous peoples to birth certificates and other citizenship documents in Cameroon, including a lack of knowledge and information about these processes in communities, the long distances between remote indigenous communities and Civil Status centres (where births can be registered), the complex and costly procedures involved, as well as experiences of discrimination by forest indigenous peoples in these processes.

##### **Reply to paragraph 16 – land rights**

8. The Government's response to the Committee's observation regarding land rights is, unfortunately, wholly inaccurate and reflects a lack of understanding of indigenous peoples' rights to land as protected by international law (as set out inter alia in the Committee's General Recommendation No. XXIII), as well as of the concept of racial discrimination. It also fails to take into account the Committee's previous recommendations (Concluding Observations 2014, para 16; Concluding Observations 2010, para 18).

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<sup>1</sup> Gbabandi platform (2018), [The right to citizenship: challenges for forest indigenous peoples in Cameroon](#), Gbabandi; Gbabandi platform (2018), [Declaration on access to citizenship from the Gbabandi platform](#).

<sup>2</sup> Association Okani and Gbabandi (2021), [L'obtention des actes de naissance en faveur des peuples autochtones du Cameroun : Une étude de cas](#). Projet Navigateur autochtone.

9. Forest indigenous peoples in Cameroon have traditionally owned and used large areas of forest, to which their ownership, access and use is governed by custom. Forest indigenous peoples' traditional customs are sustainable, meaning that they leave limited imprint on the forest lands that they use. For the Baka, the Bagyeli and the Bedzang, the forest is not only a means of livelihood – it also has cultural and spiritual significance. Even after indigenous peoples were forced to settle in more permanent villages (as a result of government sedentarisation policies from the 1970s onwards), most forest peoples have continued to rely principally on forest areas and sustainable use patterns.
10. However, customary land rights receive very limited recognition and protection under Cameroonian national law.<sup>3</sup> Existing national legislation has broadly maintained colonial-era property systems, which privilege formal registered titles derived from western conceptions of private property and offer minimal recognition and no effective protection of pre-existing customary rights. Although the 1974 land law (and related legislation) provides some possibility of registration of customary titles, there are a number of well-documented problems with this that disproportionately affect indigenous peoples, including that:
- The law only permits the registration of customary land which has been “developed”. This discriminates against forest indigenous peoples, whose traditional use of their customary forest areas does not leave traces or constitute “development”, with the result that these forest areas can never be registered under national laws.
  - The law only permits the registration of customary land that was already developed *in 1974*, when the law came into force. This is inconsistent with the manner in which customary land is used by both Bantu and indigenous communities (including for example the use of rotational agricultural systems). Younger people are also systematically disenfranchised; and those who have not already registered customary ownership – non-registration remains widespread – have great difficulty in proving that land they are using was already developed almost 50 years ago. For forest indigenous communities, who were often “encouraged” (forcibly) to relocate to roadside villages after 1974, it is almost universally the case that they cannot claim title even for any “developed” lands they may have, because they have not been on these lands for long enough.
  - The law does not permit collective land titling, despite the fact that all forest indigenous peoples (and indeed most communities) hold lands collectively and apply collective rules to their use and ownership (even where these collective areas also sometimes include individual use areas within the collective framework).
  - The procedure required to register customary lands is complex and expensive, and largely inaccessible to remote rural communities (and even more so to indigenous communities, who are more marginalised, poorer and more likely to be illiterate). As a

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<sup>3</sup> For further explanation of the national legal system and the recognition of customary rights, see e.g. S Nguiffo et al (2009), “Historical and contemporary laws and their impact on indigenous peoples’ land rights in Cameroon”, in FPP (2009), *Land Rights and the forest peoples of Africa*, FPP (<https://www.forestpeoples.org/sites/default/files/publication/2010/05/cameroonlandrightsstudy09eng.pdf>); L Alden Wily (2011), *Whose Land Is It?: The status of customary land tenure in Cameroon*, CED, Fern, RFUK (<https://www.rainforestfoundationuk.org/media.ashx/cameroonenginternet.pdf>).

result, the vast majority of customary lands within Cameroon remain unregistered, and those that have been registered tend to be owned by relatively more powerful individuals (local “elites”). Often in the process these lands are alienated from the collective customary estate.

- Compensation under national law<sup>4</sup> may apply to both lands and improvements, as well as lost crops. In respect of land, this generally applies only in respect of land that is registered,<sup>5</sup> although compensation must also be provided to other bona fide occupants who have “effectively occupied” land (meaning they have constructed buildings, plantations, enclosures or fields).<sup>6</sup> Traditionally, however, forest indigenous peoples did not engage significantly (if at all) in agriculture, and it remains the case that many indigenous peoples do not have their own fields. Instead, as their traditional activities have become increasingly inaccessible, indigenous peoples have increasingly been engaged as wage labourers (often at very low wages) by non-indigenous farmers. Those who do have fields tend to have a substantially smaller area than non-indigenous individuals. In summary, forest indigenous peoples cannot register their forested lands and they are likely to have only very small parcels of land, if any, that are considered “effectively occupied” for the purposes of expropriation laws, meaning that in most cases they have extremely limited rights to compensation when their traditional lands are expropriated.<sup>7</sup>

11. The State’s position that the law is non-discriminatory misunderstands that a law which has disproportionate impacts on forest indigenous peoples because it fails to take account of their cultural differences is by its nature discriminatory. Indeed, the requirement to have “developed” land to register customary property is reflective of non-indigenous customary property norms, notably the *droit de hâche* (the right of the axe), by which the ownership of land accrues to the person who clears it. This is combined with other non-indigenous customary norms, such as rights of (extended) families to the areas behind their houses, that are not customary rules of semi-nomadic forest indigenous peoples but rather of their non-indigenous neighbours.

