

**Alternative Report to the Democratic Republic of Congo's Periodic Report to the  
Committee on the Elimination of Discrimination Against Women**

Sixth and seventh combined reports of the State party

**Indigenous Women in the DRC: The injustice of multiple forms of  
discrimination**

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**June 2013**

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### **Action for the Promotion of Indigenous Minority Rights in Central Africa (APDMAC)**

APDMAC is a not-for-profit NGO, established in 1996 and based in Bukavu, South Kivu. It fights injustice, discrimination and marginalisation affecting indigenous Pygmy peoples. Its main mission is to promote the rights of Pygmies and guarantee their social, economic, cultural and political development. The organisation is involved in numerous areas including human rights, the environment, education, gender, agriculture and crafts.

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CEDEN is an NGO, established in 2003 and based in Kinshasa. It works especially for the protection and participatory management of natural resources in the development of poor and marginalised populations. The organisation works with women, men and young leaders for environmental education and responsible citizenship, and in the struggle against the marginalisation of people in environmental protection projects. CEDEN activities in the DRC cover the provinces of Orientale, Equateur and Bandundu.

### **Collectif pour les Peuples Autochtones au Kivu (CPAKI) [Collective for Indigenous Peoples in Kivu]**

CPAKI is an NGO, established in 1998, with the mission to defend and promote rights to, and support for, general self-help among Pygmy peoples. Its areas of intervention include defence of indigenous Pygmy peoples' rights through advocacy,

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**Environnement Ressources Naturelles et Développement (ERND Institute)**  
**[Environment, Natural Resources and Development]**

ERND Institute started its activities in 2003. Its mission consists in defending the interests of indigenous peoples and local communities for the conservation and management of forest ecosystems processes; promoting participatory and sustainable development; advocating for indigenous peoples' and local communities' access to benefits relating to the exploitation of natural resources; and facilitating the participation of indigenous peoples and local communities at all levels of decision-making processes that could affect them. It has offices in North Kivu, South Kivu, Maniema, Orientale and Kinshasa.

**Forest Peoples Programme (FPP)**

FPP is an international NGO founded in 1990. FPP works in partnership with indigenous, tribal and forest peoples throughout the world with the aim of helping them to defend their individual and collective rights, and to maintain control of their lands and natural resources. FPP has been working with indigenous peoples of Africa since 1991, and of the DRC since 1998. It has published numerous reports on the situation of indigenous peoples in this region and elsewhere. Address: 1C Fosseway Business Centre, Stratford Road, Moreton-in-Marsh, GL56 9NQ, United Kingdom; Tel: +44(0) 1608 652893; Email: [info@forestpeoples.org](mailto:info@forestpeoples.org); Website: [www.forestpeoples.org](http://www.forestpeoples.org).

**Initiatives pour la Promotion des femmes autochtones et vulnérables (IPROFAV) [Initiatives for the Promotion of Indigenous and Vulnerable Women]**

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**Réseau de Femmes pour le Développement et la Paix (RFDP) [Women's Network for Development and Peace]**

RFDP is an organisation that offers a platform for women rights defenders everywhere in the DRC. Its main objectives are to defend and promote the rights of women and girls and to ensure their participation in the peace process and in the fight for their rights. Tel : +243 842258850 ; Email: [nabintu\\_bisimwa@yahoo.fr](mailto:nabintu_bisimwa@yahoo.fr).

**Réseau pour la Conservation et la Réhabilitation des Ecosystèmes Forestiers (Réseau CREF) [Network for the Conservation and Rehabilitation of Forest Ecosystems]**

Established in 2003 in Kanyabayonga, in North Kivu, Réseau CREF is a not-for-profit organisation which currently has 30 member organisations distributed across the six territories and three cities of the province of North Kivu in the DRC. Réseau CREF fights for the protection of the forests and the defence of the rights and interests of populations that depend on those natural resources. It constitutes a platform which contributes to the fight against poverty of local communities dependent on forests. It does so through appropriate management of forest ecosystems, consultation, lobbying and advocacy. Tel: +243 998384839; Email: [reseaucref@yahoo.fr](mailto:reseaucref@yahoo.fr).

**Solidarité pour les Initiatives des Peuples Autochtones Pygmées (SIPA) [Solidarity for Indigenous Pygmy Peoples' Initiatives]**

SIPA is an NGO established in 2000 based in Bukavu, South Kivu. It works for the promotion, harmonious development and defence of the rights of indigenous Pygmy peoples. The organisation works in various areas including awareness-raising regarding human rights, promoting the rights of women and children, and appreciation of Pygmy culture. Tel: +243997757993; Email: [sipa\\_ong@yahoo.fr](mailto:sipa_ong@yahoo.fr).

**Union pour l'Émancipation de la Femme Autochtone (UEFA) [Union for the Emancipation of Indigenous Women]**

UEFA is an NGO established in Bukavu in 1998. Its goals are to strengthen the capacities of grassroots women's groups and organisations that work for women's emancipation; to support the socio-economic, legal and cultural initiatives of indigenous women; to promote mutual assistance and cooperation among indigenous women; to support sustainable development initiatives; and to ease the burden of tasks undertaken by women. Tel: +243 998 62 36 42; Email: [uefafr@yahoo.fr](mailto:uefafr@yahoo.fr).

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## Executive summary

This alternative report has been prepared by 15 non-governmental organisations that work with indigenous peoples in the Democratic Republic of Congo (DRC). Its aim is to present a picture of the situation of indigenous women in the country. The organisations that have authored this report regret that the sixth and seventh periodic reports of the DRC did not contain information on the rights of indigenous women. This was despite the fact that these women face numerous forms of discrimination and live in conditions of extreme vulnerability.

The organisations that have authored this report respectfully request the CEDAW Committee to adopt a holistic approach, both in examining the situation of indigenous women in the DRC and violations of the rights conferred on them by CEDAW, and in its recommendations to the DRC government. This approach should take into account the multiple forms of discrimination to which indigenous women are subject, as well as the cumulative impacts of these different forms of discrimination on indigenous women.

As this report shows, indigenous women of the DRC are victims of discrimination that is largely due to their gender. However, ethnicity and poverty are also factors. This discrimination does not only violate the international human rights conventions to which the DRC is party: it is also a clear breach of the provisions of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW). Indeed, the Convention emphasises that 'eradication of... all forms of racism, racial discrimination... is essential to the full enjoyment of the rights of men and women'.<sup>1</sup> In the DRC, indigenous women remain subject to discrimination that is both racial and gender-based. To date, the DRC government has not implemented any measures to ensure that indigenous women can fully enjoy their rights.

This report looks first at the situation of indigenous peoples in the DRC. It considers their dispossession from their ancestral lands and the threat this poses to the fundamental link that indigenous peoples maintain with their lands. These are essential for their culture, way of life and survival. Loss of ancestral lands has had, and continues to have, particularly devastating effects on indigenous women. One of the central roles of indigenous women is feeding and caring for their families. Yet they are deprived of the means to do so and are thus forced to live in very precarious conditions that leave them exposed to exploitation and violence.

The report then considers the discrimination suffered by indigenous women in the areas of education, health, participation in public and political life, and access to justice. There is emphasis on the fact that the DRC government is proving slow to adopt special measures aimed at instituting equality for indigenous women, and at ensuring that they can enjoy all their rights, without discrimination.

The organisations that have authored this report respectfully wish to propose recommendations that the CEDAW Committee could present to the DRC government. The recommendations could enable the DRC government to have a more

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<sup>1</sup> Convention on the Elimination of All Forms of Discrimination against Women, Preamble, paragraph 10.

comprehensive understanding of the rights of indigenous women when creating laws, policies and programmes for the benefit of those women.

### **Recommendations**

1. The DRC government should ensure that particular attention is given to indigenous Pygmy women in the land and forest reforms under way, as well as the international initiatives to which it is committed, such as REDD+ and the FLEGT process. Those reforms and initiatives should guarantee indigenous Pygmy women their rights of access and control over their lands and natural resources. Such protection includes recognition of the collective right of indigenous peoples to maintain their cultural links with their lands, and to own and control their natural resources.
2. The DRC government should adopt specific legislative measures that recognise the land rights of indigenous peoples, as well as their right to free, prior and informed consent. The ongoing zoning process of Congolese forests should include a mechanism aimed at identifying the lands and territories of indigenous Pygmy peoples. The purpose should be to afford them recognition and protection, in accordance with the international conventions ratified by the DRC.
3. The DRC government should implement a mechanism aimed at providing reparations to indigenous men and women, as well as to indigenous peoples collectively, for the lands that have been taken from them without their consent. The mechanism should also ensure that the compensation awarded is fair and equitable, and that it does not contribute to exacerbating gender inequalities.
4. The DRC government should immediately adopt and implement special measures aimed at ensuring the socio-economic integration of indigenous women in the DRC, notably through the protection and implementation of their economic, social and cultural rights.
5. The DRC government should collect disaggregated data on the situation of indigenous women in the DRC and present the results in its next report to the Committee.
6. The DRC government should pay particular attention to indigenous Pygmy girls when creating its education policies and programmes. It should also adopt special measures aimed at guaranteeing girls equal access to education at all levels, and at encouraging them to remain in the school system.
7. The DRC government should improve or build school infrastructures in the villages of indigenous Pygmy peoples.
8. The DRC government should adopt measures aimed at protecting indigenous Pygmy girls from sexual harassment and abuse in educational establishments.

