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# Working conditions of indigenous women and men in Central Africa: an analysis based on available evidence

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and men in Central Africa:  
an analysis based on available evidence**

Francesca Thornberry

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## Preface

The vision of the 2030 Agenda for Sustainable Development is to “leave no one behind”. This suggests an approach to development that goes beyond targeting the general population, an approach that looks deeper into the challenges that different parts of the national populations face because of certain characteristics, such as gender, socioeconomic status or ethnic background.

Drawing on previous ILO research as well as a number of other available sources, this paper provides an analytical overview of key issues faced by indigenous peoples in the world of work in the Central African region. Highlighting ILO and United Nations instruments that seek to promote and protect the rights of indigenous women and men, the paper points to several measures to make these rights more effective for them, including improving data availability, protecting indigenous peoples’ rights to land and natural resources, and adopting special measures to overcome discrimination against them.

Though more efforts will indeed be needed to collect and analyse data and information on working conditions of indigenous women and men and related matters in Africa, this paper is a step towards addressing the current knowledge gaps regarding their situation in the labour market, which tends to be characterized by informality.

I would like to thank Francesca Thornberry, an independent consultant, for preparing this timely study as well as Martin Oelz and Mari Dahl Schlanbusch of the Gender, Equality and Diversity Branch for their contributions to the publication of this paper. The preparation of the paper, including the related previous ILO research, benefited from the support of the European Commission through the European Instrument for Democracy and Human Rights.

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# Table of contents

<b>Preface</b> .....	iii
<b>I. Rationale and methodology</b>	1
<b>II. What are the main kinds of work in which indigenous peoples are engaged?</b>	3
A. Traditional occupations and subsistence activities. ....	3
B. Informal work for private individuals. ....	5
C. Employment in the conservation, forestry and industrial agriculture sectors . . .	5
D. Employment in the public sector . . . . .	6
E. Commercial activities (formal and informal) . . . . .	6
<b>III. Main issues faced by indigenous peoples relating to working conditions and labour rights</b>	7
A. Discrimination in employment and occupation . . . . .	7
B. Casual and temporary employment . . . . .	8
C. Unequal remuneration . . . . .	9
D. Payment in kind or withholding of wages . . . . .	11
E. Forced labour and debt bondage. . . . .	12
F. Child labour . . . . .	13
G. Indigenous women . . . . .	14
H. Limited access to trade unions . . . . .	15
<b>IV. Broader issues affecting working conditions of indigenous peoples</b>	17
A. Discrimination in society . . . . .	17
B. Lack of access to appropriate education . . . . .	17
C. Obstacles to obtaining citizenship . . . . .	18
D. Lack of disaggregated data and statistics. . . . .	19
E. Lack of adequate land and resource rights. . . . .	19
<b>V. Relevance of international instruments</b>	21
<b>VI. National laws, policies and programmes</b>	25
<b>VII. Concluding remarks and recommendations for the way forward</b>	31
<b>References</b> .....	35



# I. Rationale and methodology

With the 2030 Agenda for Sustainable Development in place, all those working in the development field are encouraged to pay increased attention to the situation of groups that are more likely to be exposed to marginalization and discrimination, including indigenous peoples. Indeed, the agenda calls for measures to ensure that no one is left behind. The promotion of decent work for all is a key concern in this regard.

This working paper looks at the working conditions of indigenous groups in several countries in the Central African region, including Burundi, Cameroon, Central African Republic, Congo,<sup>1</sup> Democratic Republic of the Congo, Gabon and Rwanda. Indigenous peoples in this region represent specific groups whose cultures, ways of life and traditional occupations differ significantly from those of other parts of the population and who are at the margins of society. Accordingly, the issues that they face in access to employment, conditions of work and professional development also differ considerably from those faced by other groups in society.

Based on available information, this paper aims to provide an overview of the main economic activities and the working conditions of indigenous peoples in Central Africa. The paper draws on ILO field-based research carried out between 2012 and 2014 in specific areas on the working conditions of indigenous peoples. The first such research, in Cameroon,<sup>2</sup> primarily focused on indigenous communities in the south (Akom II and Bipindi) and east (Lomié and Lom Pangar) of Cameroon, and also in key urban centres such as Yaoundé, Bertoua, Kribi and Abong. A total of 127 persons were interviewed in this context – from the Government, communities, civil society, the private sector and indigenous organizations.

In the second research exercise, in the Central African Republic,<sup>3</sup> the first of two studies focused on indigenous peoples working in the conservation sector. It focused on the Mbororo and Aka peoples living around protected area of Dzanga Sangha and the Mbaéré Bodingué National Park in the Lobaye and Sangha Mbaéré prefectures of the Central African Republic. In total, 12 villages were consulted for this study, along with government officials and civil society representatives both at local levels and in the capital, Bangui. The second study in the Central African Republic<sup>4</sup> focused on Aka and Mbororo communities in the south-west of the country. This paper is based on these studies, along with a number of other available sources of information.

While outlining some of the main policy and practical challenges that present themselves with regard to promoting decent work for indigenous women and men, the paper highlights key considerations with a view to informing future actions to improve the working conditions of this group of workers.

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<sup>1</sup> Note: In this text, following UN practice, the country whose formal name is “the Republic of the Congo”, sometimes also referred to as “Congo-Brazzaville”, will be referred to as “the Congo”, while its southern neighbour, the Democratic Republic of the Congo, is referred to, in full.

<sup>2</sup> ILO and REPAR, 2012.

<sup>3</sup> ILO, 2014.

<sup>4</sup> ILO, 2012.

## **II. What are the main kinds of work in which indigenous peoples are engaged?**

Traditionally, indigenous peoples in Central Africa<sup>5</sup> have practised lifestyles based on an attachment to land and its resources. In recent decades, because of such factors as loss of land and reduced access to resources, including those due to the impacts of climate change, these indigenous peoples have gradually begun to develop diversified economies, comprising subsistence production in combination with other types of employment, where it is available to them. Only a few indigenous workers obtain well-paid jobs in the formal economy, however, while many take unskilled jobs in the informal economy, with low wages and no social protection mechanisms. Despite a relatively recent engagement in the formal economy – primarily as seasonal workers or employees in sectors that are most closely linked to their local environment (logging and conservation), and in rarer cases, employment in the public sector – indigenous peoples in Central Africa are still overwhelmingly engaged as workers in the informal economy: either continuing to practice their traditional occupations linked to their land and natural resources or working informally for private individuals in what can often be characterized as exploitative conditions.

Indigenous peoples' access to formal employment is dependent on a number of factors, including proximity to the operations of various forest-based industries, and access to, and working conditions in, the formal labour market. As a consequence, the numbers of formally employed indigenous people remain very low.

### **A. Traditional occupations and subsistence activities**

Indigenous peoples in Central Africa have developed highly specialized livelihood strategies, which are adapted to the specific conditions of their traditional territories and highly dependent on access to lands, territories and resources. The practice of traditional occupations on these traditional lands appears to remain the most significant form of work performed by indigenous peoples in Central Africa. However, the ability to practise traditional occupations is diminishing significantly because of pressures on the land, including those resulting from the impacts of climate change, and efforts in a number of countries to settle indigenous peoples in a more sedentary fashion, frequently closer to roads or transport networks. In addition, external threats to their land from the allocation of land concessions to large-scale logging and agricultural operations, and also to protected areas, have forced many indigenous peoples to move away from their habitats and to live instead along roadsides with significantly

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<sup>5</sup> For the purposes of this paper, the groups referred to as indigenous peoples are the Mbororo of Cameroon and the Central African Republic and the people referred to as “Pygmies”, who are present in all countries concerned. The term “Pygmy” is widely considered to be pejorative, so, as far as possible, it is avoided in this paper, where the terms “indigenous peoples”, “forest-dwelling indigenous peoples”, or the specific names of indigenous groups (Baka, BaAka, Bagyeli, Babongo, Batwa, and others), are used interchangeably.

diminished access to land. As a consequence, indigenous peoples are increasingly becoming engaged in small-scale agriculture as a means of adapting to these new circumstances.