12. Beyond the question of the disproportionate impacts on forest indigenous peoples, the law is simply not compliant with human rights standards for protection of customary rights for either indigenous or non-indigenous traditional communities in Cameroon. In reality, the widespread lack of registered customary titles across rural villages in Cameroon (combined with the fact that it is impossible to obtain such titles for forest areas) means that under national legislation these vast areas are considered to be in the guardianship of the State, which may allocate them for

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<sup>4</sup> Compensation for expropriation of land is broadly covered by Law No. 85-09 of 1985, and further specified in Decree No. 87/1872 of 1987.

<sup>5</sup> See generally B Schwartz et al (2018), [Towards fair and effective legislation on compulsory land acquisition in Cameroon](#), IIED, CED and RELUFA.

<sup>6</sup> L Alden Wily (2011), *op cit*, pp 56-57.

<sup>7</sup> There have been some instances of compensation being provided on an *ex gratia* basis for loss of unregistered lands, faced with significant opposition or because this was a requirement of financing, as is the case in the two instances cited in the State’s report, notably Lom Pangar Hydroelectric Dam (which was funded by inter alia the African Development Bank and the World Bank and required a resettlement action plan) the industrial port complex at Kribi (where compensation was offered only after substantial resistance). However, this is not a generalised right.

other uses, without any acknowledgement of customary ownership. While these lands remain unallocated, the law permits communities to continue to exercise traditional activities such as hunting and gathering for subsistence purposes; however, these privileges are automatically revoked when the State allocates the land for another purpose, which can occur with no or with minimal (and ineffective) consultation.<sup>8</sup> Because the customary ownership of the land is not recognised, there is also no provision under Cameroonian law for compensation for the loss of this land when it is, in effect, expropriated by the State. Indeed, arguably Cameroonian law is doubly racially discriminatory – first and foremost against forest indigenous peoples for the disproportionate exclusion they face under the law, and secondly against non-indigenous but nonetheless traditional communities, on the basis of continuing colonialist ideas which subjugate customary norms throughout the country to white European notions of property.

13. The authors of this report wish to note instances in two different domains – conservation and allocation of industrial concessions for agriculture<sup>9</sup> – where this failure to protect land rights plays out in practice.

#### **Land rights in the context of conservation policy and practice**

14. Cameroon harbours around 22 million hectares of forest and a significant range of biodiversity. As a result, biodiversity conservation attracts significant support and funding from the Cameroonian government as well as international governmental and non-governmental actors. The bulk of this funding is used to support the creation and management of protected areas. In the South and East regions – where the Baka and Bagyeli forest indigenous peoples live – around 1.9 million hectares of forested lands are within protected areas, principally national parks and fauna reserves. Unfortunately, and precisely because of forest indigenous peoples’ traditions of sustainable use, protected areas frequently overlap with the lands of forest indigenous peoples. At least 6 protected areas in the East and South regions of Cameroon,<sup>10</sup> with a combined surface area of over 1.7 million hectares, overlap substantially with the traditional forest lands of Baka or Bagyeli forest indigenous peoples. All of these were created without respect for and protection of their pre-existing customary rights to own, access, manage and use these lands,

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<sup>8</sup> There is one mechanism – a visit by a “consultative board” that is supposed to provide some participation in decision-making. However, both legally and in practice these fall far short of proper consultation. They usually involve only two chiefs or notables in total from affected communities – no matter how many communities are affected. The representatives are invited by the administration, and often those chosen are the ones more aligned with the administration’s position. Chiefs are almost exclusively non-indigenous peoples in forest areas of Cameroon (there are only three villages of forest indigenous peoples with separate administrative recognition) which means they may not be directly consulted at all, nor are their “representatives” in these cases – non-indigenous chiefs – freely chosen by them. There is no requirement that the consultative board meet with or even inform the community as a whole, and there is equally no requirement to ensure input from different groups (such as forest indigenous peoples or women) who are not represented in the consultative board. Frequently in practice these visits take place without the communities even being made aware of what is under consideration.

<sup>9</sup> While this focuses on agricultural concessions, many similar, although not completely identical, considerations apply to forestry and mining concessions.