9. The DRC government should launch an information campaign aimed at raising awareness among indigenous Pygmy parents and girls of the importance of education.
10. The DRC government should adopt measures aimed at improving literacy rates among indigenous Pygmy women. In particular, these measures should include allocating sufficient resources and implementing programmes aimed at promoting their literacy and their education.
11. The DRC government should supply disaggregated data in its next report on the situation of indigenous Pygmy girls and education.
12. The DRC government should guarantee the right of indigenous women to health. In particular, it should allow them unrestricted access to their traditional medicinal plants.
13. The DRC government should take all necessary measures to protect the right of indigenous women to reproductive health. In particular, it should ensure that they have access to appropriate antenatal health care, as well as care for sexually transmitted diseases.
14. The DRC government should implement an awareness-raising programme for the benefit of indigenous Pygmy women and peoples on the prevention of diseases such as HIV/Aids.
15. The DRC government should take all necessary measures to protect and implement the rights of indigenous women to participate in public and political life, as well as their right to be represented on public bodies. Such measures should include promoting indigenous women's leadership in political institutions, and awareness-raising among indigenous women regarding joining political parties. Furthermore, the Committee should stress the obligation of the DRC government to consult indigenous women and ensure their effective participation in decisions concerning their land rights. In addition, the Committee should stress the government's obligation to obtain the free, prior and informed consent of indigenous peoples in this respect.
16. The DRC government should implement policies and programmes aimed at facilitating access to justice for indigenous Pygmy women. These should include organising awareness-raising campaigns regarding human rights and the mechanisms and procedures for gaining access to justice.
17. The DRC government should adopt measures aimed at ensuring that complaints lodged by indigenous Pygmy women are followed up, and that judicial decisions delivered in their favour are implemented effectively.

## II. Introduction

1. The rights of indigenous women are guaranteed by numerous international and regional legal instruments to which the Democratic Republic of Congo (DRC) is party. These include the *International Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), along with several other legal instruments that protect the rights of women and the rights of indigenous peoples.<sup>2</sup> Under the Congolese Constitution, as of ratification, international treaties and agreements duly signed take precedence over national laws.<sup>3</sup>

2. It is widely agreed that indigenous women face multiple forms of discrimination on account of the "nexus between gender, race, colour or ethnicity and other axes of subordination".<sup>4</sup> These multiple forms of discrimination combine and exacerbate each other, presenting serious barriers to indigenous women in terms of their capacity to enjoy their human rights in full equality. The intersection between the various forms of discrimination facing indigenous women has come to the attention of key actors of the United Nations system for some time. These include Radhika Coomaraswamy and Yakin Ertürk, Special Rapporteurs on violence against women, its causes and consequences.<sup>5</sup> During the sixth session of the United Nations Permanent Forum on Indigenous Issues, Yakin Ertürk said that:

*Indigenous women stand at the intersection of gender and racial inequality; they are discriminated against because they are women and because they are members of an indigenous group. In this respect, indigenous women experience at least five layers of discrimination: on the basis of sex, ethnicity, poverty, often being rural and increasingly as migrants.*

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*It has also become well known that since women are not [an] homogenous category, gender equality strategies designed in a vacuum do not work. Failure to recognize the intersectional nature of systems of*

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<sup>2</sup>It should be noted that the DRC is party to the following human rights legal instruments: International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Convention on Biological Diversity, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child, African Charter on Human and Peoples' Rights, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

<sup>3</sup>Article 215 of the Constitution of 18 February 2006.

<sup>4</sup>Review of Reports, Studies and Other Documentation for the Preparatory Committee and the World Conference, Note by the Secretary-General, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance A/CONF.189/PC3/5, 27 July 2001, paragraph 8.

<sup>5</sup>Integration of the Fundamental Rights of Women and the Gender-Specific Approach – Violence Against Women, Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Ms. Radhika Coomaraswamy, on the trafficking of women, women's migration and violence against women, presented in accordance with Commission on Human Rights resolution 1997/44, 20 February 2000; 15 years of the United Nations Special Rapporteur on Violence Against Women (1994 – 2000) – A Critical Review, initiated and guided by Yakin Ertürk, United Nations, 2009.

*oppression and integrate a racial and gender perspective when analyzing indigenous women's status will ultimately result in further reinforcing their subordination to both patriarchy and racism. Therefore, in addressing the status of indigenous women, it is essential to identify racial elements of gender discrimination as well as the gendered elements of race discrimination.*<sup>6</sup>

3. The multiple forms of discrimination facing indigenous women have also been considered by numerous human rights bodies which have adopted relevant standards. These bodies have stressed the importance of examining the combined effects of discrimination, especially when based on gender, race or ethnicity. General Recommendation 25 of the Committee on the Elimination of Racial Discrimination, on gender-related dimensions of racial discrimination, specifies that:

*racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men.*<sup>7</sup>

4. Furthermore, the Committee on Economic, Social and Cultural Rights has argued that:

*some individuals or groups of individuals face discrimination on more than one of the prohibited grounds, for example women belonging to an ethnic or religious minority. Such cumulative discrimination has a unique and specific impact on individuals and merits particular consideration and remedying.*<sup>8</sup>

5. For several years, the CEDAW Committee has recognised that the multiple forms of discrimination suffered by indigenous women "limit their de facto enjoyment of their human rights and full participation in all spheres of life".<sup>9</sup> It has issued recommendations for States, calling on them to take specific, targeted measures aimed at accelerating the process of improving conditions for indigenous women in all areas of their lives; at ensuring that indigenous women have access to land, education and health services; and at guaranteeing their participation in decision making.<sup>10</sup>

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<sup>6</sup> Yakin Ertürk, Statement to the Sixth Session of the United Nations Permanent Forum on Indigenous Issues, 18 May 2007.

<sup>7</sup> Committee on the Elimination of Racial Discrimination, General Recommendation No. 25, Gender related dimensions of racial discrimination, Fifty-sixth session, A/55/18, 2000, annex V.

<sup>8</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 20, Non-discrimination in economic, social and cultural rights, Forty-second session, E/C.12/GC/20, 2009, paragraph 17. See also paragraph 27.

<sup>9</sup> Committee on the Elimination of Discrimination against Women, Concluding Comments, Nicaragua CEDAW/C/NIC/CO/6, 2 February 2007, paragraph 31.

<sup>10</sup> Among the recently adopted Concluding Observations of the CEDAW Committee on this point, see especially Mexico, CEDAW/C/MEX/CO/7-8, 7 August 2012, paragraphs 34 and 35; New Zealand CEDAW/C/NZL/CO/7, 27 July 2012, paragraphs 35 and 36; Guyana CEDAW/C/GUY/CO/7-8, 27 July 2012, paragraphs 36 and 37; Republic of Congo CEDAW/C/COG/CO/6, 23 March 2012, paragraphs 41 and 42; Brazil CEDAW/C/BRA/CO/7, 23 March 2012, paragraphs 16, 17 and 23; Norway CEDAW/C/NOR/CO/8, 23 March 2012, paragraphs 31, 32, 35 and 36.

6. Recently, the United Nations Special Rapporteur on violence against women, Rashida Manjoo, recommended that the United Nations system and its human rights mechanisms adopt a holistic approach. This would take into account the link between violence against women and the intersection of the multiple forms of discrimination that they face.<sup>11</sup>

7. A holistic approach such as this requires an interpretation of the CEDAW Convention in conjunction with the other legal instruments that protect the rights of indigenous peoples, including the United Nations Declaration on the Rights of Indigenous Peoples. The DRC voted in favour of adopting the latter in 2007. Article 44 of the Declaration specifies that: "All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals." The United Nations Special Rapporteur on violence against women stresses that this article "calls upon States to take measures to ensure that indigenous women and children enjoy full protection and guarantees against all forms of violence and discrimination".<sup>12</sup>

8. The author organisations of this report respectfully request that the CEDAW Committee advocate a similar holistic approach in its examination of the situation of indigenous Pygmy women in the Democratic Republic of Congo, and the violations of their rights. Such an approach, which takes account of the collective rights of indigenous peoples and the individual rights of indigenous women, would also be appropriate when the Committee issues its recommendations to the DRC government.

### **III. The indigenous "Pygmy" peoples in the DRC: a brief overview**

9. Originally, the indigenous Pygmy peoples were semi-nomadic hunter gatherers living in the high mountain forests in the Great Lakes region of central Africa.<sup>13</sup> It is widely accepted that these peoples were the first inhabitants of the region, and that they were joined later by farmers and livestock keepers.<sup>14</sup> In the DRC, the different groups of indigenous peoples generally known as "Pygmy" peoples<sup>15</sup> are: the Mbutis (the Basua, Efe and Asua) who are found in the East of the country, particularly in the Ituri region; the Twa who are found along the border with Rwanda and in the region of Lake Tumba in the province of Equateur; and the Cwa who live in the forests and

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<sup>11</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, A/HRC/17/26, 2 May 2011, paragraph 108.

<sup>12</sup> 15 years of the United Nations Special Rapporteur on Violence Against Women (1994 – 2009) – A Critical Review, initiated and guided by Yakin Ertürk, United Nations, 2009, p. 49.