### **1. *Forest-dwelling indigenous peoples***

Hunting, gathering and fishing remain by far the most significant activities undertaken as customary occupations by forest-dwelling indigenous peoples in Central Africa. Hunting is primarily practised by men, whereas gathering is practised by both men and women. This means of subsistence is, however, under significant threat from illegal hunting and poaching of wild game carried out by non-indigenous peoples, and also from alterations in ecosystems and biodiversity attributable to climate change. These forms of non-traditional hunting use guns as opposed to traditional methods such as trapping, significantly depleting the populations of animals that indigenous peoples have traditionally hunted for their subsistence and leaving indigenous peoples to search for alternative forms of subsistence. Principal products gathered by indigenous communities include honey, wild yams, mushrooms, caterpillars, koko leaves, and various other wild fruits and leaves.

Small-scale commerce, for the most part, counts as a form of subsistence and it is rare that indigenous peoples gain any significant profit from these activities. The sale or exchange of forest produce, however, along with certain artisanal products, enables indigenous peoples to acquire products that they are unable to produce themselves, such as salt, soap, clothing, tobacco and some utensils.<sup>6</sup> Products are often traded for reduced prices because of discrimination against indigenous peoples, or even used to reduce alleged debts that indigenous peoples have acquired through the exploitation of their labour.

As a consequence of the sedentarization of many indigenous peoples, small-scale agriculture is becoming more prevalent as a means of adapting to a new reality of significantly diminished access to land. Principal crops cultivated include banana, yam, cassava, maize and some fruit trees. As a means of subsistence, however, it does not yet enable indigenous peoples to meet their alimentary needs, and they often lack access to training, tools and support necessary for them to improve their agricultural techniques and therefore better satisfy their own needs. Small-scale animal husbandry remains a very marginal occupation for forest-dwelling indigenous peoples. Animals primarily consist of chickens and other small fowl.

Forest produce is used by forest-dwelling indigenous peoples to produce medicines and remedies – traditional practice for which they are renowned. Often these remedies are produced where there is little or no access to health services and they are also sold to, and used by others.<sup>7</sup>

### **2. *Mbororo pastoralists***

Traditionally, the Mbororo are pastoralists, breeding and herding cattle using large areas of land and practising seasonal migration. Meat and milk produced from their herds are sold as a means of supplementing their income. Their traditional lifestyle is nomadic. As a result of pressure on the land they traditionally use for their nomadic traditional occupations, however,

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<sup>6</sup> RFUK, 2009, p. 20, UNESCO, 2006, p. 11.

<sup>7</sup> RFUK, 2009; UNESCO, 2006.



these practices are gradually in decline, giving way to other subsistence activities that take these new realities into account.

As with forest-dwelling indigenous peoples, the Mbororo have been forced to diversify their livelihoods and subsistence activities because of increased pressure on their traditional lands from population and large-scale industrial land uses, along with the decreasing suitability of their land for cattle-grazing owing to climate change. Among the Mbororo that are now starting to practise a more sedentary way of life, agriculture is being adopted as an additional means of subsistence.<sup>8</sup>

### **B. Informal work for private individuals**

According to available information, informal work for private individuals represents the second most prevalent and widespread form of work performed by forest-dwelling indigenous peoples. Primarily it involves agricultural work (clearing fields, tending to crops and other such occupations), and hunting or gathering (small game or other forest produce) for others' benefit, although it can also involve general work in the local community, such as construction and support with raising livestock. This kind of work is often performed under the guise of fulfilling obligations based upon customary relations with other local communities which are non-indigenous. Often they are paid in kind (alcohol, cigarettes, salt or soap), rather than in cash. In many – if not most – cases, it is highly exploitative and often tantamount to forced labour.

### **C. Employment in the conservation, forestry and industrial agriculture sectors**

Industries operating in areas inhabited by indigenous peoples often bring with them opportunities for employment and, consequently significant migration of workers to the area. In a number of cases, these industries also employ indigenous peoples.

In the forestry sector, the most common roles of indigenous peoples are as guards of forest concessions of private companies, tree-fellers and prospectors. According to data from a number of countries, they are primarily employed in this sector as seasonal and temporary workers, or even on a day-to-day basis.<sup>9</sup>

In the nature-conservation sector, indigenous peoples are primarily employed – again often as temporary or seasonal workers – as hunting guides, tourist guides, guards of protected areas or national parks, trackers or porters.<sup>10</sup> According to ILO research conducted in 2014 on the conservation sector in south-west Central African Republic, all the Aka employed in

<sup>8</sup> REPAR and ILO, 2012; and Government of Cameroon, 2009.

<sup>9</sup> ILO, 2012, pp. 32–33, ACTED, 2012, p. 38,

<sup>10</sup> ILO, 2014, p. 45.

the sample area were men.<sup>11</sup> The lack of indigenous women employed in this sector, as also in other sectors, is a well-attested problem.

Indigenous people are also employed in the agricultural sector, although there are few available statistics on this at present. In Cameroon, loss of access to their traditional lands has led some Mbororo men to seek employment as shepherds for rich landowners.<sup>12</sup>

## **D. Employment in the public sector**

Very few statistics are available on employment of indigenous peoples in the public sector. According to information from organizations working on indigenous issues, the number of so-called “Pygmies” employed is negligible in most Central African countries, and zero in others. The Mbororo fare better in this area. In Cameroon, for example, a significantly larger proportion of their population is employed in the public service. This includes posts in local government, including in higher-level and management roles, and also in support and administrative roles.<sup>13</sup> Compared to the total populations of indigenous peoples in Cameroon, however, these numbers are still low.

## **E. Commercial activities (formal and informal)**

In the face of changing circumstances, many indigenous peoples, and in particular the Mbororo of Cameroon, are becoming engaged in commerce. Types of formalized commerce include the marketing of artisanal products, sewing and clothing production. A significant number of Mbororo also practise informal commerce as street vendors in larger cities in Cameroon, or as taxi drivers, although accurate statistics concerning their numbers are difficult to obtain.<sup>14</sup>

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<sup>11</sup> ILO, 2014, p. 45. The data collected for this study are based on a study of 12 villages and settlements in areas inhabited by the Aka – notably in the forest zones of the south-west Central African Republic (Lobaye and Sangha Mbaéré).

<sup>12</sup> REPAR and ILO, 2012, p. 33.

<sup>13</sup> Estimates based on figures from the Ministry of Social Affairs, the Ministry of Foreign Affairs, the Ministry of Transport, the Ministry of Employment and Vocational Training, the National Commission on Human Rights and Liberties, and indigenous organizations such as the Association des Baka, RAPID, FACAPE, and the Mbororo Social and Cultural Development Association. REPAR and ILO, 2012 pp. 25–26.

<sup>14</sup> REPAR and ILO, 2012, p. 27.

### **III. Main issues faced by indigenous peoples relating to working conditions and labour rights**

The available information on the working conditions of indigenous peoples in Central Africa points to a number of challenges facing indigenous women and men in Central Africa in the world of work. This section of the present paper will look into the following issues:

- Difficulties in gaining access to employment, in particular higher-level posts: indigenous people possessing the same qualifications as others often receive less favourable treatment where access to jobs is concerned;
- Lower earnings of indigenous workers compared to those of their non-indigenous counterparts for the same work or work of equal value;
- Failure to appropriately value and remunerate their skills, experience and knowledge in the labour market – in particular in industries such as forestry and conservation, where indigenous peoples have highly developed knowledge of the forest and the natural environment essential to these industries, and also to climate mitigation and adaptation measures;
- Contractual conditions which are often more precarious than those of workers from other ethnic groups;
- Discrimination that can be so severe as to lead to forced and bonded labour and exploitation and violence at work;
- Discrimination and bullying at work because of their indigenous identity;
- Invisibility of indigenous women in the formal labour market.