<sup>10</sup> These include Lobeke National Park (IUCN Category II, 217,854 hectares); Boumba Bek National Park (IUCN Category II, 238,255 hectares); Nki National Park (IUCN Category II, 309,362 hectares); Dja Faunal Reserve (IUCN Category IV, 526,004 hectares); Ngoyla Faunal Reserve (IUCN Category IV, 156,672 hectares) and Campo Ma’an National Park (IUCN Category II, 264,043 hectares).

without their free, prior and informed consent, and with limited or no compensation.<sup>11</sup> All of these are also State-run and -managed protected areas; there is at present no legal mechanism to enable community led or managed protected areas in Cameroon, and limited other mechanisms that may enable communities to secure lands for sustainable management.<sup>12</sup>

15. The result has been significant detriment to forest indigenous peoples in areas affected by conservation, documented across a range of protected areas in Cameroon over many years.<sup>13</sup> Historically, creation of protected areas has often involved the wholesale removal of access and use rights, and sometimes the relocation (direct or indirect) of indigenous communities. It has also involved significant and well-documented levels of violence and harassment inflicted on forest indigenous peoples in particular by ecoguards (park rangers).<sup>14</sup>
16. After increasing criticisms and scrutiny of practices in Cameroon over many years, which eventually led to an investigation report by the UNEP Social and Environmental Compliance Unit<sup>15</sup> and investigation by an independent panel into allegations made against WWF in relation to conservation work in which it was involved,<sup>16</sup> the Cameroonian government and its

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For further background related to human rights dimensions of the creation and management of these protected areas, see: S Nguiffo, “Cameroon – Dja Wildlife Reserve: One forest, two dreams: the constraints opposed on the Baka in Miatta by the Dja Wildlife Reserve”; B Ndameu, “Cameroon – Boumba Bek: Protected areas an indigenous peoples: The paradox of conservation and survival of the Baka in the Moloundou region”, J C Owono, “Cameroon – Campo Ma’an: The extent of Bagyeli Pygmy involvement in the development of the management plan of the Campo Ma’an UTO”, all in J Nelson and L Hossack (2001), [From principles to practice: Indigenous Peoples and Protected Areas in Africa](#), Forest Peoples Programme; B Tchoumba and J Nelson (2006), [Protecting and encouraging customary use of biological resources by the Baka in the west of the Dja Biosphere Reserve](#), J Willis, V Messe and N Olinga (2016), [The rights of the Baka in the REDD+ Ngoyla Mintom Project in Cameroon](#), Forest Peoples Programme and Association Okani; Forest Peoples Programme and CED; A Perram and S Nounah (2019), [De la coupe aux lèvres: le CLIP dans la Réserve de faune de Ngoyla au Cameroun](#), Forest Peoples Programme; C Clarke (2019), [In and around Cameroon’s protected areas: A rights-based analysis of access and resource use agreements between Indigenous Peoples and the State](#), Forest Peoples Programme; A Pyhälä, A Osuna Orozco and S Counsell (2016), [Protected Areas in the Congo Basin: Failing both people and biodiversity?](#), Rainforest Foundation UK.

<sup>12</sup> Two possible exceptions are: (a) community forests, which enable communities to obtain management rights over forest areas up to 5,000 hectares, in which conservation is a permitted objective, but which are principally intended for exploitation of timber, rather than conservation; and (b) community hunting zones, which may in principle support conservation although this is not their purpose (nor do they have a clear legal basis for their existence). Neither of these mechanisms provides ownership rights to communities, only management rights during a defined period. For more information see M Sonkoue Watio (forthcoming), *Conservation communautaire au Cameroun : enjeux, défis et perspectives analysés à partir du cadre juridique national, des pratiques et de la perception des acteurs*, Forest Peoples Programme. Some proposals for community protected areas are being discussed as part of proposed forest law reform, although given the existing concessions there is also a question of how widely any such legal mechanism could practically be implemented.

<sup>13</sup> This [personal account](#) from a Baka man living in the vicinity of the Ngoyla Fauna Reserve explains this in more detail and from a Baka perspective.

<sup>14</sup> See Survival International (2016), [How Will We Survive?](#) which collates information from multiple sources.

<sup>15</sup> UNDP Social and Environmental Compliance Unit (2020), Final Investigation Report: Integrated and transboundary conservation of biodiversity in the basins of the Republic of Cameroon: TRIDOM II, <https://info.undp.org/sites/registry/secu/SECUPages/CaseFile.aspx?ItemID=26>.

<sup>16</sup> Independent Panel of Experts (2020), *Embedding Human Rights in Nature Conservation: From Intent to Action*, [https://wwf.panda.org/wwf\\_news/wwf\\_independent\\_review/](https://wwf.panda.org/wwf_news/wwf_independent_review/), see particularly Chapter 4. See also the [Gbabandi declaration](#) issued in response to this report in December 2020.

international collaborators have taken some steps to address issues of violence as well as an underlying issue of lack of access and use rights, including through the government signing “MOUs” with Baka communities affected by protected areas, which are said to facilitate their access to some areas and use of some resources in the park. However, despite this step having been widely celebrated as an end to the problem, the reality is very different. We cite two examples, related to Lobeke National Park and the Ngoyla Fauna Reserve, to demonstrate why this has not as yet been an effective mechanism.