<sup>13</sup> Information on the indigenous peoples in Central Africa can be found in numerous publications, including: Lewis, J (2000) *Batwa Pygmies of the Great Lakes Region*, MRG, London; Woodburn, J (1997) Indigenous discrimination: the ideological basis for local discrimination against hunter-gatherer minorities in sub-Saharan Africa, in *Ethnic and Racial Studies*, Vol. 20, No. 2, pages 345 to 361; Jackson, D (2003) *Twa Women, Twa Rights in the Great Lakes Region of Africa*, MRG, London; Nelson, J. and Hossack, L (ed.) (2003) *Indigenous Peoples and Protected Areas in Africa: from Principles to Practice*, FPP, Moreton-in-Marsh; African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs (2005) *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities*, hereafter "ACHPR WGIP Report (2005)".

<sup>14</sup> ACHPR WGIP Report (2005) *supra* note 13, pages 15 and 16.

<sup>15</sup> The term "Pygmy" is controversial and some consider it derogatory. However, it is widely used in the DRC, including by indigenous peoples themselves. In this report, the author organisations use this term to refer collectively to hunter-gatherers and former hunter-gatherers where more specific names are not appropriate. There are no derogatory connotations.

savannahs around the Kasai lakes. Other groups are distributed within the forest region of the DRC, for example the Aka, along the north-west border with the Republic of Congo,<sup>16</sup> and the Bambega in Oubangui, Equateur.

10. The total population of indigenous Pygmy peoples in the DRC is not known, and estimates vary between 250 000 and 350 000 individuals.<sup>17</sup> However, recent studies have been conducted in order to develop a strategic framework for the preparation of a development programme for indigenous Pygmy peoples of the DRC. These studies show that the overall number of individuals appears to be some 600 000, around 1% of the total DRC population.<sup>18</sup>

11. Access to ancestral lands and security of land tenure are fundamental issues for indigenous Pygmy peoples. These peoples maintain close links with the forest on which they depend for their well-being, identity and survival. However, destruction of the forests by farmers and livestock keepers throughout the centuries has forced many of these peoples to abandon their forests and traditional hunter-gatherer way of life. Some have been able to develop new professional roles such as potters, dancers and entertainers. Nevertheless, the majority have become dependent on casual work or have had to resort to begging in order to survive.

12. The expulsion of indigenous Pygmy peoples from their ancestral lands in order to create national parks began during the colonial period with the 1925 Royal Decree that created the Virunga National Park. The process continued after independence with the creation of the Kahuzi-Biega National Park.<sup>19</sup> Between the 1960s and the beginning of the 1980s around 6000 Twa were forcibly removed from their ancestral lands, namely, the hills of Chatondo, Katasomwa, Munango, Kabona, Kakumbukumbu and Bukulula.<sup>20</sup> Today, these areas are part of the Kahuzi-Biega National Park, located between the territories of Kabare, Kalehe and Shabunda in the South Kivu province.<sup>21</sup> When it was created, the Kahuzi-Biega National Park had a surface area of 60 000 hectares. When it was extended in 1975, its surface area grew to 600 000 hectares.<sup>22</sup> This extension robbed the indigenous Pygmy peoples of their lands.<sup>23</sup> They were not consulted, nor did they give their consent or receive fair and

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<sup>16</sup> CIFOR, The World Bank and CIRAD (2007) *Forests in post-conflict Democratic Republic of Congo – Analysis of a priority agenda*, p.10

<sup>17</sup> For example, Lewis, J (2000) *supra* note 13; Luling V and Kenrick J (1998) *Forest Foragers of Tropical Africa. A Dossier on the Present Condition of the 'Pygmy' peoples*, Survival International, London.

<sup>18</sup> World Bank, Strategic Framework for the Preparation of a Pygmy Development Program– Democratic Republic of Congo, Report No. 51108-ZR, December 2009, p. 6.

<sup>19</sup> The Kahuzi-Biega National Park was created by Order No. 70-316 of 30 November 1970.

<sup>20</sup> Barume, A K (2003) *En voie de disparition ? Les droits des autochtones en Afrique : Le cas des Twa du Parc national de Kahuzi-Biega, en République Démocratique du Congo*, p.17.

<sup>21</sup> ERND Institute (2009) *Les Autochtones pygmées à la quête de la justice en RDC : Cas du procès PA du Parc Kahuzi Biega contre ICCN et l'Etat Congolais*, Bukavu.

<sup>22</sup> Busane, R (2006), *Gestion des aires protégées et conflictualité. Recherche sur l'impact de la domanialité publique sur les activités socioéconomiques des terroirs villageois du Sud Kivu*, Catholic University of Bukavu, page 10. See also Barume (2003) *supra* note 20, pages 70-71. The extension resulted from Order No. 75/238 of 22 July 1975, changing the boundaries of the Kahuzi-Biega National Park.

<sup>23</sup> The events that followed the expulsion of the indigenous Pygmy peoples from their traditional lands in order to create the Kahuzi-Biega National Park in South Kivu led to 66 indigenous Pygmy claimants going to court in order to obtain compensation for all the hardships suffered. This case (RC 4058) saw indigenous claimants opposing the Democratic Republic of Congo and the *l'Institut congolais pour la*

equitable compensation. This was in violation of international law and the provisions of Congolese law on expropriation for public purposes.<sup>24</sup>

13. Lands of indigenous Pygmy peoples have also been seized for the implementation of mining industry projects. This is frequently in violation of national laws pertaining to consultation, and to international law on the rights of indigenous peoples to free, prior and informed consent.<sup>25</sup> For example, mining concessions have been established on, and next to, ancestral lands of indigenous peoples without their consultation or prior consent. These include the BBC concession and the concession to l'Industrie de Transformation du Bois (ITB) in the territories of Ingende and Bikoro in the province of Equateur. In their activities, the operators of these concessions do not take into account the rights of indigenous peoples over the concessions. Indigenous peoples do not benefit in any way from the exploitation of their lands.<sup>26</sup> Furthermore, despite the conversion of the titles of the company SODEFOR in the Maindombe district of the Bandundu province,<sup>27</sup> the indigenous Pygmy peoples of the Inongo, Kiri and Oshwe territories are still victims of the unlawful exploitation of their forests.<sup>28</sup>

14. Removal of their ancestral lands has forced indigenous peoples to abandon their traditional way of life and their culture. They now live in conditions of extreme poverty and insecurity:

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*conservation de la nature* (ICCN), [Congolese Institute for the Conservation of Nature]. It was originally rejected by the *Tribunal de grande instance* (regional court) of Uvira. It is now being studied by the *Cour d'appel* (appeal court) of Bukavu (RCA 4570).

<sup>24</sup> Law 77-001 of 22 February 1977 on expropriation for public purposes.

<sup>25</sup> The right to free, prior and informed consent (FPIC) protects indigenous peoples from losing their livelihood, culture, and sense of people by recognising their right to give or withhold consent to projects and measures that may affect the lands they traditionally own, occupy, or otherwise use. FPIC is a process that requires informed, non-coercive consultations, discussions, negotiations, and meetings and that allows indigenous peoples to reach consensus and to make decisions according to their customary systems of decision-making. It is protected by the UN Declaration on the Rights of Indigenous Peoples and the Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO C169) and has been recognised by the treaty bodies responsible for their interpretation as being protected by the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination.

<sup>26</sup> ERND (June 2012) *Rapport de documentation, d'analyses approfondies et d'orientation des cas dans la province de l'Équateur*.

<sup>27</sup> In 2005, the Ministry of the Environment, Conservation of Nature and Tourism of the DRC embarked on a process of converting ancient forest land titles into forest concession contracts. This process ended in 2009. Of the 156 forest land titles subjected to the conversion process, only 65 were converted while 91 were rejected. It should also be said that, in 2002, the DRC government declared a moratorium suspending the granting of industrial forest concessions. The moratorium was extended in 2005 and 2008 and remains in force. Despite the moratorium, forest concessions have still been granted. See especially: REM (April 2012) *Note de briefing – Délai de conversion des anciens titres forestiers en contrats de concession forestière: Impact sur le contrôle forestier*, p. 7. Some operators have avoided the moratorium by obtaining licences for artisanal timber cutting. Many people fear that lifting the moratorium would have serious consequences for local communities and indigenous peoples whose lands would be further subject to industrial pressures.

<sup>28</sup> See, among others: Rigot V (June 2011) *Forêts congolaises - Quand l'exploitation industrielle entretient des conflits sociaux*, Point Sud – Les études du CNDC 11.11.11; Greenpeace (May 2011) *Crisis for FSC in the Congo Basin?*; Greenpeace (July 2010) *Forest Reform in the Democratic Republic of Congo: Leaving People Out*.

*All socio-economic indicators are much worse than for their Bantu neighbors. Pygmies in DRC can best be described as poor, vulnerable and marginalized.*<sup>29</sup>

15. The indigenous Pygmy peoples of the DRC are subjected to systematic discrimination.<sup>30</sup> This discrimination is even worse in the case of indigenous women:

*In this locality [Iboko, Bikoro territory] of 80 000 dwellers, women of the Pygmy community are regarded as sub-humans by the Bantu, with whom they share the land. A Bantu man will not buy or eat [food] from a Pygmy woman; or a Bantu will not marry a Pygmy, just as a Bantu woman will usually avoid fetching water at the same source as a Pygmy. Sexual violence committed against Pygmy women is almost never reported.*<sup>31</sup>

16. The DRC government has given its assurance that local communities will play an active role in the forest sector reforms. Recently, it even declared that it was going to respect the principle of free, prior and informed consent.<sup>32</sup> Nevertheless, to date, there is still no safeguard for the right of indigenous peoples to their lands. That right continues to be violated. The Constitution of the DRC, the land law of 1973 and the Forest Code of 2002 make no reference to indigenous Pygmy peoples or their rights. Furthermore, initiatives underway concerning land and forest governance and reforms fail to take into account the points of view of indigenous peoples, or to ensure that they are able to play an active role in those initiatives. As such, the zoning process in Congolese forests, currently underway in the DRC, does not include any mechanism enabling identification and protection of forests and lands belonging to indigenous peoples. The multilateral REDD+ initiative (Reducing Emissions from Deforestation and Forest Degradation) is a funding mechanism for environmental projects aimed at reducing climate changes and conserving forests. The European Union action plan FLEGT (Forest Law Enforcement Governance and Trade) aims to end the illegal exploitation of forests and to improve management and governance of forests in timber-exporting countries. Both initiatives represent processes to which the DRC is committed. Such processes could have negative consequences for indigenous peoples if the DRC government continues to deny them their land rights.