#### **A. Discrimination in employment and occupation**

Although generalized data are lacking on the situation of indigenous peoples in employment and occupation, discrimination is a major factor contributing to the situation of indigenous peoples as among the poorest of the poor<sup>15</sup> and the most marginalized groups in all countries of Central Africa. This discrimination limits their access to gainful employment on an

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<sup>15</sup> ILO and CED, 2005, p.9.

equal footing with other job-seekers.<sup>16</sup> All available information on employment and occupations clearly indicates that discrimination is a pervasive feature of the working conditions of indigenous peoples throughout Central Africa. It affects almost all aspects of work, from recruitment, to working conditions, to salary levels and payments, to access to promotions and vocational training.

Studies undertaken by the ILO on indigenous peoples' employment in the conservation and logging sectors in the Central African Republic and on issues related to access to employment in Cameroon give an idea of the generalized nature of this discrimination as it relates to employment in the formal economy.

According to “Pygmy” and Mbororo leaders ..., indigenous peoples have particular difficulty in finding work because their ways of life are misunderstood by other Cameroonians. Indigenous peoples feel that others consider them as “subhuman” because they do not attend school regularly and remain attached to a way of life based on ancestral tradition, judged as backward by others.<sup>17</sup>

In the conservation sector, the Forest Peoples Programme has documented similar forms of discrimination against BaAka indigenous peoples working as porters and trackers in the Dzanga Sangha protected area in the Central African Republic. Here, the BaAka have faced discrimination in access to equal remuneration, training and promotion, and also in access to certain employment positions, including being blocked from progressing from such positions as porters to those of eco-guards, and being discriminated against when on patrol with non-indigenous (Bilo) eco-guards.

When we are on patrol with them they say “Wash our clothes”, so we wash their clothes and their shoes, even though this is not our job. They call us animals.<sup>18</sup>

In the informal economy, discrimination is also rife – in particular at the village level, where forest-dwelling indigenous peoples are engaged in informal work for individuals of their neighbouring communities. Discrimination is one of the root causes of exploitative labour conditions and forced labour.

## **B. Casual and temporary employment**

In the main sectors where indigenous peoples are formally employed, and with few exceptions, their terms of engagement are generally short-term, and characterized by instability. In industries such as agriculture, forestry and conservation that locally employ the largest

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<sup>16</sup> ACHPR and IWGIA, 2010b, p.19.

<sup>17</sup> REPAR and ILO, 2012, p.27. English translation by author. Original quotation in French: “*les PA auraient des difficultés particulières à trouver du travail parce que leur façon de vivre est mal comprise des autres Camerounais. Les PA ont le sentiment que les autres les considèrent « comme des sous-hommes », parce qu'ils ne vont pas régulièrement à l'école et restent attachés à un mode de vie ancestral, jugé rétrograde.*”

<sup>18</sup> BaAka tracker for eco-guards, Central African Republic, quoted in FPP, 2009, p. 15.

proportion of indigenous workers, they are often hired on a casual, temporary, or even day-by-day basis, sometimes without a formal contract.<sup>19</sup>

The temporary nature of many contracts is often because the work that indigenous workers are employed to do is related to the management of the natural environment, and therefore seasonal in nature. In many cases, however, the allocation of seasonal or temporary contracts is based on an implicit assumption that indigenous workers are unreliable or will not remain in their jobs for long, leaving to undertake traditional activities such as hunting during relevant seasons.<sup>20</sup> While it is true that many indigenous workers do leave their employment after relatively short periods, in most cases, this is prompted by the working conditions that they have to endure without recourse to mechanisms to address their grievances.

Existing research on the working conditions of indigenous peoples also highlights the lack of opportunity for them to negotiate the terms of their employment (salaries, contract periods, working hours and conditions). Indigenous workers often count on the good faith of their employers or potential employers at the stage of recruitment, only to find that, when their work is finished, they receive a salary that is less than they had expected or had been promised.<sup>21</sup>

## C. Unequal remuneration

Low wages and remuneration that is lower than that of other non-indigenous workers for work of equal value are also typical features of the employment of indigenous peoples in Central Africa. In many cases, this downgrading is based on assumptions, based on prevalent stereotypes, that indigenous workers do not require the same level of payment as others.

I prefer to employ “Pygmies” because they don’t ask for much money. They are very submissive and don’t impose any conditions before starting work. This isn’t the case with non-“Pygmies”, who make a lot of demands...<sup>22</sup>

Whereas average remuneration levels differ according to geographical region and work sector, there is wide-ranging evidence that, despite these regional and sectoral differences, the most common problem in relation to remuneration is that indigenous peoples performing the same work as others are paid less for that work. Evidence of this has been documented in a number of areas in both the formal and informal sectors.

In agriculture, where indigenous peoples and others work in both formal and informal work settings, inequality of wages for the same kind of work is widely documented. In the Congo,

<sup>19</sup> ILO, 2012, p. 34; ILO, 2014; RFUK, 2009, p. 39; RFUK and MEFP, 2012, p. 68; ILO, 2012, pp. 32–33, ACTED, 2012, p. 38, ILO 2014, p. 45.

<sup>20</sup> ILO, 2014, p. 53.

<sup>21</sup> REPAR and ILO, p. 40.

<sup>22</sup> REPAR and ILO, 2012, p. 40. Quotation translated into English by author. Original French: “Je préfère employer des « Pygmées » car ils ne demandent pas beaucoup d’argent. Ils sont très soumis et ne posent aucune condition avant de commencer à travailler. Cela n’est pas le cas des ouvriers non « pygmées » qui ont beaucoup d’exigences”.

for example, the practice of paying indigenous peoples less – sometimes up to three quarters less – than their non-indigenous counterparts for the same informal agricultural work for private individuals is reportedly commonplace. They are also remunerated very poorly – or in kind – for other work, such as hunting and collecting forest produce.<sup>23</sup>

As regards payment for labour, there is one price for indigenous peoples and another for the Bantu, which is, in general, much higher. In Bakota, an indigenous person testified to working for the Bantu for 10 hours per day for CFAF 200 per day, instead of for CFAF 500–1,000, which appears to be the rate applied to Bantu agricultural workers. ... On this subject, the Mayor of Batalimo testified that, until recently, Bantu working in the fields of other Bantu were paid CFAF 500 per day, whereas indigenous peoples only received half – and sometimes less than half – of this sum for identical work.<sup>24</sup>

Similar patterns of low pay, pay below the national minimum wage, and unequal pay for similar work, compared to that paid to their non-indigenous counterparts, emerge from research in the Central African Republic,<sup>25</sup> Cameroon,<sup>26</sup> Congo<sup>27</sup> and Democratic Republic of the Congo.<sup>28</sup>

In the conservation sector – a sector where, arguably, indigenous peoples have the most skill and knowledge because their own customs and traditions are so intrinsically entwined with the natural environment – indigenous peoples are also often paid lower wages than their non-indigenous counterparts, despite this expert knowledge and the necessity of this knowledge for the kinds of tasks that they are performing.

It is, however, questionable whether the benefits arising from the utilization of this knowledge are being equitably shared, given that the BaAka are sometimes paid comparably lower than other workers. This issue has improved in recent years after complaints from the BaAka. Even so, BaAka often say they are treated “like slaves” by the project because they feel their superior forest knowledge is used without just compensation.<sup>29</sup>

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<sup>23</sup> OCDH, 2011, p. 26; REPAR and ILO, 2012, pp. 33 and 40. See also RFUK, 2009.

<sup>24</sup> RFUK, 2009, p. 26. Quotation translated by the author. Original French: “*Pour rémunérer un travail, il y a un prix pour les autochtones et un autre pour les Bantous qui est généralement bien supérieur. A Bakota, un autochtone a témoigné travailler chez le Bantou 10 heures par jour pour 200 F CFA, au lieu de 500 à 1 000 F CFA qui semble être le barème appliqué aux travailleurs agricoles Bantous. [...] Le maire de Batalimo a à ce sujet témoigné que jusqu’à une période récente, les Bantous qui travaillaient dans les champs des autres Bantous étaient payés 500 F CFA par jour tandis que les autochtones ne recevaient pour des travaux identiques que la moitié de cette somme et parfois moins de cette moitié.*”

<sup>25</sup> ILO, 2012, p.35; RFUK, 2009, pp. 23–25; FPP, 2009, p. 15.

<sup>26</sup> UNICEF, 2009, pp. 61–64.