17. Lobeke National Park was established in 2003 on traditional forest lands of multiple Baka communities. From the time of its creation, in the absence of any agreement for continued use,, Baka lost their rights to access and use areas within the Park, causing significant hardship to communities whose access to resources was made illegal overnight, as well as resulting in often violent clashes with ecoguards if Baka continued to exercise any traditional forest activities. It was only in 2019 – some 16 years after its creation – that an agreement purporting to provide access and use rights to Baka communities in the vicinity of Lobeke National Park, Boumba Bek National Park and parts of Nki National Parks was made between the Ministry of Forests and Fauna (MINFOF – the ministry responsible for protected areas) and Baka communities in the vicinity of those parks.<sup>17</sup> The signature of the MoU – as this document is called - followed some consultation with civil society and Baka communities, although the direct participation of communities in this consultation process was limited, and indeed Baka communities around Boumba Bek and Nki national parks were not included at all, as their insertion in the MoU occurred only at the last minute after civil society consultations were complete. Furthermore, the version finally signed bears little resemblance to the last consultation draft worked on by civil society organisations and community representatives, having been subject to substantial unilateral changes by MINFOF.
18. The agreement that emerged has numerous flaws, including that it does not actually set out access and use rules (which are instead to be developed annually and have not yet in fact been developed), places potentially unfair and/or dangerous obligations on Baka to denounce poaching activities, and is poorly understood and mistrusted by Baka communities. In addition, instead of treating access and use proposals as restitution of rights of the Baka that have been unfairly impaired by the State, it approaches the grant of access and use rights as a “quid pro quo” in which Baka communities are only entitled to access and use of protected area lands if they fulfil other duties and obligations imposed by MINFOF. These include for example the denunciation of poaching activities by others, an obligation collectively imposed on the Baka which could put them at great risk, and which equally does not recognise the physical and psychological difficulties of Baka alerting MINFOF. However, MINFOF offices may be 10s of kilometres from their villages (in a region of poor roads and limited transport options), and which have not traditionally welcomed Baka, and are indeed for many Baka, are associated with ecoguard violence. MINFOF equally decries the continued participation of Baka in poaching, a position which collectivises responsibility for individual acts of poaching, and fails to take

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<sup>17</sup> The Baka communities did not sign directly and were instead represented by a Baka organisation selected by the government. In relation to Nki National Park, the MoU related only to the north and south sectors.



account of the dynamics of exploitation and coercion to which Baka involved in poaching are often subject.<sup>18</sup>

19. A recent evaluation of the MOU conducted by Association Okani and FPP found that the signature of the MOU had in fact not led to any improvement in access in practice.<sup>19</sup> Similarly, a so-called “complaints mechanism” operated by a local CSO, previously with support from WWF and now from the German government, while potentially providing some legal assistance does not actually provide any dispute resolution mechanism for grievances associated with the protected area.<sup>20</sup> It also promotes village-level dispute resolution, which may be particularly problematic for Baka who are almost all located in “mixed” communities that are headed up by a non-Baka chief. As such decision-making is frequently discriminatory, deliberately privileging the interests of non-Baka, or is simply based on non-Baka customary rules and approaches.
20. A second example is the Ngoyla Fauna Reserve. The Ngoyla Fauna Reserve is one of the newest protected areas in Cameroon, created only in 2014, yet its establishment has repeated many of the errors of the past. While Baka communities were consulted to some extent about the creation of the protected area, they had no genuine opportunity to influence decision-making and the process did not in any respect reflect the international law requirements for free, prior and informed consent.<sup>21</sup> Indeed, Baka communities whose lands were affected by the proposed reserve agreed to its creation on the explicit and repeatedly expressed condition that their access and use rights to the forest areas in question would not be affected. In reality, however, Baka communities began to experience abuse from ecoguards even in the early stages of the process of creating the reserve. It took 4 years from the time the reserve was officially designated before an MoU was signed between Baka communities and MINFOF. In the intervening period, no interim protection was given to Baka use and access of park areas, meaning that the Baka were subject to repression, violence and harassment from ecoguards – in direct violation of their condition for agreeing to the reserve. In addition, no compensation was offered or given for the loss of forest access, which has had serious impacts on Baka livelihoods and culture.
21. The MOU for the Ngoyla Fauna Reserve signed in 2018 provides a highly regulated framework for access and use by Baka communities, which allows them to access certain areas of the reserve, at certain times of the year, for certain activities. This complicated framework is poorly understood by the Baka and is clearly an inappropriate framework for access for largely non-

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<sup>18</sup> This attitude was clearly displayed by MINFOF in a recent “listening” meeting held to discuss implementation of the Lobeke MOU, in which a MINFOF representative stated his view that the Baka had not respected their engagements to protect the forest by denouncing those who destroy it through illegal practices, and the Baka themselves are complicit in these infringements: *Rapport réunion d’écoute sur la mise en oeuvre du MoU MINFOF-ASBABUK*, Mbankomo, 21-22 January 2022.

<sup>19</sup> M Nsioh et al (2022), [Indigenous Peoples’ Access to and Participation in Lobeke National Park: An independent evaluation of the effectiveness of current access arrangements for Baka communities, and investigation of community understanding of the Park management arrangements and their perspectives on future co-management](#), Forest Peoples Programme and Association Okani.

<sup>20</sup> S Nounah et al (2022), [Évaluation indépendante du mécanisme de traitement des plaintes et du fonctionnement du Centre des Droits de l’homme à Mambele](#), Forest Peoples Programme and Association Okani.

<sup>21</sup> The process was extensively analysed in S Nounah and A Perram (2019), cited above.



literate and semi-nomadic communities. Baka communities also consider the access limits within the reserve are too restrictive and based on inaccurate mapping. Moreover, after suffering violence for several years, Baka are also mistrustful that authorities will respect the access rights agreed. The result has been that during an evaluation conducted by Okani and FPP with communities in 2019, 7 of 8 Baka communities reported that their situation had worsened since the creation of the reserve, and none reported any change since the signing of the MoU.<sup>22</sup> A dialogue about the Ngoyla MoU between Baka communities and other stakeholders in late 2021 indicated that communities continue to have the same concerns.