17. The situation of indigenous peoples is worrying, especially that of indigenous women. They have suffered, and continue to suffer, multiple forms of discrimination and serious violations of their human rights.<sup>33</sup> It is telling and deeply worrying that the DRC government's periodic report makes no mention of the indigenous Pygmy women and peoples of the DRC, even though they represent one of the most

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<sup>29</sup> World Bank (2009) *supra* note 18, p. 5.

<sup>30</sup> ACHPR and IWGIA (2009) *Report of the African Commission's Working Group on Indigenous Populations/Communities – Research and Information Visit to the Democratic Republic of Congo*, 9-25 August 2009, p. 24.

<sup>31</sup> Lokoleyacongo, *A Milestone for Pygmy People*, 7 April 2011, quoting the words of a journalist from MONUSCO. Available at: <http://lokoleyacongo.wordpress.com/category/congo-rainforest/pygmy-or-batswa-people-of-congo/>.

<sup>32</sup> Opening speech of the Minister of the Environment, Conservation of Nature and Tourism, press conference, Kinshasa, 24 May 2012. Available at: <http://www.forestpeoples.org/sites/fpp/files/news/2012/07/Secretary%20General%27s%20Speech%20-%20French.pdf>.

<sup>33</sup> ACHPR and IWGIA (2009) *supra* note 30, p. 25.

marginalised social groups of the country. The Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the African Commission on Human and Peoples' Rights have all expressed their concern regarding the situation of indigenous peoples in the DRC. They have emphasised the need to adopt measures to protect the rights of indigenous peoples, including their right to land.<sup>34</sup>

#### **IV. Indigenous women's rights in international and national law**

##### **1. Land insecurity increases the marginalisation of indigenous women (Article 14, CEDAW)**

###### **1.1 The right of indigenous Pygmy women to land is closely linked to the right of indigenous peoples to their ancestral lands.**

18. The close relationship that indigenous peoples have with their lands, territories and natural resources is clearly recognised in international law. This relationship is at once spiritual, cultural, social, economic and political. It is intrinsic to their existence and their survival, as well as to their very sense of identity as indigenous peoples. Numerous legal instruments afford unequivocal protection to the land rights of indigenous peoples. These include the United Nations Declaration on the Rights of Indigenous Peoples which recognises the right of indigenous peoples to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.<sup>35</sup> The Committee on Economic, Social and Cultural Rights has, on many occasions, acknowledged the fundamental link that exists between protection and preservation: protecting the rights of indigenous peoples to own, develop, control and use their lands, resources and communal territories is a critical aspect of preserving their way of life, their means of subsistence and, crucially, their cultural identity. On this question, it has made numerous appeals to States to:

*take measures to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources, and, where they have been otherwise inhabited or used without their free and informed consent, take steps to return these lands and territories.*<sup>36</sup>

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<sup>34</sup>Human Rights Committee, Concluding Observations, Democratic Republic of Congo, CCPR/C/COD/CO/3, 26 April 2006, paragraph 26; Committee on Economic, Social and Cultural Rights, Concluding Observations, Democratic Republic of Congo, E/C.12/COD/CO/4, 16 December 2009, paragraphs 14, 15, 17 and 36; Committee on the Elimination of Racial Discrimination, Concluding Observations, Democratic Republic of Congo, CERD/C/COD/CO/15, 17 August 2007, paragraphs 14, 18 and 22; African Commission on Human and Peoples' Rights, Concluding Observations, Democratic Republic of Congo, 48<sup>th</sup> Ordinary Session, November 2009; African Commission on Human and Peoples' Rights, Concluding Observations, Democratic Republic of Congo, 34<sup>th</sup> Ordinary Session, November 2003. See also: ACHPR and IWGIA (2009) *supra* note 30.

<sup>35</sup>United Nations Declaration on the Rights of Indigenous Peoples, article 26.

<sup>36</sup>Committee on Economic, Social and Cultural Rights, General Comment No. 21, Right of everyone to take part in cultural life, Forty-third Session, E/C.12/GC/21, 2009, paragraph 36. Among the recent

19. Similarly, the Human Rights Committee has observed that "culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples". It stipulates that the enjoyment of these rights may require States to adopt positive legal measures of protection.<sup>37</sup>

20. Furthermore, the Committee on the Elimination of Racial Discrimination has stressed the importance of indigenous peoples' ancestral lands and territories for their survival.<sup>38</sup> The "encroachment on the lands of minority communities" could, as such, justify the deployment of its early warning and urgent procedures.<sup>39</sup>

21. The CEDAW Committee has also acknowledged the importance of having access to land for women. The Committee has emphasised that such access would facilitate their economic empowerment.<sup>40</sup>

22. Indigenous peoples have faced, and continue to face, dispossession from their ancestral lands and territories. As indigenous men and women have different, but complementary, roles and relationships with regard to ancestral lands, this experience of dispossession has inevitably had different consequences for them. Indigenous women have vital roles in areas such as gathering food and medicinal plants with which to feed and care for their families; looking after their homes; making household items such as baskets; fishing, hunting and selling wild forest products. They also have a key role in preserving their vast knowledge of the ecosystems around them, and in the transmission of traditional wisdom and knowledge linked to indigenous technologies. These roles have been severely compromised. Women remain responsible for the well-being of their families. However, they are often deprived of the means for doing so and, as such, are forced to live in conditions of extreme

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concluding observations of the Committee calling on States to adopt measures aimed at safeguarding the land rights of indigenous peoples, see especially: Tanzania E/C.12/TZA/CO/1-3, 13 December 2012, paragraphs 22 and 29; New Zealand E/C.12/NZL/CO/3, 31 May 2012, paragraph 11; Cameroon, E/C.12/CMR/CO/2-3, 23 January 2012, paragraphs 24 and 33; Argentina, E/C.12/ARG/CO/3, 14 December 2011, paragraphs 8, 9 and 25; Russia E/C.12/RUS/CO/5, 11 June 2011, paragraphs 7 and 34.

<sup>37</sup> Human Rights Committee, General Comment No. 23, The Rights of Minorities, Fiftieth session, CCPR/C/21/Rev.1/Add.5, 1994, paragraph 7. Among the recent Concluding Observations of the Human Rights Committee requesting that States adopt protection measures for indigenous peoples, see, among others, Guatemala CCPR/C/GTM/CO/3, 19 April 2012, paragraphs 8, 10 and 27; Kenya CCPR/C/KEN/CO/3, 31 August 2012, paragraph 24; Togo CCPR/C/TGO/CO/4, 18 April 2011, paragraph 21.

<sup>38</sup> Committee on the Elimination of Racial Discrimination, General Recommendation No. 23, Indigenous Peoples, Fifty-first session, A/52/18, annex V, 1997. See also, among others, the following recent concluding observations of the Committee on the Elimination of Racial Discrimination: Finland CERD/C/FIN/CO/20-22, 31 August 2012, paragraphs 11 and 13; Fiji CERD/C/FJI/CO/18-20, 31 August 2012, paragraph 14; Mexico CERD/C/MEX/Q/16-17, 4 April 2012, paragraph 17; Vietnam CERD/C/VNM/CO/10-14, 9 March 2012, paragraph 15; Laos CERD/C/LAO/CO/16-18, 9 March 2012, paragraphs 16 to 18; Canada CERD/C/CAN/CO/19-20, 9 March 2012, paragraph 20.

<sup>39</sup> Prevention of racial discrimination, early warning and urgent procedures: working document adopted by the Committee on the Elimination of Racial Discrimination, UN Doc. A/48/18, Annex III, paragraph 9.

<sup>40</sup> See the CEDAW Committee Concluding Observations for Guatemala CEDAW/C/GUA/CO/7, 10 February 2009, paragraphs 33, 34 and 42; Bolivia CEDAW/C/BOL/CO/4, 8 April 2008, paragraphs 11 and 13; Suriname CEDAW/C/SUR/CO/3, 2 February 2007, paragraph 32.

vulnerability. This exposes them to exploitation, begging, prostitution<sup>41</sup> and violence.<sup>42</sup>

23. It is vital to take into account the legal framework applicable to indigenous peoples when considering violations of indigenous women's rights. This is necessary for a clear understanding of the nature and consequences of such violations, as well as the cumulative effects of the racial and gender-based discrimination that they suffer. It would represent significant progress for indigenous women if the CEDAW Committee issued a recommendation concerning the experience of indigenous women with regard to their access to land, which is different from that of non-indigenous women. As such, consideration of indigenous women's right to land must necessarily take into account the legal framework applicable to indigenous peoples, including gender-related elements. This would not only allow greater understanding of the obstacles facing indigenous women, but would also facilitate the creation of measures to be adopted in order to guarantee better protection of their rights.