<sup>27</sup> OCDH, 2006 and 2011.

<sup>28</sup> ACHPR and IWGIA, 2011b, p. 64.

<sup>29</sup> FPP, 2007, p. 17.

Some research has pointed to the role played by the dynamics of discrimination in these situations in the conservation sector, where non-indigenous persons hold decision-making positions and do not treat indigenous employees in an equitable manner.<sup>30</sup>

In the forestry sector, existing research reveals similar patterns of unequal pay, where indigenous workers are paid less than their – often less experienced – counterparts. An example from the Central African Republic indicates that in some cases indigenous people can be paid as little as one fourth of the salary of their non-indigenous counterparts for the same work.

Some went looking for work in the forestry sector and were hired. But they earned between CFAF 8,000 and CFAF 9,000, while another employee, non-indigenous and with comparable duties, was paid as much as CFAF 40,000. They left their jobs later the same year.<sup>31</sup>

Research in Cameroon has highlighted a similar dynamic in the east of the country, with indigenous BaAka abandoning their work for forestry companies after discovering that others were earning much higher salaries for the same work, and with less experience than them. Low pay of indigenous peoples has also been documented in the forestry sector in the Central African Republic.<sup>32</sup> In many cases, despite the opportunities for employment afforded by these companies operating where indigenous peoples live, their situation of poverty has not improved.

## D. Payment in kind or withholding of wages

Another form of pay discrimination prevalent in the informal economy is the practice of paying indigenous peoples in kind, as opposed to monetary payment.<sup>33</sup> This can take the form of used clothing, cigarettes, alcohol or food, and is rarely, if ever, commensurate with the amount or level of difficulty of the work performed.<sup>34</sup> There are stereotypical attitudes suggesting that indigenous workers do not need to be paid like other workers (“What do the Pygmies do with this money?”<sup>35</sup>). According to available evidence, these forms of payment are based on the perception of indigenous peoples as “cheap labour”, or as “lazy”,<sup>36</sup> based on stereotyping and the observation that their traditional ways of life are less integrated with

<sup>30</sup> ILO, 2014.

<sup>31</sup> RFUK, 2009, p. 39. Translation by author. Original French: “[C]ertains sont allés chercher du travail à la société forestière et ont été embauchés. Mais ils gagnaient entre 8 000 et 9 000 F CFA pendant qu’un autre ouvrier, non autochtone et avec des responsabilités similaires, était payé jusque 40 000 F CFA. Ils ont quitté le travail la même année.”

<sup>32</sup> ILO, 2012, pp. 22–23.

<sup>33</sup> “Plusieurs personnes de mon village ont déjà eu à travailler plus de dix heures par jour pour se voir payer quelques verres d’alcool traditionnel.” (“Several people from my village have already found themselves working for more than 10 hours a day only to be paid with a few glasses of traditional alcohol.”) REPAR and ILO, p. 40.

<sup>34</sup> ILO, 2012; REPAR and ILO; and OCDH, 2011.

<sup>35</sup> Quoted from research undertaken in the Bipindi area, referring to the belief that indigenous peoples do not need to be paid in monetary form, or be paid as much as others. “Les pygmées font quoi avec l’argent?” REPAR and ILO, p. 32.

<sup>36</sup> OCDH, 2006; and ACHPR and IWGIA, 2010a.

the monetary economy.<sup>37</sup> Available research also demonstrates that such forms of payment are rarely requested by indigenous workers, who feel powerless or afraid to challenge the decision to pay them in kind. There are also reports that payment is withheld from indigenous workers without explanation – in both the informal and formal economy. This lack of stability and reliability of pay is directly linked to the precarious conditions under which many indigenous peoples are employed, and to discrimination.

## **E. Forced labour and debt bondage**

In the area of labour relations, inequitable social arrangements between the Bantu majority and the indigenous peoples manifest themselves as relationships of domination and exploitation, in many instances amounting to forms of serfdom or involuntary servitude. This is linked directly to the discrimination that indigenous peoples face. Forced labour, or practices akin to slavery, of indigenous “Pygmies” is common in Central Africa and has been documented in all the countries concerned.<sup>38</sup> The phenomenon differs from place to place, but exhibits many of the key features of forced labour, including the non-voluntary nature of the work, the existence of threats and intimidation, violence, abusive working conditions, withholding of payments and wages, excessive working hours, deception and debt bondage.<sup>39</sup>

In many cases, indigenous workers are promised payment if they perform work for private individuals, often in the form of agricultural work or hunting. In the context of the relationship of domination and exploitation between neighbouring Bantu communities and indigenous “Pygmies”, Bantu masters may control a number of indigenous people, seeing themselves as owners of individuals or entire families of indigenous peoples, and thus having the right to their labour and loyalty.<sup>40</sup>

Violence is used as a way of maintaining this relationship.

We must work for the Bantu masters. We cannot refuse to do so because we are likely to be beaten or be victims of insults and threats. Even though we agree to work all day in the fields, we are still asked to work even more – for example, to fetch firewood or go hunting. Most of the time, they pay us in kind, a worn loincloth for 10 workdays. We cannot refuse because we do not have a choice.<sup>41</sup>

Indigenous workers are also trapped in a cycle of debt by private individuals who sell them goods including clothes, food, medicine and cigarettes at inflated prices. These debts are

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<sup>37</sup> REPAR and ILO, p. 33.

<sup>38</sup> See, for example: OCDH, 2006; COOPI, 2006; Anti-Slavery International, 2008; OCDH, 2011; ACHPR, 2005; ACHPR 2007; RFUK, 2009; UNICEF, 2009; ACHPR and IWGIA, 2010b; ACHPR and IWGIA, 2011a; ACHPR and IWGIA, 2011b; United Nations Human Rights Council, 2011; RFUK, 2012; ILO CEACR 2014b and 2014c; and CEDAW, 2014, among others.

<sup>39</sup> See ILO SAP-FL, *Indicators of Forced Labour at:* [http://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_203832/lang-en/index.htm](http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang-en/index.htm).

<sup>40</sup> Human Rights Council, 2011, paragraph 16.

<sup>41</sup> Indigenous community member in the Département of Lékoumou, Congo, quoted in OCDH, 2011, p. 35 (in French) and Anti-Slavery International, 2011, p. 56 (in English).



used to force indigenous peoples to provide free labour and are accompanied by threats and the use of physical violence if they do not comply.<sup>42</sup>

Often the debt is manufactured, leaving indigenous peoples trapped in a vicious cycle. In many cases, as a consequence, they are forced to hand over all the fruits of their hunting and gathering to their Bantu masters in settlement of this alleged debt, leaving little or no food for themselves and their families on which to survive.<sup>43</sup> In some cases, indigenous peoples end up paying off their debts with a part of their salaries.<sup>44</sup>

[B]ecause of their extreme poverty, indigenous persons sometimes “borrow” food, clothes or other material items from Bantus, which leads to a form of debt servitude, in which indigenous workers are bound perpetually to work for their employer in an ultimately futile attempt to repay their debts.<sup>45</sup>

## F. Child labour

Although child labour and, in particular, the worst forms of child labour, are well documented in the Central African region, there are very few studies and statistics available that outline the particular situation of indigenous children. For indigenous peoples, there are two main issues of relevance in this context:

- Participation in work as a form of socialization that does not have a negative impact on the physical and mental development of the child

This is generally considered to be a positive form of learning that contributes to children’s development and the welfare of their families. Depending on the extent to which indigenous communities in Central Africa are still able to practise their semi-nomadic lifestyles, indigenous children learn how to practise traditional subsistence activities by helping their parents. This includes assisting with herding for the Mbororo, and for forest-dwelling indigenous peoples it includes hunting and gathering, small-scale agriculture and domestic chores.

- Exploitative work that has a detrimental impact on the physical and mental development of the child

This form of work is harmful to the physical and mental development of the child is often hazardous and interferes with children’s schooling. For indigenous children, work of this kind is intrinsically linked to the discrimination and marginalization they face.

<sup>42</sup> Anti-Slavery International, 2008; ACHPR, 2010; OCDH, 2011; Human Rights Council, 2011; UNICEF, 2009; ACHPR, 2007; COOPI, 2006; RFUK, 2009; and CEDAW, 2014.