22. The MoU has now expired (as of January 2022) and there is no indication of when a new version will be agreed, nor is FPP or Okani aware of any consultation procedure for renewal to address issues that have been raised by communities in the next version. In the interim, communities' rights are again in legal limbo.
23. The authors wish to acknowledge that there is some recent evidence to suggest that physical abuses and harassment by ecoguards has significantly decreased in the aftermath of substantial international pressure on this issue. This trend is positive, although the authors consider it would be premature to say at this point that this problem has been definitively resolved, and suggest further monitoring is required.
24. Despite some positive indications in relation to incidents of violence, however, the broader issues of land ownership, access, use and management remain largely unaddressed. Aside from the ineffective steps taken to improve access to and use of protected areas outlined in the examples above, there has been no genuine shift in policy in Cameroon towards recognising customary ownership rights or community capacity to sustainably manage lands. Correspondingly, there are no serious attempts by the government or other conservation actors to explore restitution of protected areas, indigenous-led management or co-management options. Processes remain extremely top down, and indigenous organisations – except those hand-chosen by government or conservation actors - remain sidelined and silenced in conservation policy spaces.
25. This approach to conservation has been doubly problematic in areas where conservation is agreed as an offset in a wider carve up of land between industrial development and conservation – in effect, what many land-use planning processes engage in – where indigenous peoples lose access to lands simultaneously both to business and to conservation. This has been the case for example in the broader zoning processes in which the Ngoyla and Campo Ma'an protected areas were created, among others. As noted in paragraph 4 above, in reality conservation activities form part of a top-down, large-scale allocation of lands that takes no account of existing customary rights.

#### **Land rights in the context of industrial agricultural concessions**

26. The second area which the authors of this report wish to draw to the attention of the Committee is the continuing negative effects on the land rights of indigenous peoples caused by

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<sup>22</sup> C Clarke (2019), op cit, page 12.

the allocation of large concessions of land for business activities. This report will focus in particular on agricultural concessions, which have to date generally had the most significant negative impacts on indigenous peoples, although the authors note that many similar issues arise also in relation to forestry and mining concessions<sup>23</sup> in Cameroon.

27. As noted in paragraph 10 above, customary land rights receive minimal recognition and protection under national law, and forest indigenous peoples' customary rights are particularly vulnerable because under national law only lands that have been developed in some way are even capable of being registered. While *all* customary land rights in Cameroon are subject to expropriation for business activities, forest indigenous peoples' specific forms of land use and livelihoods, as well as their lack of ownership, means they are often disproportionately affected by land allocations.
28. When the Cameroonian State allocates land concessions to business actors, for the most part it excludes areas directly inhabited or under cultivation by neighbouring communities from concessions, allocating instead areas of forest (this can be seen on the map in Annex II, which shows generally a "buffer zone" without concessions around roads. Following sedentarisation policies, most communities' permanent villages are by the roadside. While the approach of leaving a certain amount of "living space" ("*espace vitale*") around the roads reduces the impacts on predominantly agricultural (non-indigenous) communities,<sup>24</sup> it does very little to attenuate the impact on forest indigenous peoples whose livelihoods depends on access to forest resources, whose traditions remain semi-nomadic and who continue to use forest areas that may be a significant distance from their village.
29. State land allocation processes, developed as they are without full recognition or respect for customary rights, do not contain adequate systems to prevent expropriation of forest indigenous peoples, nor to seek their free, prior and informed consent or offer any compensation for losses suffered by the community. The frequent result is that fully operational agribusiness projects have disastrous impacts on forest indigenous peoples. At present, these impacts are particularly severe for the Bagyeli indigenous peoples (estimated population 4,000) in the Ocean department of the South Region of Cameroon, which is more accessible than forest areas in the East and has seen a wave of agricultural concessions granted in connection with the new deep-sea port at Kribi. There are however also issues with forestry, mining and agricultural concessions also in the East region.<sup>25</sup>

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<sup>23</sup> Forestry concessions, while certainly not without impact, have tended to have a lesser impact because they do in some circumstances permit continued access to forest areas by indigenous peoples (even if some resources are depleted). While mining concessions have the potential to be as bad or worse than agricultural concessions, to date many (but not all) mining concessions in these regions of Cameroon remain in the exploratory phase, meaning that for now their impacts have tended to be relatively confined.

<sup>24</sup> That is not to suggest there is no impact on non-indigenous communities, who also rely on forest resources as a supplement to their agricultural livelihoods.

<sup>25</sup> There are also multiple forestry concessions surrounding both the Ngoyla Fauna reserve as well as the Lobeke National Park, as well as several mining concessions (including active development of cement mining operations in the vicinity of Djoum, and the CamIron proposed iron mine in the vicinity of Ntam, although the latter project appears to have been stalled for some years, despite its inclusion in the State party's report.).