## 1.2 The right of indigenous Pygmy peoples to collective ownership is not respected in Congolese law.

24. Collective ownership of land is fundamental to indigenous peoples in the DRC.<sup>43</sup> However, they have been, and continue to be, dispossessed of their ancestral lands, territories and resources to such an extent that their very survival as populations is under threat.<sup>44</sup> While the Congolese Constitution recognises the right to collective ownership, in reality collective ownership by indigenous peoples of the DRC is neither recognised nor respected.<sup>45</sup> Indeed, the land law of 1973 states that the land and subsurface belong to the State.<sup>46</sup> Similarly, the Forest Code of 2002 stipulates that the State is the sole owner of all forests and forest resources.<sup>47</sup> However, while the land law of 1973 does mention lands occupied by local communities (meaning the lands which such communities live on, work, or exploit individually or collectively according to local custom and usage),<sup>48</sup> the exercise of legitimately acquired rights to the enjoyment of these lands remains governed by an Order of the President of the Republic.<sup>49</sup> Forty years after the entry into force of the land law, that order has not yet been adopted. The situation is the same with regard to the Forest Code. It provides for the granting of forest concessions to local communities. However, it makes the mechanisms for awarding such concessions dependent on the adoption of a decree by

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<sup>41</sup>Warrilow F (2008) *The Right to Learn: Batwa Education in the Great Lakes Region of Africa*, MRG, London, page 17.

<sup>42</sup>During field studies conducted by the *Cercle pour la défense de l'environnement* (CEDEN) in July 2012 in the villages of Kwete (Equateur) and Loile (Bandundu), several indigenous women stated that the expropriation of their ancestral lands had left them with no choice but to live from begging and to depend on their Bantu neighbours for their own, and their families', survival. Their situation of poverty and dependence makes them extremely vulnerable to exploitation, prostitution and violence.

<sup>43</sup>ACHPR WGIP Report (2005) *supra* note 13, p. 21.

<sup>44</sup>ACHPR and IWGIA (2009) *supra* note 30, p. 26.

<sup>45</sup>Article 34 of the Constitution of 18 February 2006.

<sup>46</sup>Article 53 of Law No. 73/021 of 20 July 1973 amended by Law No. 80.008 of 18 July 1980 on property law, land and real estate law and the law on securities.

<sup>47</sup>Article 7 of the Forest Code of 2002.

<sup>48</sup>Land Law 1973, article 388.

<sup>49</sup>Land Law 1973, article 389.

the President of the Republic.<sup>50</sup> This decree has not yet been adopted, over ten years after the Forest Code entered into force.

25. The DRC has neither defined nor demarcated the lands and territories of indigenous Pygmy peoples. There are no mechanisms in Congolese law to guarantee their free, prior and informed consent with regard to decisions concerning their ancestral lands. As such, during the "land vacancy enquiry" process, lands of indigenous peoples are often identified as unoccupied and categorised as "vacant lands". This means that they become part of the State-held private property and may therefore be distributed.<sup>51</sup> This has made it possible to justify the granting of concessions and creation of protected areas on indigenous peoples' lands and territories, without consultation with them or their free, prior and informed consent, and without any compensation.

1.3 The granting of concessions and creation of protected areas violates the rights of indigenous peoples to their ancestral lands, and to their free, prior and informed consent.

26. The granting of concessions on indigenous peoples' lands and territories rarely involves their prior consultation. This causes conflict between the indigenous Pygmy peoples and the concession-holders who do not take the rights of the former into account, and who only rarely inform them about the terms of the concessions and its boundaries.<sup>52</sup>

27. The Committee on the Elimination of Racial Discrimination has voiced its concerns on this matter, stating that, in the DRC "concessions are granted on the lands and territories of indigenous peoples without prior consultation".<sup>53</sup> In addition, under its early warning procedure the Committee has asked the DRC government:

*to indicate whether national legislation or regulations require information, notification and consultation and/or the obtaining of prior and informed consent from indigenous peoples before the granting of concessions for the exploitation of resources located in their lands and territories. Do mechanisms or procedures exist that ensure that the rights and interests of indigenous peoples are taken into account before such concessions are granted?* [unofficial translation]<sup>54</sup>

28. The granting of concessions on their lands and territories has devastating consequences for indigenous Pygmy peoples. In addition to being deprived of their

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<sup>50</sup>Forest Code 2002, article 22.

<sup>51</sup>CAMV, UEFA and MRG, *Connaissez vos droits à travers les lois de la République Démocratique du Congo*. Livret No. 1: Droits fonciers p. 3 and 4.

<sup>52</sup>For example, studies conducted by ACPROD-BATWA in 2012 have shown that, since the mining companies BANRO, Jubilee of Africa and Legal Congo moved into Mwenga in 2010, a territory in the province of South Kivu, numerous indigenous families have been expelled from their lands without consultation or compensation.

<sup>53</sup>Committee on the Elimination of Racial Discrimination, Concluding Observations, Democratic Republic of Congo, CERD/C/COD/CO/15, 17 August 2007, paragraph 18.

<sup>54</sup>Committee on the Elimination of Racial Discrimination, letter sent to the DRC government regarding the early warning procedure, 18 August 2006.

lands and natural resources, indigenous peoples face the destruction of their ancestral lands. This threatens their very identity and survival as distinct peoples with close psychological, spiritual and cultural links to their ancestral lands. Access to their means of subsistence is severely limited, if not obliterated. Furthermore, the African Commission on Human and Peoples' Rights has acknowledged that the infrastructure projects of multinational mining companies in the DRC will inevitably lead to the destruction of forests, thus removing indigenous Pygmy peoples' means of survival.<sup>55</sup>

29. The Committee on Economic, Social and Cultural Rights has stressed that, despite the adoption of the Forest Code and a moratorium on concessions, illegal trade of wood and abusive exploitation of the country's forests continue to adversely affect the ecology and biodiversity and undermine the rights of indigenous populations, especially Pygmies, to live in their ancestral lands and manage their forests according to their traditional practices. The Committee has recommended that the DRC government:

*enforce the moratorium on concessions until the mapping and zoning exercise is completed and to ensure that future forest concessions do not deprive the indigenous peoples of the full enjoyment of their rights to their ancestral lands and natural resources and that its benefits contribute to their poverty alleviation. The state party should ensure that forestry projects are centred on advancing the rights of forest-dependent peoples and conducted only after comprehensive studies are carried out, with the participation of the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned activities.*<sup>56</sup>

30. The establishment of national parks and nature reserves has also contributed to the dispossession of indigenous Pygmy peoples in the DRC. This is the case for thousands of indigenous Pygmies who were brutally expelled from their ancestral lands when national parks were created or had their boundaries extended. This occurred, without consultation or compensation, in South Kivu with the Kahuzi-Biega National Park; in North Kivu with the Virunga National Park; in the province of Orientale with the Okapi Nature Reserve; and in Équateur with the Salonga National Park. The African Commission on Human and Peoples' Rights has stressed that, in these cases:

*Land should have been given in compensation to the Batwa but this did not happen. Now the Batwa are forbidden to hunt in the park, and forbidden to collect park products. They have no food resources or medicinal plants, and the forest is no longer their place of worship. The Batwa have been culturally and psychologically shattered by the loss of their forests.*<sup>57</sup>

31. The Committee also noted the situation of land insecurity which indigenous peoples constantly face:

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<sup>55</sup>ACHPR WGIP Report (2005) *supra* note 13, p. 26.

<sup>56</sup>Committee on Economic, Social and Cultural Rights, Concluding Observations, Democratic Republic of Congo, E/C.12/COD/CO/4, 16 December 2009, paragraph 14.

<sup>57</sup>ACHPR WGIP Report (2005) *supra* note 13, p. 22.

*The Batwa/Bambutu have been driven out of their forests, with neither financial compensation nor compensation in terms of other cultivable land. A large number of Batwa/Bambutu thus find themselves landless and live as tenants on the land of others, who can evict them at any time.*<sup>58</sup>

...

*The Batwa in the north of the Kahuzi-Biega Park have settled on plots of land but these lands, officially unoccupied, may be allocated to someone else by the local authorities. The Batwa have no legal protection once neighbours from other ethnic groups decide to take their land or drive them out of their villages.*<sup>59</sup>

32. In the DRC, there are certain areas that have not yet been organised into national parks, nature reserves or concessions. These are in North Kivu, in Ituri and in Equateur, as well as in other regions. Some indigenous Pygmy peoples have therefore been able to preserve their traditional way of life and culture based on hunting and gathering in the forests. Nevertheless, such peoples are gravely afflicted by constant threats of encroachment on their land. Their survival as a distinct people is seriously threatened, especially as the legal framework of the DRC does not recognise the property rights of indigenous peoples over their ancestral lands.

33. The granting of concessions and establishment of protected areas on the lands and territories of indigenous peoples has had catastrophic consequences for indigenous peoples as a whole. Furthermore, these consequences are especially disastrous for indigenous women. They are obliged to struggle constantly with food insecurity, as well as facing serious obstacles to meeting their basic needs and those of their families, such as caring for their families using traditional medicines. They are also confronted by the difficulty of passing on to their children their wealth of knowledge. This represents a serious threat to the preservation of their culture.