<sup>43</sup> Anti-slavery International, 2008, p. 24; OCDH, 2011, pp. 6, 24, 29, 33, 38 and 45; and Human Rights Council, 2011, paragraph 19.

<sup>44</sup> ILO, 2014, p.51.

<sup>45</sup> Human Rights Council, 2011, paragraph 19.

[I]ndigenous child labour should be seen as the reflection of wider community marginalization and exploitation, inadequate social services, with the consequence that they are no longer able to exercise their collective rights, especially to land and resources but also to identity, culture and language.<sup>46</sup>

In the context of unequal relations between indigenous peoples and non-indigenous communities, exploitation of the labour of indigenous children is similar to the exploitation of adults and sometimes amounts to forced labour. The kind of child labour that has been documented so far comprises agricultural or domestic work for private, non-indigenous individuals.<sup>47</sup>

## G. Indigenous women

Little information is available on the working conditions of indigenous women in Central Africa. While, in many cases, national datasets are disaggregated by sex, they are generally not further disaggregated by ethnic origin. This makes it difficult to gain an overall picture of the situation of indigenous women. Some data – mostly from international, non-governmental and indigenous organizations – are available, but there is a need to undertake further field research and case studies in this area. From the data that are available, the following picture emerges:

- In the context of customary relations between indigenous peoples and other communities, women are exploited for their labour. In addition, they provide agricultural labour and such services as carrying bushmeat for others, in particular non-indigenous individuals and families. In the context of these traditional relations with other communities, indigenous women also face additional forms of exploitation, such as sexual exploitation.<sup>48</sup>
- Loss of land and associated resources has had significant consequences for indigenous women, who have relied traditionally on the sale of the produce of the land and its resources for subsistence. For the Mbororo of Cameroon, for example, this has resulted in the loss of a primary source of income, from the sale of milk and butter from their herds.<sup>49</sup>
- Forced labour (discussed above) also affects indigenous women.<sup>50</sup>

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<sup>46</sup> ILO, 2008, p. 5.

<sup>47</sup> See, for example, RFUK, 2009, p. 25; UNICEF, 2009, p. 64; and CEDAW, 2014, paragraph 43.

<sup>48</sup> ACHPR and IWGIA, 2010b, OCDH, 2006.

<sup>49</sup> REPAR and ILO, 2012, p. 33.

<sup>50</sup> CEDAW, 2014, paragraph 43.

## H. Limited access to trade unions

Trade unions can serve as effective avenues through which all workers can negotiate and defend their rights at work. With the exception of a few positive examples, however, mostly from the Central African Republic,<sup>51</sup> there is very little evidence to date of national trade unions in this region that have significant indigenous membership, or that engage in defending the rights of indigenous peoples as a specific category of worker.<sup>52</sup>

<sup>51</sup> Notably, representatives of the Confédération Syndicale des Travailleurs de la Centrafrique (CSTC) and the Union Syndicale des Travailleurs de Centrafrique (USTC) have participated actively in a number of events and workshops held to discuss policy and law in relation to indigenous peoples. In the 1990s, the situation of indigenous peoples in the Central African Republic was brought to the attention of the ILO by a trade union from the country. There is still little evidence, however, of national trade unions from Central Africa actively campaigning for defence of the rights of indigenous workers.

<sup>52</sup> ILO, 2012 ; ILO, 2014, p. 71.

## **IV. Broader issues affecting working conditions of indigenous peoples**

### **A. Discrimination in society**

Indigenous peoples' issues in Central Africa cannot be understood without reference to the more generalized discrimination that they face. Their relationship with other communities, in most cases, is still characterized by discrimination and subordination. Generally, indigenous peoples are considered to have lower social status, and are therefore marginalized economically and politically<sup>53</sup> and excluded socially, notably from decision-making processes. Bantu farmer attitudes to indigenous peoples can be contradictory and vary from being extremely derogatory, to being acknowledged as first-comers and even connoisseurs of the forest who often play a central role in traditional ceremonies and are admired for their hunting skills.<sup>54</sup> Generally speaking, however, despite national and local differences in their situation, widespread discrimination against indigenous peoples often leads to exploitation, including forced labour. It has a serious impact not only on their ability to obtain work, and on their working conditions, but also on all aspects of their lives, including access to education, health care, land and natural resources, and the recognition of their traditional ways of life and cultures.

### **B. Lack of access to appropriate education**

Education is a major factor affecting access to the labour market. The level of educational attainment of indigenous peoples in Central Africa remains well below that of other communities. They also have higher school-dropout rates than other communities, and the numbers of indigenous peoples attaining sufficient schooling to be able to proceed to university remains negligible. On average, the Mbororo fare better in educational terms than forest-dwelling indigenous peoples.

There is a stark contrast between the national education system and the aspirations and ways of life of indigenous peoples. Deeply held prejudices against indigenous peoples mean that they are often portrayed as opposed to education, or undeveloped and incapable of learning. The high rates of illiteracy among indigenous peoples (in particular the forest-dwelling peoples) also give rise to salary exploitation as they are often unable to understand salary calculations. The following are some of the primary challenges associated with education for indigenous peoples:

<sup>53</sup> Woodburn, 1997: cited in Lewis 2008, Köhler and Lewis, 2002.

<sup>54</sup> Lewis, 2002: 220: cited in Woodburne, 2012

- *Lack of adaptation of the school system to indigenous peoples' needs:* Education is generally not available in indigenous languages; the school calendar is incompatible with hunting seasons and the transmission of traditional knowledge through practice; many schools are located far from indigenous communities, making access difficult.<sup>55</sup> There are few, if any, provisions for schooling systems that are compatible with indigenous peoples' semi-nomadic lifestyle.
- *Costs of schooling:* Despite legal provisions at the national level stipulating that primary education is free, parents of indigenous children are often still required to meet a variety of costs related to schooling, including for materials, registration and administrative procedures and food. These costs can be prohibitive and often prevent indigenous children from attending school.<sup>56</sup>
- *Discrimination:* Indigenous children face widespread discrimination at school and are routinely subjected to insults and bullying by both teachers and the other students.<sup>57</sup> In addition, textbooks and educational materials still often portray indigenous peoples as “undeveloped”, leading to these stereotypes being reinforced through the education system.

## C. Obstacles to obtaining citizenship

A further barrier to formal employment, and also to many basic services, including health care and education, is the fact that many indigenous peoples still lack citizenship documents, such as birth certificates and identity cards.<sup>58</sup> This is less of an issue among the Mbororo than among the forest-dwelling peoples – the so-called “Pygmies”. Such identity documents are a formal requirement for engagement in formal employment, but illiteracy and lack of awareness of the need for such documents, or of the administrative procedures required to obtain them, coupled with discrimination, mean that significant numbers of indigenous peoples in all countries in Central Africa still lack these basic and indispensable documents. When indigenous peoples are employed, because they are not recognized as citizens due to the absence of basic identification documents, they face obstacles in gaining access to social security from which they should benefit through their employment.<sup>59</sup>

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<sup>55</sup> ILO, 2014, p.52; CED, RACOPY and FPP, 2010; REPAR and ILO, 2012, p.29, and Human Rights Council, 2011, paragraphs 21–25. See also RFUK and OCDH, 2006, p. 68; RFUK, 2009, pp. 37–38.

<sup>56</sup> CED, RACOPY and FPP, 2010, pp. 10–12; Human Rights Council, 2011, paragraphs 21–25; and OCDH, 2006, p. 68; and RFUK, 2009, pp. 37–38.

<sup>57</sup> ILO, 2014, p. 52; CED, RACOPY and FPP, 2010, pp. 10–12; Human Rights Council, 2011, paragraphs 21–25; RFUK and OCDH, 2006, p. 68; and RFUK, 2009, pp. 37–38.

<sup>58</sup> See REPAR and ILO, 2012, p. 28; CED, RACOPY and FPP, 2010, pp. 10–12; Rainforest Foundation UK and OCDH, 2006, p. 27; CERD, 2009, paragraph 17; RFUK, 2009; and CRC, 2014, paragraphs 72–74, among others.