30. However, it is not only the development of these concessions that causes harm to forest indigenous peoples, but their mere grant. As the second example mentioned below shows, even when a concession is not developed, the uncertainty created by the grant of a concession over land blocks communities from developing their own local initiatives, contributes to breakdown of local governance and incentivises unsustainable use by local communities who may choose to extract what they can before losing their land. In practice, this latter element may involve rapacious agricultural expansion or illegal exploitation of forest resources by local non-indigenous elites in collective forest areas, which forest indigenous peoples are powerless to prevent despite its negative effects on them. While these issues are not wholly caused by the existence of agricultural concessions (they are also a result of the lack of secure tenure more broadly), concessions, even if idle, facilitate this behaviour because they render communities powerless to develop and implement their own local management and development initiatives.
31. The authors wish to mention two examples of agricultural concessions in the Ocean department that are currently affecting Bagyeli communities (both of which have also previously formed the subject of an early warning and urgent action submission to the Committee – more detail about each of the cases can be found in these submissions).<sup>26</sup>

*Case study 1: concession to Palm Resources Cameroon SA (subsidiary of Biopalm Energy Ltd)*

32. This case relates to four Bagyeli communities living in the four joint Bantu<sup>27</sup>-Bagyeli villages of Bella, Nkollo, Gwap and Mougue. FPP and Association Okani have been working with these communities for over 10 years, and particularly in the course of the last seven years.
33. Since 2012, a significant portion of the customary forest lands of these Bagyeli communities has been under concession to palm oil company Palm Resources Cameroon SA, a Cameroonian subsidiary of Singaporean company Biopalm Energy Ltd. A brief history of the events is:
- in March 2012, Decree No 2012/168 of 28 March 2012 granting a 3-year provisional concession of 3,348 hectares of “national estate” (*domaine national*) lands, located in the vicinity of Bella, to Biopalm. Most of these lands were “unregistered” customary lands that are legally considered “unowned” by the government, as described above.<sup>28</sup> A provisional concession of this type is a necessary first step towards obtaining a long-term concession, which may however only be obtained subject to meeting certain conditions.
  - In November 2012, Decree No 2012/3059 of 2 November 2012 purported to reallocate 21,552 hectares of land from forestry concession no 00-003<sup>29</sup> (**UFA 00-003**) for

<sup>26</sup> The first was submitted to the 98<sup>th</sup> session of the Committee (in 2019), and prompted a [letter](#) from the Committee to the State of Cameroon. The second (similar) [case](#) was submitted to the 102<sup>nd</sup> session in November 2020, and has not received a response from the Committee.

<sup>27</sup> The Bantu communities are a Bakoko community (in Bella) and Bassa’a communities (in Nkollo, Gwap and Mougue).

<sup>28</sup> A small part (unlawfully) overlapped an existing forestry concession.

<sup>29</sup> This forestry concession had been established in 1997, also overlapping the customary lands of the affected communities, again without reference to those rights and without having obtained the free, prior and informed consent of the communities. However, the impacts of long-term forestry operations of this nature

“agricultural production”. This reallocation of land required declassification of land that had been set aside as permanent forest estate, and as such required specific procedures to be followed (including meetings with the community). These procedures were not complied with. Although the lands were reallocated, no provisional concession appears to have been granted over any part of these lands.

- The provisional concession on Bella’s lands (dating from March 2012) expired in 2015, without being extended or converted into a long-term concession, and without the requirements for obtaining a long-term concession having been met. Three years of further inaction followed.
- On 4 December 2018, by presidential decree the State of Cameroon granted a long-term (99 year) lease over 18,365 hectares of forest land to create an agro-industrial plantation. The forest lands leased are, in their totality, lands under customary ownership and use of the affected indigenous Bagyeli communities. These forests are used also by the Bakoko and Bassa’a communities, although at much lower intensity because of the different use patterns of these two groups. The requirements for granting a long-term concession had not been met, since only part of the lands in this concession had been subject to any provision concession, the terms of that provisional concession had not been met, and the provisional concession related to Bella had been expired for more than three years.
- In 2019, the Bagyeli communities initiated a legal challenge to the grant of the long-term concession (and other things). This challenge has not yet been heard at first instance.

34. The approach taken to the grant of these concessions reflects an appropriation of so-called “unoccupied” lands without any recognition or protection of the Bagyeli’s customary rights to the lands and natural resources in these forest areas. The four Bagyeli communities have at no time been genuinely consulted about this use of their lands, nor have they given their free, prior and informed consent to the concession. The limited requirements under State laws to notify or consult with communities affected by proposed land allocations only require engagement with the village chief (an auxiliary of the State), without any assurance that information is passed to the community more broadly. This is particularly problematic for Bagyeli communities, who are not recognised as distinct communities under Cameroonian administrative arrangements (but rather are subsumed within a larger neighbouring non-indigenous community), and who are therefore not directly notified, or separately consulted with, at all, despite the fact that such projects often have different (and often more severe) impacts on them. Indeed, none of the decrees was made directly available to the Bagyeli, who initially only became aware of the provisional concession after this information was provided to them by external civil society organisations.

35. All four Bagyeli communities affected by the Biopalm concession have publicly opposed<sup>30</sup> the concession at all times, on the basis that it will destroy their livelihoods and their forests. In conjunction with and separately from their Bakoko and Bassa’a neighbours, they have written

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were significantly less detrimental for the communities (who still had access to significant areas of forest in practice), and as a result did not incite the same opposition as the proposed oil palm plantation.