34. It is vital that the DRC turns its attention to the land rights of the country's indigenous Pygmy peoples. The 1973 land law, currently being revised, should not only recognise the existence of indigenous Pygmy peoples, it should also address the question of their collective property rights. Similarly, the 2002 Forest Code should be revised so that it acknowledges the property rights of indigenous Pygmy peoples. The Forest Code stipulates that at least 40% of the Congolese forest shall be allocated to commercial concessions, and that 15% shall be reserved for conservation while the remainder of the forest may be subject to concessions. However, neither the Forest Code nor any other national law provides for the identification and protection of forests belonging to indigenous Pygmy peoples. Furthermore, in the case of officially listed forests, the Forest Code limits usage rights to the gathering of certain specific products for non-commercial use, and does not permit hunting. This is discriminatory with regard to the cultural, economic and social practices of indigenous peoples:

*Prohibiting hunting, the sale of certain products gathered in accordance with usage rights, and indeed denying us usage rights in certain areas of*

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<sup>58</sup> *Ibid.* p. 26.

<sup>59</sup> *Ibid.* p. 23.

*our forest or certain forestry concessions, this is marginalising us further and violating our rights to the land and resources.*<sup>60</sup>

35. The Forest Code also depends on the adoption of several implementing texts in order for it to apply. Despite its adoption over ten years ago, certain texts remain to be adopted by the government. Among them is an important decree on the modalities for awarding concessions to local communities.

36. The country is currently in the process of conducting an ambitious programme of land and forest reforms. These cover the 1973 land law, the zoning of Congolese forests, development of a forest policy, and the adoption of implementing texts for the land and forest codes. The programme is related to important international initiatives such as REDD+ (Reducing Emissions from Deforestation and Forest Degradation). This is a funding mechanism for environmental projects aimed at reducing climate change and conserving forests. Another such initiative is the European Union action plan FLEGT, (Forest Law Enforcement Governance and Trade). Its aim is to eradicate the illegal exploitation of forests, and to improve management and governance of forests in timber exporting countries where such practices directly affect the land rights of indigenous peoples, and where there is potential for further encroachment on their lands and territories, exacerbating their marginalisation. It is vital that the government recognise and protect the collective land rights of indigenous peoples and, in addition, allow them to participate actively in the decision-making processes and in creating laws and policies that concern their ancestral lands and territories. Ultimately, indigenous peoples have the right to grant or refuse their free, prior and informed consent with regard to any measures that could negatively affect their ancestral lands, territory or resources.

37. During consideration of the last periodic report of the DRC, the Committee on the Elimination of Racial Discrimination noted "with concern that the rights of the Pygmies (Bambuti, Batwa and Bacwa) to own, exploit, control and use their lands, their resources and their communal territories are not guaranteed". It recommended that the State party:

*take urgent and adequate measures to protect the rights of the Pygmies to land and: a) make provision for the forest rights of indigenous peoples in domestic legislation; (b) register the ancestral lands of the Pygmies in the land registry; (c) proclaim a new moratorium on forest lands; (d) take the interests of the Pygmies and environmental conservation needs into account in matters of land use; (e) provide domestic remedies in the event that the rights of indigenous peoples are violated...*<sup>61</sup>

38. The author organisations of this report respectfully ask the CEDAW Committee to issue similar recommendations to the DRC government in order for the latter to adopt measures intended to recognise the rights of women and indigenous peoples to their ancestral lands, as well as their right to free, prior and informed consent.

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<sup>60</sup>CAMV et al (September 2005) *Les autochtones pygmées et les codes forestier et minier en RD Congo : vulgarisation des codes forestier et minier et résultat de la collecte d'opinion.*

<sup>61</sup>Committee on the Elimination of Racial Discrimination, Concluding Observations, Democratic Republic of Congo, CERD/C/COD/CO/15, 17 August 2007, paragraph 18.

### **39. Recommendations**

**1. The DRC government should ensure that particular attention is given to indigenous Pygmy women in the land and forest reforms under way, as well as the international initiatives to which it is committed, such as REDD+ and the FLEGT process. Those reforms and initiatives should guarantee indigenous Pygmy women their rights of access and control over their lands and natural resources. Such protection includes recognition of the collective right of indigenous peoples to maintain their cultural links with their lands, and to own and control their natural resources.**

**2. The DRC government should adopt specific legislative measures that recognise the land rights of indigenous peoples as well as their right to free, prior and informed consent. The ongoing zoning process of Congolese forests should include a mechanism aimed at identifying the lands and territories of indigenous Pygmy peoples. The purpose should be to afford them recognition and protection, in accordance with the international conventions ratified by the DRC.**

**3. The DRC government should implement a mechanism aimed at providing reparations to indigenous men and women, as well as to indigenous peoples collectively, for the lands that have been taken from them without their consent. The mechanism should also ensure that the compensation awarded is fair and equitable, and that it does not contribute to exacerbating gender inequalities.**

### **2. Indigenous Pygmy women do not benefit from temporary special measures) (article 4, CEDAW)**

40. The Constitution of the DRC enshrines the principle of equality.<sup>62</sup> It prohibits discrimination against women, and confers on public authorities the obligation to eliminate all forms of discrimination against women and to guarantee the protection and promotion of their rights.<sup>63</sup> Furthermore, the Constitution obliges the State to guarantee the protection and promotion of vulnerable groups and all minorities.<sup>64</sup> Despite these provisions, and despite its international legal obligations, the DRC government has not, to date, adopted any measures intended to deal with the especially vulnerable situation of the country's indigenous Pygmy women.

41. The periodic report of the DRC does not mention indigenous Pygmy women or peoples of the DRC. Disaggregated data are not available on the situation of the country's indigenous Pygmy women. This is despite the numerous calls from the CEDAW Committee and other human rights bodies for States to supply detailed information and disaggregated data on the situation of indigenous women in their countries.<sup>65</sup> Furthermore, the CEDAW Committee has, on numerous occasions, urged

<sup>62</sup> Article 12 of the Constitution of 18 February 2006.

<sup>63</sup> Article 14 of the Constitution of 18 February 2006.

<sup>64</sup> Article 51 of the Constitution of 18 February 2006.

<sup>65</sup> Among the recent Concluding Observations of the CEDAW Committee calling on States Parties to supply disaggregated data on the situation of indigenous women, see especially: Guyana

States to adopt special measures intended to eliminate the causes and impacts arising from the multiple forms of discrimination which indigenous women face.<sup>66</sup>

## **42. Recommendations**

**4. The DRC government should immediately adopt and implement special measures aimed at ensuring the socio-economic integration of indigenous women in the DRC, notably through the protection and implementation of their economic, social and cultural rights.**

**5. The DRC government should collect disaggregated data on the situation of indigenous women in the DRC and present the results in its next report to the Committee.**

### **3. Indigenous Pygmy girls do not have equal access to education (article 10, CEDAW)**

43. Article 43 of the DRC Constitution states that "primary education is compulsory and free in public institutions". Nevertheless, the children of indigenous Pygmy peoples often do not have access to this education, even less so in the case of indigenous Pygmy girls. In reality, education is not free as parents generally have to pay teachers' salaries.<sup>67</sup> These costs are considered high by the majority of communities. However, they have an especially prohibitive impact on indigenous Pygmy peoples who do not have the financial resources necessary to meet these costs.<sup>68</sup>

44. Furthermore, the majority of Pygmy villages lack the infrastructure for state education. Their schools are usually derelict or half-built and without proper facilities. The support of NGOs is vital for providing education to indigenous Pygmy children. However, this provision only covers a small number of children. A World Bank study shows that only 18.7% of indigenous Pygmy children are enrolled in primary education (aged 6-11) in the DRC, compared with the national average of 56.1%. Furthermore, 30.5% of indigenous persons (aged 15 and over) are able to read and write, compared with 65% nationally.<sup>69</sup> Unfortunately, that study does not include data disaggregated by gender. It does however suggest that the rate of illiteracy

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CEDAW/C/GUY/CO/7-8, 27 July 2012, paragraphs 40 and 41; New Zealand CEDAW/C/NZL/CO/7, 27 July 2012 paragraphs 24 and 36; Brazil CEDAW/C/BRA/CO/7, 23 March 2012, paragraphs 34 and 35.

<sup>66</sup> Among the recent Concluding Observations of the CEDAW Committee calling on States Parties to adopt special measures in favour of indigenous women, see especially: Chile CEDAW/C/CHL/CO/5-6, 12 November 2012, paragraph 15; Mexico CEDAW/C/MEX/CO/7-8, 7 August 2012, paragraph 35; Indonesia CEDAW/C/IDN/CO/6-7, 27 July 2012, paragraph 46; Guyana CEDAW/C/GUY/CO/7-8, 27 July 2012, paragraph 27; Brazil CEDAW/C/BRA/CO/7, 23 March 2012, paragraphs 16 and 23; Norway CEDAW/C/NOR/CO/8, 23 March 2012, paragraph 18.

<sup>67</sup> Ramsay, K (2010), *Uncounted: the hidden lives of Batwa women*, MRG, London, pages 6 and 7.

<sup>68</sup> World Bank (2009) *supra* note 18, page 7; Ramsay, K (2010), *supra* note 67, pages 6 and 7.