<sup>59</sup> ILO, 2014, p. 64. Research in the Central African Republic on indigenous workers in the forestry sector undertaken in 2009, for example, found only one example of an indigenous employee working for a logging company who had been declared by the company to the Central African Office of Social Security for the purposes of providing social security associated with his job. RFUK, 2009, p. 39.

## D. Lack of disaggregated data and statistics

There is a widespread lack of data on employment and work-related issues, disaggregated by ethnic origin, that would adequately reflect the situation of indigenous peoples on a national scale, or demonstrate how they fare in general compared to other sectors of the population.<sup>60</sup> Disaggregated data are essential to a full understanding, on a national scale and by sector, of which groups of society may be facing specific barriers in obtaining employment, thus informing the design of special measures appropriate to those groups with a view to surmounting these challenges.

Although indigenous peoples are formally and legally recognized in the Central African Republic and the Congo, failure by other countries in the Central African region to accord them formal or legal recognition as a specific group could impede such data disaggregation. The necessity to disaggregate data and the challenges posed by the lack of available data are recognized by some Governments in the region.

Where the labour market is concerned, failure to gather routine data on employment hinders efforts to monitor the situation on the ground and results in the generation of disparate data that are difficult to compare.<sup>61</sup>

## E. Lack of adequate land and resource rights

Increased pressure on access to land has been placed on indigenous communities throughout the region as a result of the designation of much of the rural and forest land of Central Africa for large-scale land uses such as agriculture, logging and protected areas. In turn, this has significantly limited their ability to practise their traditional livelihoods. The following are some of the principal issues affecting the practice by indigenous peoples of traditional livelihoods, and their ability to gain a living from these livelihoods:

- Lack of recognized land rights and restricted access to natural resources: Despite provisions in some legislation, such as the law on the promotion and protection of the rights of the indigenous populations in the Congo, certain provisions in the national legislation of the Central African Republic, Cameroon and the Democratic Republic of the Congo on community forests, and the ratification of ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) by the Central African Republic, indigenous peoples in Central Africa still lack formal recognition of their land and resources. Even where legislation exists, it is not yet implemented in practice. This lack of protection has resulted in the large-scale re-assignment of indigenous peoples' traditional lands

<sup>60</sup> Nearly all the research referenced in this paper points to the lack of official data, disaggregated by ethnic origin, as a significant barrier to efforts to overcome the challenges faced by indigenous peoples in gaining access to work and employment. Numerous specific case studies are available, but these differ in approach and, as a consequence, their findings cannot easily be aggregated for the purpose of painting an overall picture, which would be necessary for the design and implementation of effective policy measures.

<sup>61</sup> Republic of Cameroon, 2009, p. 89. French original: "S'agissant du marché du travail, l'absence de collecte régulière des données sur l'emploi rend difficile le suivi de la situation sur le terrain et débouche sur la production de données disparates et difficilement comparables."

for other uses, such as conservation, agriculture, logging and natural resource extraction, severely restricting – or even entirely prohibiting – access by indigenous peoples to the resources that they traditionally use for their subsistence. This leaves them with increasingly restricted areas in which to practice their traditional occupations.

- Restrictions on the practice of traditional occupations, bans on hunting, and on the marketing of forest produce: Numerous laws throughout the region place restrictions on the collection and use of forest products. This is a serious problem for indigenous peoples whose livelihoods are largely reliant on forest products and whose very survival depends on the sale or exchange of those products. Where it is illegal for forest products to be sold, indigenous peoples have no choice but to risk selling them illegally or to remain in poverty.<sup>62</sup> The situation with hunting is similar: whereas in many cases traditional hunting is permitted, the marketing of the products of traditional hunting is forbidden, meaning that indigenous peoples are no longer able to gain an income from this traditional livelihood. In addition, the heavy administrative requirements necessary to obtain a hunting permit and the associated restrictions are often incompatible with the ways of life of indigenous peoples.<sup>63</sup>

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<sup>62</sup> FPP 2009.

<sup>63</sup> CED, RACOPY and FPP, 2010, pp. 21–24.

## V. Relevance of international instruments

International law provides protection for all workers in respect of the fundamental rights associated with employment and occupation. As a special category of workers that are likely to face discrimination in employment and occupation because of their ethnicity, race, social origin or indigenous status, however, indigenous peoples are covered by special measures under international law, put in place to ensure that they benefit fully from the rights or protections provided for by law. Often, seemingly neutral measures that are intended to protect all workers may have a disproportionately adverse impact on a specific group, such as indigenous peoples, because of their specific characteristics or situation. Special measures are aimed at “compensating for past discrimination or at overcoming existing discrimination with a view to achieving equality. These measures are of a temporary nature, and thus maintained as long as necessary to achieve their objective, i.e. equality of the groups in favour of which they are taken.”<sup>64</sup>

With specific reference to indigenous peoples, ILO Indigenous and Tribal Peoples Convention (No. 169) and the United Nations Declaration on the Rights of Indigenous Peoples contain specific provisions designed to promote and protect the rights of indigenous peoples relating to employment and occupation. ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) applies to all sectors of activity and covers all occupations and employment in both public and private sectors, as well as in the informal economy. The Convention deals not only with wage-earning employment, but also with independent and own-account work.<sup>65</sup> Thus, it also protects indigenous workers in the informal economy, and those practising traditional occupations.

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<sup>64</sup> ILO, 2007, p. 16.

<sup>65</sup> ILO, 2007.



**Table 1: Main provisions of international law of relevance to indigenous peoples and employment and occupation**

Principle recognized	Relevant Conventions	Main elements of the relevant provisions concerned
Special measures for protection of indigenous peoples in respect of recruitment and conditions of employment	ILO Convention No. 169 (Article 20) CERD <sup>66</sup> (Article 2.2) ILO Convention No. 111	Special measures to be adopted to the extent that indigenous peoples are not effectively protected by laws applicable to workers in general, for the purpose of guaranteeing them full human rights and fundamental freedoms.
Non-discrimination in employment and occupation	ILO Convention No. 111 ILO Convention No. 169 (Article 20.2) CERD (Article 5) CEDAW <sup>67</sup> (Article 11)	Equality of opportunity and treatment in employment and occupation, including non-discrimination, in respect of: <ul style="list-style-type: none"> <li>• Rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to just and favourable remuneration</li> <li>• Admission to employment, and measures for promotion and advancement</li> <li>• Medical and social assistance, occupational safety and health and social security</li> </ul>
Equal pay for work of equal value	UDHR <sup>68</sup> (Article 23) ICESCR <sup>69</sup> (Article 7) ACHPR <sup>70</sup> (Article 15) ILO Convention No. 100 <sup>71</sup> ILO Convention No. 169 <sup>72</sup> (Article 20.2(b))	<ul style="list-style-type: none"> <li>• Non-discrimination in the application of the principle of equal pay for work of equal value</li> <li>• Legal and administrative recognition of the principle of equal pay for work of equal value</li> </ul>

<sup>66</sup> International Convention on the Elimination of all Forms of Racial Discrimination.

<sup>67</sup> Convention on the Elimination of All Forms of Discrimination against Women.

<sup>68</sup> Universal Declaration of Human Rights.

<sup>69</sup> International Covenant on Economic, Social and Cultural Rights.

<sup>70</sup> African Charter on Human and Peoples' Rights.