<sup>30</sup> The concession is also opposed by the majority, but not all, of the members of the neighbouring Bakoko and Bassa’a communities. The (Bakoko) chief of Bella is a notable supporter of the project.

numerous letters to the government, initially seeking further information about the proposed concession, and subsequently repeatedly expressing opposition to the proposed plantation.<sup>31</sup> Further details of this history are set out in reports by FPP and others.<sup>32</sup>

36. During the period in which the provisional concession lapsed (2015-2018), in an attempt to protect their lands from further concession the 4 villages (each of which comprised both a Bagyeli community and a Bakoko or Bassa'a community), each village developed proposals for a community forest in the area of their respective lands that had previously been proposed as part of the concession. The communities spent some time developing dossiers, negotiating boundaries of these forests with each other, and engaging with the Ministry of Forestry and Fauna. After several years of work, the full applications for community forests from three of the four communities were submitted to MINFOF in December 2018;<sup>33</sup> only a few months later in early 2019, the communities' hopes of a community forest were dashed when they learnt that, very shortly before the submission of their dossiers, a further decree had been issued.
37. In 2019, after having been made aware of the long-term concession granted by the government, the 4 Bagyeli communities launched legal proceedings challenging the grant of the concession and making other challenges, including interim actions to suspend the effect of the impugned decrees until the court cases have been determined (in effect an interim injunction).<sup>34</sup> As at 2022, the requests for interim injunctions have all been considered and dismissed, but none of the substantive cases has yet been determined at first instance.
38. For unknown reasons, apart from some scoping work and delimitation of boundaries carried out by the company in late 2014, no further physical work towards the establishment of the plantation has yet been carried out by Biopalm at any point. However, while this has granted a reprieve of sorts to the Bagyeli communities, the existence of the concession has nonetheless already had consequences. At an external level, its existence has prompted the issue by the government of multiple, legally dubious *ventes de coupes spéciales* (special permits for sales of standing timber) on the basis that the land is to be subsequently developed as a plantation.

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<sup>31</sup> A letter was sent to the company in late 2014 requesting further information; letters of opposition to the proposal have been subsequently sent to the government by communities (both Bagyeli and Bakoko and Bassa'a) in early 2015, September 2015, May 2016 as well as in March 2019 after discovery of the new long-term concession. Copies of some of these letters and other documents can be found [here](#). See also M Ngeunga (2019), "[Cameroon: The Bagyeli women strongly opposing Biopalm](#)", Forest Peoples Programme;

<sup>32</sup> E Freudenthal, T Lomax and V Messe (2013), "[The BioPalm oil palm project: a case study in the Department of Ocean, Cameroon](#)", in M Colchester and S Chao (eds) (2013), *Conflict or consent?: The oil palm sector at a crossroads*, Forest Peoples Programme, Sawit Watch and TUK Indonesia; A Perram (2016), [Behind the Veil: Transparency, access to information and community rights in Cameroon's forest sector](#), FPP, Moreton in Marsh.

<sup>33</sup> The application from the fourth community, Bella, was blocked by the chief, who was in favour of the oil palm project.

<sup>34</sup> Several parallel cases have been launched, notably a challenge by the Bagyeli to the grant of the concession; a challenge to the State's underlying creation of a (State-owned) property title on their lands; as well as similar cases brought on behalf of the three Bassa'a communities of Nkollo, Gwap and Mounoue.

39. Internally within the four villages, the continued uncertainty and the expectation that, sooner or later, the plantation will arrive, has affected village cohesion, governance and decision-making. Long-term considerations of sustainability and equity are disincentivised (and their proponents marginalised) because of the expectation that the forest will soon be lost to the villages regardless of what they do. Several community members have reported concerns of rampant agricultural expansion (outside of normal generational expansion) by the (wealthier and more educated) “elites” who have the resources to clear land mechanically and establish plantations of many hectares. There are also reports of complicity in illegal felling of timber, and the “capture” of one of the previously proposed community forest proposals by a small group in the community, who is proceeding with the dossier on lands outside the concession with a view to personal benefit. These actions are also putting significant pressure on the Bagyeli forests, however the Bagyeli, marginalised and outnumbered in all four villages, are unable to prevent this destruction of their forests.

#### *Case study 2: Camvert palm oil concession*

40. The second case study which the authors wish to highlight in this submission is the more recent (and currently significantly more active) palm oil concession apparently granted by the State of Cameroon to CamVert SARL, a Cameroonian company owned by businessmen Aboubakar Al-Fathi and Mahmoud Mourtada. Al-Fathi is alleged to have links to the ruling party in Cameroon.<sup>35</sup>

41. Camvert operations are occurring on the site of a former forestry concession (FMU 09-025), which is adjacent to the Campo Ma’an National Park. A brief history of key elements is as follows:

- In 1999-2000, as part of the environmental offsetting associated with the implementation of the Chad-Cameroon Pipeline project, a zoning exercise was carried out by which the Campo Reserve (which dates from 1932) was turned into the Campo-Ma’an National Park, together with the establishment of numerous forestry concessions in its buffer zone (all of which were considered as part of the Campo Ma’an Operational Technical Unit (UTO)).<sup>36</sup> FMU 09-025 was one of the forestry concessions in this buffer zone. Because of the significant restrictions imposed on access and use of the National Park, plans of management for the forestry concessions in the buffer zone, including the management plan for 09-025, explicitly included rights of access and use for Bagyeli peoples and other communities living in the vicinity of the Park.
- In 2019, under Decree 2019/4562, 60,000 hectares of FMU 09-025 was “declassified” from forestry and “reallocated” for agricultural production. This type of reallocation is

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<sup>35</sup> Greenpeace and Green Development Advocates (2021), [Camvert: A recurring nightmare: a mega palm oil plantation threatening people’s rights in Cameroon, seeds made in France](#),

<sup>36</sup> For more details of this history see J C Owono (2001), op cit.

alleged by multiple actors to have no legal basis under national law,<sup>37</sup> and is similar to what was done in relation to the Biopalm concession mentioned previously.