<sup>69</sup> Wodon Q (2010) *Indigenous peoples in Central Africa: The case of the Pygmies*, Presentation made on December 20, 2010 at the World Bank's workshop on Indigenous Peoples, Human Development and Poverty, Washington, DC. Available at:

[http://siteresources.worldbank.org/EDUCATION/Resources/Session2\\_Wodon\\_Dec20.pdf](http://siteresources.worldbank.org/EDUCATION/Resources/Session2_Wodon_Dec20.pdf).

among indigenous Pygmy women is around 100%. Another study published in 2010 shows that, of the indigenous children who attend school in East of the DRC, 39% are girls.<sup>70</sup>

45. Various explanations are suggested for the low level of school attendance among indigenous Pygmy girls.<sup>71</sup> The main explanation is the poverty of indigenous Pygmy families who do not have the resources to pay school fees and other associated fees, such as the cost of uniforms and school materials.<sup>72</sup> Parents frequently choose to invest in the education of boys rather than girls. They do not see the need to educate their daughters as it is understood that they will marry, leave home and "start families elsewhere".<sup>73</sup> The practice of girls marrying young, as well as harassment and insults from other pupils, and indeed sexual harassment by teachers, discourage education among indigenous Pygmy girls, or prevent them from continuing their studies.<sup>74</sup> Having to travel long distances to school often makes attendance impossible for indigenous Pygmy girls. They are required to stay at home to help their mothers with domestic tasks and find food for feeding their families. Long journeys to school also make girls vulnerable to rape by the armed gangs that roam in the forests, especially in the East of the country.<sup>75</sup> Finally, many indigenous Pygmy girls must work to help supply the needs of their families. This makes school attendance impossible.<sup>76</sup>

46. The Committee on Economic, Social and Cultural Rights,<sup>77</sup> the Committee on the Elimination of Racial Discrimination, and the African Commission on Human and Peoples' Rights,<sup>78</sup> through its Working Group on Indigenous Populations/Communities, have all expressed their concerns regarding the obstacles facing indigenous Pygmy peoples in terms of education. They have recommended that the DRC government adopt measures to guarantee indigenous Pygmy peoples equal access to education.<sup>79</sup> Furthermore, the government must give special attention to indigenous Pygmy girls who encounter additional obstacles in their access to education. The CEDAW Committee has issued numerous recommendations to this effect, calling on States to guarantee indigenous girls and women equal access to education.<sup>80</sup>

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<sup>70</sup> Ramsay, K (2010), *supra* note 67, page 6.

<sup>71</sup> APDMAC, ARAP et al. (2009), *Summary research report on the causes of discrimination affecting the education of Pygmy girls in South Kivu/DRC*.

<sup>72</sup> Ramsay, K (2010), *supra* note 67, page 6.

<sup>73</sup> Ramsay, K (2010), *supra* note 67, page 7.

<sup>74</sup> *Ibid.* page 7; Warrilow F (2008) *supra* note 41, page 3.

<sup>75</sup> Ramsay, K (2010) *supra* note 67, page 8.

<sup>76</sup> Ramsay, K (2010) *supra* note 67, page 7.

<sup>77</sup> Committee on Economic, Social and Cultural Rights, Concluding Observations, Democratic Republic of Congo, E/C.12/COD/CO/4, 16 December 2009, paragraph 17.

<sup>78</sup> Committee on the Elimination of Racial Discrimination, Concluding Observations, Democratic Republic of Congo, CERD/C/COD/CO/15, 17 August 2007, paragraph 19.

<sup>79</sup> ACHPR and IWGIA (2009) *supra* note 30, page 82.

<sup>80</sup> See especially the following recent Concluding Observations of the CEDAW Committee: Mexico CEDAW/C/MEX/CO/7-8, 7 August 2012, paragraph 35; New Zealand CEDAW/C/NZL/CO/7, 27 July 2012, paragraphs 30, 35 and 36; Brazil CEDAW/C/BRA/CO/7, 23 March 2012, paragraphs 16 and 17; Congo CEDAW/C/COG/CO/6, 23 March 2012, paragraph 46, Norway CEDAW/C/NOR/CO/8, 23 March 2012, paragraphs 35 and 36.

#### **47. Recommendations**

**6. The DRC government should pay particular attention to indigenous Pygmy girls when creating its education policies and programmes. It should also adopt special measures aimed at guaranteeing them equal access to education at all levels, and at encouraging them to remain in the school system.**

**7. The DRC government should improve or build school infrastructures in the villages of indigenous Pygmy peoples.**

**8. The DRC government should adopt measures aimed at protecting indigenous Pygmy girls from sexual harassment and abuse in educational establishments.**

**9. The DRC should launch an information campaign aimed at raising awareness among indigenous Pygmy parents and girls of the importance of education.**

**10. The DRC government should adopt measures aimed at improving literacy rates among indigenous Pygmy women. In particular, these measures should include allocating sufficient resources and implementing programmes aimed at promoting their literacy and their education.**

**11. The DRC government should supply disaggregated data in its next report on the situation of indigenous Pygmy girls and education.**

#### **4. Indigenous Pygmy women do not receive adequate health services (article 12, CEDAW)**

48. The periodic report from the DRC does not contain any disaggregated data on the situation of indigenous Pygmy peoples with regard to health. Their right to health is neither respected nor protected in the DRC. This is despite Article 27 of the Constitution that states that "the DRC intends to protect the lives of the population by establishing a health system that is accessible to all".

49. The indigenous Pygmy peoples of the DRC do not enjoy equal access to health services. Their villages lack health-care institutions and their access to drinking water is almost non-existent.<sup>81</sup> In reality, the indigenous peoples of the DRC do not have access to modern primary health care.<sup>82</sup> Those who are able to access health centres do not usually have the resources to pay consultation fees or for medication. Furthermore, some report being badly treated by health centre staff because they are indigenous.<sup>83</sup> Despite the lack of statistics in this area, it is generally acknowledged that indigenous peoples of the DRC have a life expectancy below that of their fellow, non-indigenous, citizens.<sup>84</sup>

<sup>81</sup> ACHPR and IWGIA (2009) *supra* note 30, p. 78.

<sup>82</sup> World Bank (2009) *supra* note 18, page 7.

<sup>83</sup> Jackson, D (2003) *supra* note 13, p. 13; World Bank (2009) *supra*, note 18 page 7.

<sup>84</sup> World Bank (2009) *supra* note 18, page 29.

50. Indigenous peoples of the DRC live in precarious social conditions. Combined with the almost total lack of health services available to them, they are particularly vulnerable to endemic diseases including malaria, intestinal parasitic diseases, respiratory diseases, skin conditions and HIV/Aids.<sup>85</sup> The situation is especially worrying among indigenous women who face very high levels of child and maternal mortality.<sup>86</sup> Sexual attacks, sometimes based on beliefs that sexual relations with an indigenous Pygmy woman cures backache,<sup>87</sup> are extremely harmful to indigenous women, exposing them to HIV/Aids and other sexually transmitted diseases. Such diseases are often left untreated due to the inability for Pygmy women to obtain medication.<sup>88</sup> The dispossession of indigenous peoples from their ancestral lands also prevents indigenous women from accessing their traditional remedies and the medicinal plants necessary for their, and their families', health-care. This leaves them wholly without access to health care.

51. Some years ago, the African Commission on Human and Peoples' Rights expressed its concern regarding serious violations of the human rights of indigenous peoples in the DRC, stating that:

*Most live in straw huts, suffering from malnutrition, a lack of hygiene, respiratory infections and malaria, with no access to education or primary health care. Infant mortality is extremely high. Children growing up in such conditions remain forever impoverished. The Batwa believe that if they still lived in their forests, their lives would be better because they would be able to collect medicinal plants and practise their customs.*<sup>89</sup>

52. The Commission repeated its concerns several years later and recommended that the DRC government:

*Take the measures necessary to recognise the right of indigenous populations/communities to access health-care services that respect their traditions and practices and their ways of life.*<sup>90</sup> [Unofficial translation]

53. The Committee on Economic, Social and Cultural Rights, together with the Committee on the Elimination of Racial Discrimination have also expressed similar concerns. They too have recommended that the DRC government adopt special measures to guarantee indigenous Pygmy people their right to health care.<sup>91</sup> Nevertheless, despite these recommendations, to date the DRC government has done

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<sup>85</sup> ACHPR and IWGIA (2009) *supra* note 30, p. 78.

<sup>86</sup> *Ibid.* See also: Wodon Q (2010) *supra* note 69.

<sup>87</sup> RNW Africa Desk (6 June 2012) *The DRC still struggles to see its pygmy population*. Available at: <http://www.rnw.nl/africa/article/drc-still-struggles-see-its-pygmy-population>.

<sup>88</sup> IRIN (13 September 2006) *DRC: Sexual violence, lack of healthcare spreads HIV/AIDS among pygmies*. Available at: <http://www.irinnews.org/Report/61053/DRC-Sexual-violence-lack-of-healthcare-spreads-HIV-AIDS-among-pygmies>.

<sup>89</sup> ACHPR WGIP Report (2005) *supra* note 13, p. 53.

<sup>90</sup> African Commission on Human and Peoples' Rights, Concluding Observations, Democratic Republic of Congo, 48<sup>th</sup> Ordinary Session, November 2009.

<sup>91</sup> Committee on Economic, Social and Cultural Rights, Concluding Observations, Democratic Republic of Congo, E/C.12/COD/CO/4, 16 December 2009, paragraphs 17 and 31; Committee on the Elimination of Racial Discrimination, Concluding Observations, Democratic Republic of Congo, CERD/C/COD/CO/15, 17 August 2007, paragraph 19.

nothing to address the extremely vulnerable situation of the country's indigenous women and peoples in terms of health.