Principle recognized	Relevant Conventions	Main elements of the relevant provisions concerned
Abolition of forced labour	ILO Convention No. 29 <sup>73</sup> ILO Convention No. 105 <sup>74</sup> ICCPR <sup>75</sup> (Article 8) ACHPR (Article 5)	<ul style="list-style-type: none"> <li>• General prohibition of forced or compulsory labour (with exceptions provided for by law)</li> <li>• Establishes exaction of forced labour as a penal offence</li> </ul>
Protection against child labour	ILO Convention No. 138 <sup>76</sup> ILO Convention No. 182 <sup>77</sup> United Nations Convention on the Rights of the Child (Article 32)	<ul style="list-style-type: none"> <li>• Minimum age for admission to employment</li> <li>• Obligation to establish penal sanctions</li> <li>• Protection against the worst forms of child labour</li> </ul>
Freedom of association and the right to collective bargaining	UDHR (Article 23) ICCPR (Article 22) ILO Convention No. 87 <sup>78</sup> ILO Convention No. 98 <sup>79</sup>	<ul style="list-style-type: none"> <li>• Right to join and form trade unions</li> <li>• Right of employers' and workers' organizations to organize their administration and activities, to formulate their programmes and to establish and join federations and confederations</li> <li>• Right not to be discriminated against because of union membership</li> </ul>
Just and favourable working conditions	UDHR (Article 23) ICESCR (Articles 6 and 7) ACHPR (Article 15)	Access to decent and productive employment, and just and safe working conditions

<sup>71</sup> Equal Remuneration Convention, 1951 (No. 100).

<sup>72</sup> Indigenous and Tribal Peoples Convention, 1989 (No. 169).

<sup>73</sup> Forced Labour Convention, 1930 (No. 29).

<sup>74</sup> Abolition of Forced Labour Convention, 1957 (No. 105).

<sup>75</sup> International Covenant on Civil and Political Rights.

<sup>76</sup> Minimum Age Convention, 1973 (No. 138).

<sup>77</sup> Worst Forms of Child Labour Convention, 1999 (No. 182).

<sup>78</sup> Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

<sup>79</sup> Migration for Employment Convention (Revised), 1949 (No. 97).

With the exception of ILO Convention No. 169, all the international instruments mentioned above have been ratified by all the countries in Central Africa and are therefore in force in those countries, meaning that the principles outlined in the table above should be reflected in law, policy and practice in the countries in question. ILO Convention No. 169 has been ratified by the Central African Republic, and is in force in that country.

## VI. National laws, policies and programmes

In terms of national legislation, although many (but not all) of the issues that indigenous peoples face in employment and occupation are dealt with in a general manner, there is a paucity of provisions establishing specific protections or foreseeing special measures in relation to the rights of indigenous peoples. One notable exception is the Congo, which in 2011 adopted a national law on the promotion and protection of the rights of indigenous populations.<sup>80</sup> This law guarantees the right to work and social security for indigenous peoples;<sup>81</sup> prohibits discrimination against indigenous peoples in relation to access to work, conditions of work, vocational training, remuneration and social security;<sup>82</sup> provides for training programmes adapted to the social, economic and cultural conditions of indigenous peoples;<sup>83</sup> prohibits and criminalizes the practice of forced labour;<sup>84</sup> and recognizes the right of indigenous peoples to join and form trade unions.<sup>85</sup>

Furthermore, the fact that most indigenous workers still operate in the informal economy is sometimes seen as a barrier to protecting their rights. In the context of its reporting on the application of ILO Convention No. 169, the Government of the Central African Republic stated that “generally speaking, the legislation does not provide for the specific protection of indigenous peoples. One of the major difficulties in dealing with the working conditions of indigenous peoples is that, in most cases, their work is conducted outside the formal framework of a labour contract. The vast majority of indigenous peoples work outside the formal sector and therefore do not have access to the protection provided by the labour legislation, which mainly covers the formal sector of the economy.”<sup>86</sup>

Although there is an absence of provisions or special measures aimed specifically at indigenous peoples, some areas of national legislation are of direct relevance. As regards forced labour, for example, the prohibition of forced labour features in the labour codes of all the countries concerned, and also in a number of national constitutions. Article 7 of the Labour Code of the Central African Republic specifically links it to discrimination, which is of particular relevance for indigenous peoples.<sup>87</sup> There is, however, little information available on any measures specified in national legislation for the investigation of forced labour, or on official measures that have been taken either to investigate cases of, or to prosecute individuals for

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<sup>80</sup> Law No. 05-2011.

<sup>81</sup> Article 26.

<sup>82</sup> Article 27.

<sup>83</sup> Article 28.

<sup>84</sup> Article 29.

<sup>85</sup> Article 30.

<sup>86</sup> ILO, CEACR, 2014a.

<sup>87</sup> *“Le travail forcé est interdit [...] de façon absolue [...] en tant que mesure de discrimination raciale, sociale ou religieuse ; [...]”*. Unofficial translation : *“Forced labour is prohibited [...] in an absolute manner [...] as a form of racial, social or religious discrimination [...]”* Law No. 09-004 (Labour Code), Central African Republic.

forced labour-related offences. This was a matter of concern for the ILO's supervisory bodies in their examination of the application of the Forced Labour Convention, 1930 (No. 29), by the Congo:

The Committee requests the Government to ensure that [...] those who impose forced labour on indigenous peoples are prosecuted and that sufficiently effective and dissuasive penalties are actually imposed on them.<sup>88</sup>

In a direct request to the Government of the Democratic Republic of the Congo in 2014, the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) also requested specific information on “measures adopted to combat the social marginalization of ‘Pygmies’ with a view to ensuring that their situation of social vulnerability does not result in them becoming victims of forced labour” (ILO, CEACR, 2015).

The constitutions of Burundi and Rwanda contain specific provisions on the right to equal pay or salary for equal work. Burundian labour legislation prohibits discrimination in remuneration.<sup>89</sup> Article 10 of the Labour Law of the Central African Republic upholds the principle of equal salary for equal conditions of work, and provides for equality of opportunity and treatment without discrimination. A similar provision can be found in Article 80 of the Labour Law of the Republic of the Congo, which cites grounds of origin, sex, age and status as pertinent to equal salary for equal working conditions.<sup>90</sup> Much of this legislation, however, falls short of expressly enshrining the principle of equal pay for work of equal value, as set out in ILO Convention No. 100, which has been ratified by all the countries in question.<sup>91</sup>

Although no legislation on equal remuneration refers specifically to indigenous peoples, there are some legal provisions that clearly take the situation of indigenous peoples into account. For example, Article 231 of the Labour Law of the Central African Republic<sup>92</sup> stipulates that salaries must be paid in currency, and that part or full payment of salary in kind, such as in the form of alcohol, is prohibited. In a number of its articles, this law also takes into account the situation of temporary or seasonal workers. Similarly, the Labour Law of the Congo stipulates that salaries must be paid in regular currency, and not in kind, including in alcohol. This is punishable by a fine.<sup>93</sup>

In terms of provisions on non-discrimination, the Congo is also the only country in the region to adopt specific legal provisions on discrimination against indigenous peoples,<sup>94</sup> though not in its Labour Law. Discrimination in employment and occupation is specifically prohibited by the Rwandan Labour Code<sup>95</sup> and in the Gabonese Labour Code; there is also a general

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<sup>88</sup> ILO, CEACR, 2016.

<sup>89</sup> Decree-Law No.1-037 of 7 July 1993, (Labour Code), Article 6.

<sup>90</sup> Law No. 45-75, 1975. This law is currently under review.

<sup>91</sup> See, for example, ILO CEACR, 2013a.

<sup>92</sup> Law No. 09 004 on the Labour Code in the Central African Republic.

<sup>93</sup> Articles 87 and 257, Law No. 45—75, 1975.

<sup>94</sup> Law No. 05-2011, Article 2.

<sup>95</sup> Law 51/2001 OF 30/12/2001 establishing the Labour Code, Article 12. This prohibits discrimination which would result in destroying or impairing one's chance of equality as far as employment or occupation is concerned on the grounds of race or ethnicity, colour, sex, religion and political opinion.

prohibition on discrimination in respect of “employment and conditions of work”.<sup>96</sup> Similarly, the Labour Code of Burundi protects “equality of opportunity and treatment”, and prohibits discrimination in “employment and work”.<sup>97</sup> Other provisions of labour legislation prohibit discrimination in specific areas (such as maternity or freedom of association,<sup>98</sup> or in access to vocational training)<sup>99</sup> but do not contain general prohibitions of discrimination in employment and occupation, constituting a significant gap. In addition, the ILO’s supervisory bodies have observed that, in many cases, the lack of general provisions on discrimination, or the fact that a number of those that do exist do not enumerate all the grounds of discrimination required by Convention No. 111 on discrimination in employment and occupation, may result in workers being excluded from protection, representing another significant gap in legislation relating to discrimination in employment and occupation.