- Under national law, a concession should also have been issued before the commencement of any activities by Camvert, but there has been no (or at least no published) decree granting a concession to CamVert to date. Despite that, activities have in fact begun on the site. As with the situation in the Biopalm, this has apparently been authorised through a legally dubious “*vente de coupe spéciale*” (special permit for the sale of standing timber), issued on 2 March 2020 – although it is alleged that clearing in fact began even before this date. As at end December 2021, 1,850 hectares of the “declassified” areas have already been cleared,<sup>38</sup> and an oil palm seedling nursery – which cannot be covered by a permit for the sale of standing timber, even if legal – has been established.<sup>39</sup>
- On 12 November 2021, after having exhausted pre-litigation procedures, 9 Bagyeli communities affected by the Camvert project<sup>40</sup> filed a legal challenge in the Administrative Tribunal of the Centre Region (at Yaoundé) against the decree declassifying 60,000 hectares of FMU 09-025. To the best of our knowledge, that claim is still awaiting service on the government (in Cameroon, service is effected by the Court).
- In February 2022, the Cameroonian government announced tax exemptions for Camvert in its implementation of the project, which will further reduce any contribution it may make to the local or national economy.<sup>41</sup>

42. The land rights, and more broadly the cultural and physical survival, of the affected Bagyeli communities are at stake in this litigation. Their access to and use of their traditional forest lands has already been significantly restricted as a result of other activities in the area (including the Campo Ma’an National Park but also other plantations operated by rubber company Hevecam and palm oil company Socapalm), and they are very aware of what will happen if the plantation goes ahead. One Bagyeli community member quoted by Greenpeace has said:

*I am Bagyeli and we live thanks to the forest. The agro-industries are making life hard for us. We have to travel miles to get the materials we need to build our huts. In Nyamabande, women live in half-built huts and therefore sleep in the open air for lack of building materials. We don't expect anything from Camvert, because after Hevecam, Socapalm, we have lost our forest and have gained nothing in return. They have simply taken away what gives meaning to our existence.*

43. Like the communities at Biopalm, the Bagyeli communities, as well as the Mvae and Yassa (Bantu) communities who are also affected, are faced with considerable uncertainty about their future which affects governance, decision-making and community cohesion. There has also been

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<sup>37</sup> See Greenpeace and GDA (2021), op cit; Forêts et Développement Rurale (FODER), cited in M Ngeunga (2022), “[An Opaque Agro-industry Razes Cameroon’s Forests with Impunity](#)”, Infocongo; as well as the aforementioned CERD early warning and urgent action submission brought by affected Bagyeli communities.

<sup>38</sup> M Ngeunga (2022), op cit.

<sup>39</sup> B Ngounou (2021), “[Cameroon: Camvert and the forest peril in the Congo Basin](#)”, Afrik21

<sup>40</sup> With the legal support of FPP as well as broader support from local organisations APED and BACUDA.

<sup>41</sup> L Feukeng (2022), “[Camvert: A blow to the Cameroonian economy](#)”, Greenpeace; B R Modiam (2022), “[Camvert gets incentives for its XAF237 bln Campo agro-industrial complex](#)”, Business in Cameroon.



a concerted media campaign that has depicted the resistance to CamVert as anti-patriotic or anti-development and incited by NGOs with obscure sources of funding.<sup>42</sup>

## **Conclusion**

44. In summary, as the details above indicate, it is unfortunately the case that customary land rights in Cameroon continue to receive only marginal recognition and are not equally protected by national law, nor is free, prior and informed consent required before lands are expropriated. Compensation is rarely if ever provided, and almost never by right; where compensation is provided for by law, it is consistently inadequate. The functioning of national laws has particular and disproportionate impacts on forest indigenous peoples which the State has not acknowledged, let alone addressed, and the authors hope the Committee will provide further guidance on this issue in its concluding observations. Finally, the authors thank the Committee for its interest in this issue and for its consideration of this report.

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<sup>42</sup> See further Greenpeace and GDA (2021), op cit.

## **Annex 1 – Submitting organisations**

**Association Okani** is an indigenous (Baka) association based in Bertoua in Cameroon. Founded in 2006, Okani works in several areas of the South and East regions of the country with Baka and Bagyeli forest indigenous peoples. Okani is also a member of (and currently coordinates) the Gbabandi the national platform of forest indigenous peoples' organisations.

**Forest Peoples Programme** is an international non-governmental organisation based in the UK and the Netherlands, which supports indigenous and other forest peoples to secure their human rights, and particularly their land rights. FPP has been working in Cameroon for over fifteen years.