54. The CEDAW Committee has issued several recommendations calling on States Parties to pay particular attention to indigenous women, and to ensure that they have access to health-care services.<sup>92</sup> Its Recommendation 24 on "Women and health" expresses the importance of taking into account the particular situation of indigenous women in terms of health:

*While biological differences between women and men may lead to differences in health status, there are societal factors which are determinative of the health status of women and men and which can vary among women themselves. For that reason, special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups, such as migrant women, refugee and internally displaced women, the girl child and older women, women in prostitution, indigenous women and women with physical or mental disabilities.<sup>93</sup>*

## **55. Recommendations**

**12. The DRC government should guarantee the right of indigenous women to health. In particular, it should allow them unrestricted access to their traditional medicinal plants.**

**13. The DRC government should take all necessary measures to protect the right of indigenous women to reproductive health. In particular, it should ensure that they have access to appropriate antenatal health care, as well as care for sexually transmitted diseases.**

**14. The DRC government should implement an awareness-raising programme for the benefit of indigenous Pygmy peoples on the prevention of diseases such as HIV/Aids.**

## **5. Indigenous Pygmy women do not have the opportunity to participate in political and public life (Article 7, CEDAW)**

56. The political representation of indigenous peoples in the DRC is almost non-existent. There are, in fact, no indigenous members in the Senate or National Assembly, and there is only one indigenous representative serving among the provincial assemblies.<sup>94</sup> Political representation of women in the DRC is extremely low. However, in the case of indigenous women, it remains largely out of reach, especially given their extremely high rate of illiteracy. Neighbouring countries of the

<sup>92</sup> Among the recently adopted Concluding Observations of the CEDAW Committee on this point, see especially Mexico, CEDAW/C/MEX/CO/7-8, 7 August 2012, paragraph 35; New Zealand CEDAW/C/NZL/CO/7, 27 July 2012, paragraphs 33 and 34; Guyana CEDAW/C/GUY/CO/7-8, 27 July 2012, paragraphs 36 and 37; Brazil CEDAW/C/BRA/CO/7, 23 March 2012, paragraph 17.

<sup>93</sup> Committee on the Elimination of Discrimination against Women, General Recommendation No. 24, women and health, twentieth session, 1999, paragraph 6.

<sup>94</sup> The Honourable Jérôme Bokele Bonkono was elected in 2011 and sits on the Mbandaka Provincial Assembly in Equateur.

DRC, such as Rwanda and Burundi, have indigenous representatives in their public institutions. Yet, to date, the DRC is still lagging behind in adopting measures to ensure representation of the country's indigenous peoples and women in public institutions.

57. Indigenous peoples and women of the DRC are usually not consulted on public or political matters, or regarding decisions that affect their rights to own, use, develop and control their ancestral lands and to dispose freely of their resources. This is despite their right to free, prior and informed consent which is clearly recognised in international law. Their dispossession from their ancestral lands has deprived them of their means of subsistence. Certainly, some do have limited rights of access to forest resources. However, these rights are weak and often depend on the willingness of community leaders. This situation has left them in a state of extreme poverty, exacerbating their exclusion from public and political life as well as their marginalisation. As such, it is highly improbable that indigenous women would be elected as political representatives.

58. The CEDAW Committee has issued several recommendations for States Parties calling on them to adopt measures to ensure the full and equal participation of indigenous women in public and political life.<sup>95</sup> Such recommendations would be appropriate to the DRC.

#### **59. Recommendation**

**15. The DRC government should take all necessary measures to protect and implement the rights of indigenous women to participate in public and political life, as well as their right to be represented on public bodies. Such measures should include promoting indigenous women's leadership in political institutions, and awareness-raising among indigenous women regarding joining political parties. Furthermore, the Committee should stress the obligation of the DRC government to consult indigenous women and ensure their effective participation in decisions concerning their land rights. In addition, the Committee should stress the government's obligation to obtain the free, prior and informed consent of indigenous peoples in this respect.**

#### **6. Indigenous Pygmy women do not have access to justice (Articles 2 and 15, CEDAW)**

60. Article 12 of the DRC Constitution of 2006 states that "All Congolese are equal before the law and have the right to equal protection in law". Article 150 stipulates that "the judiciary is the guarantor of the individual freedoms and fundamental rights of citizens". However, in practice, access to justice is often very difficult for indigenous Pygmy women who, as well as being victims of multiple rights violations, are subject to stigma in society. The level of illiteracy among indigenous Pygmy

<sup>95</sup> Among the recently adopted Concluding Observations of the CEDAW Committee on this point, see especially: Mexico, CEDAW/C/MEX/CO/7-8, 7 August 2012, paragraphs 22 and 23; Guyana CEDAW/C/GUY/CO/7-8, 27 July 2012, paragraphs 26 and 27; Brazil CEDAW/C/BRA/CO/7, 23 March 2012, paragraph 17.

women is coupled with their lack of knowledge of their rights, lack of access to information on legal and judicial matters, the use of official languages with which they are not familiar, and geographical distance from judicial institutions. In addition, they lack the necessary financial means to undertake legal proceedings. All of these represent obstacles that prevent indigenous Pygmy women from having access to justice. Furthermore, complaints lodged by indigenous persons are rarely the subject of examination by the judicial system, which itself is seriously afflicted by corruption and sometimes negatively biased against indigenous peoples.<sup>96</sup>

## **61. Recommendations**

**16. The DRC government should implement policies and programmes aimed at facilitating access to justice for indigenous Pygmy women. These should include organising awareness-raising campaigns regarding human rights, and the mechanisms and procedures for gaining access to justice.**

**17. The DRC government should adopt measures aimed at ensuring that complaints lodged by indigenous Pygmy women are followed up, and that judicial decisions delivered in their favour are implemented effectively.**

## **V. Conclusion and recommendations**

62. In light of the arguments expressed above, the author organisations of this report respectfully suggest that the CEDAW Committee issue the following recommendations to the DRC government. It is hoped that these recommendations will enable the government to give greater attention to the rights of indigenous women in creating laws, policies and programmes for the benefit of indigenous women.

1. The DRC government should ensure that particular attention is given to indigenous Pygmy women in the land and forest reforms under way, as well as the international initiatives to which it is committed, such as REDD+ and the FLEGT process. Those reforms and initiatives should guarantee indigenous Pygmy women their rights of access and control over their lands and natural resources. Such protection includes recognition of the collective right of indigenous peoples to maintain their cultural links with their lands, and to own and control their natural resources.
2. The DRC government should adopt specific legislative measures that recognise the land rights of indigenous peoples as well as their right to free, prior and informed consent. The ongoing zoning process of Congolese forests should include a mechanism aimed at identifying the lands and territories of indigenous Pygmy peoples. The purpose should be to afford them recognition and protection, in accordance with the international conventions ratified by the DRC.

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<sup>96</sup>ACHPR and IWGIA (2009) *supra* note 30, pages 79 and 80.

3. The DRC government should implement a mechanism aimed at providing reparations to indigenous men and women, as well as to indigenous peoples collectively, for the lands that have been taken from them without their consent. The mechanism should also ensure that the compensation awarded is fair and equitable, and that it does not contribute to exacerbating gender inequalities.
4. The DRC government should immediately adopt and implement special measures aimed at ensuring the socio-economic integration of indigenous women in the DRC, notably through the protection and implementation of their economic, social and cultural rights.
5. The DRC government should collect disaggregated data on the situation of indigenous women in the DRC and present the results in its next report to the Committee.
6. The DRC government should pay particular attention to indigenous Pygmy girls when creating its education policies and programmes. It should also adopt special measures aimed at guaranteeing girls equal access to education at all levels, and at encouraging them to remain in the school system.
7. The DRC government should improve or build school infrastructures in the villages of indigenous Pygmy peoples.
8. The DRC government should adopt measures aimed at protecting indigenous Pygmy girls from sexual harassment and abuse in educational establishments.
9. The DRC government should launch an information campaign aimed at raising awareness among indigenous Pygmy parents and girls of the importance of education.
10. The DRC government should adopt measures aimed at improving literacy rates among indigenous Pygmy women. In particular, these measures should include allocating sufficient resources and implementing programmes aimed at promoting their literacy and their education.
11. The DRC government should supply disaggregated data in its next report on the situation of indigenous Pygmy girls and education.
12. The DRC government should guarantee the right of indigenous women to health. In particular, it should allow them unrestricted access to their traditional medicinal plants.
13. The DRC government should take all necessary measures to protect the right of indigenous women to reproductive health. In particular, it should ensure that they have access to appropriate antenatal health care, as well as care for sexually transmitted diseases.

14. The DRC government should implement an awareness-raising programme for the benefit of indigenous Pygmy peoples on the prevention of diseases such as HIV/Aids.
15. The DRC government should take all necessary measures to protect and implement the rights of indigenous women to participate in public and political life, as well as their right to be represented on public bodies. Such measures should include promoting indigenous women's leadership in political institutions, and awareness-raising among indigenous women regarding joining political parties. Furthermore, the Committee should stress the obligation of the DRC government to consult indigenous women and ensure their effective participation in decisions concerning their land rights. In addition, the Committee should stress the government's obligation to obtain the free, prior and informed consent of indigenous peoples in this respect.
16. The DRC government should implement policies and programmes aimed at facilitating access to justice for indigenous Pygmy women. These should include organising awareness-raising campaigns regarding human rights and the mechanisms and procedures for gaining access to justice.
17. The DRC government should adopt measures aimed at ensuring that complaints lodged by indigenous Pygmy women are followed up, and that judicial decisions delivered in their favour are implemented effectively.