The failure, however, by national legislation to provide for special measures relevant to the issues covered by this paper of concern to indigenous peoples (in particular, to those of equal remuneration, forced labour and discrimination) is a gap that needs to be remedied. Generalized prohibitions of discrimination, if not accompanied by special measures, may even result in further discrimination. “[A] true policy of equality must also include measures to correct de facto inequalities of which certain categories of the population are victims and take into account their specific needs.”<sup>100</sup> Special measures may include specific programmes and actions or the allocation of specific funding for measures to overcome discrimination and achieve equality for indigenous peoples in the areas of concern.

The Congo is the only country that has developed a specific programme of action, based on specific legislation on indigenous peoples, to ensure that indigenous peoples are gradually able to benefit from their rights on an equal footing to that of other sectors of the national population, and also to ensure implementation of rights that are specific to them. The National Plan of Action for the Improvement of the Quality of Life of Indigenous Peoples (2014–2017), is the second such plan of action adopted by the Ministry of Social Affairs, Humanitarian Action and Solidarity.

The National Employment Strategy adopted by the Congo is integrated into an overall strategy for growth, employment and poverty reduction, referred to as DSCERP,<sup>101</sup> which envisages employment creation in sectors closely associated with the traditional lands of indigenous peoples, including agriculture and mining. Where disadvantaged groups are concerned, the Strategy undertakes to build their capacity for self-reliance through, among other measures, income-generating activities and self-employment.<sup>102</sup> It does not address the specific situation of indigenous peoples in employment and occupation, or provide for measures to combat discrimination in employment and occupation. Linking planned strategies and actions envisaged under this National Employment Strategy with the provisions of the Congo’s Indigenous

<sup>96</sup> Law No. 03/94, November 1994 (Labour Code), Article 8. The grounds of discrimination enumerated in this law are race, colour, sex, religion, political opinion, national descent or social origin.

<sup>97</sup> Decree-Law No.1-037 of 7 July 1993, (Labour Code), Article 6.

<sup>98</sup> As for example in the Labour Code of the Democratic Republic of the Congo (Law No. 015/2002, 16 October 2002).

<sup>99</sup> Law No. 09 004 on the Labour Code in the Central African Republic.

<sup>100</sup> ILO CEACR, 2013b.

<sup>101</sup> Document de stratégie pour la croissance, l’emploi et la réduction de la pauvreté.

<sup>102</sup> Republic of the Congo, 2012, p. 340.

Populations Act and the Plan of Action on Indigenous Peoples would appear to be an essential step towards ensuring coherence.

### **National Plan of Action for the Improvement of the Quality of Life of Indigenous Peoples of the Congo**

The second National Plan of Action for the Improvement of the Quality of Life of Indigenous Peoples was adopted by the Congo in recognition of the fact that indigenous peoples constitute a specific part of the population that has been marginalized for a long time, and that actions designed to improve their quality of life must be conceived on a long-term basis, and specifically targeted, so that they can respond to the particular needs of indigenous peoples. It envisages decentralized actions, planned in consultation with indigenous peoples themselves, with a view to ensuring that they benefit on an equal basis from rights.

The Plan of Action is articulated around six specific areas:

- civil and political rights;
- cultural rights;
- right to education;
- right to health;
- economic and social rights;
- reinforcement of national coordination.

A number of the actions foreseen are aligned directly with the provisions of the Rights of Indigenous Peoples (Promotion and Protection) Act (Act No. 05-2011). In the area of employment and occupation, it provides for specific support for indigenous peoples in vocational training, promotion of employment, and specific income-generating activities for their benefit. Of relevance to the practice of their traditional occupations, the Plan of Action also envisages specific actions aimed at promoting access by indigenous peoples to property and resources, linking this specifically to Act No. 05-2011. This Act contains a section on property rights, which relates to the rights of indigenous peoples to lands and resources.

In other cases, specific plans and actions are developed in relation to development policies – prompted primarily by the requirements of international financial institutions such as the World Bank. In this regard, Cameroon has developed three successive “Pygmy Peoples Development Plans” (PPDP). The third PDPP (2015–2018) makes specific reference to international standards of relevance to indigenous peoples, including ILO Conventions Nos. 111, 138 and 169. The plan takes on board some of the issues that are preventing indigenous peoples from gaining access to decent work and employment, such as lack of citizenship documents, education and relations with Bantu communities.

As for the question of land, however, this is only addressed by the Plan in the context of the lack of capacity of the BaAka to perform agriculture as a means of subsistence. It does not consider the issue of traditional occupations or provide guidance on how these should be supported, for example through improved recognition and protection of land and resource rights. Instead, the Plan focuses on non-traditional occupations as means of improving the living conditions of indigenous peoples, and looks only at user rights to natural resources instead of at more specific land rights that would enable these peoples to continue to practise their traditional occupations.<sup>103</sup> Overall, the plan does not address the formal employment of indigenous peoples at all, nor is it concerned with the conditions in which they find themselves when in informal employment, or even forced labour situations.

Cameroon has adopted a national strategy for growth and employment – Document de Stratégie pour la Croissance et l’Emploi (DSCE). Although indigenous peoples are mentioned in the strategy (once), which envisages specific programmes to promote employment for the most marginalized sectors of the national community (youth, women, disabled persons and what it terms “indigenous minorities”), the nature of these programmes is not clearly defined and indigenous issues are not integrated into the main elements of the strategy.<sup>104</sup> By subsuming indigenous peoples under the broader category of marginalized groups, the strategy gives no indication as to whether these specialized programmes will be appropriate for the specific needs of indigenous peoples, such as land rights, education and actions to eliminate discrimination, as highlighted in the present paper.

Overall, it appears that many policies, national laws and strategies relating to development, employment and occupation in Congo basin countries fail to take into account the specific challenges that indigenous peoples face in the world of work, or the broader issues affecting their access to, and conditions of, work such as land rights, discrimination, education and access to citizenship. Many strategic interventions are also based on fundamental assumptions about what constitutes “development” that may not be based on indigenous peoples’ own aspirations or visions of development. These include development policies that aim to reduce poverty through actions premised on the belief that indigenous peoples should become sedentary, or give up their traditional ways of life. These assumptions fail to recognize the right of indigenous peoples to decide their own priorities for the process of development.

<sup>103</sup> Republic of Cameroon, 2015.

<sup>104</sup> Republic of Cameroon, 2009, p. 90.



## **VII. Concluding remarks and recommendations for the way forward**

The livelihoods of indigenous peoples in Central Africa are increasingly threatened by loss of land and reduced access to resources, and indigenous peoples have gradually begun to develop diversified economies, comprising subsistence production in combination with other types of employment, where it is available to them. Despite a relatively recent engagement in the formal economy – primarily as seasonal workers or employees in sectors that are most closely linked to their local environment – indigenous peoples in Central Africa are still overwhelmingly working in the informal economy. Either they continue to practice their traditional occupations linked to their land and natural resources or they work informally for private individuals in what can often be characterized as exploitative conditions. Some indigenous peoples engage in small-scale agricultural farming or small-scale commerce as a response to reduced access to land.

Indigenous peoples in Central Africa face numerous challenges related to the world of work. They face discrimination in access to employment for instance, indigenous workers are routinely paid less than non-indigenous workers, even when they perform identical tasks or work of equal value. Their particular skills are often undervalued or overlooked. They frequently face precarious working conditions. Sometimes, indigenous peoples are exclusively paid in kind, a practice justified by stereotypes that indigenous peoples do not need money because of their traditional lifestyles. Cases of forced and bonded labour and exploitation and violence at work also take place. Indigenous women suffer multiple forms of discrimination and little information about their working conditions is available.

Indigenous peoples are further marginalised by a lack of access to education, which again negatively affects their access to decent work. The school system is not sufficiently adapted to their needs, education is not available in their languages, and costs of administrative procedures, food and school material often create barriers for indigenous youth. In all countries relevant to this study, lack of citizenship documents constitutes a barrier for indigenous peoples. Lack of access to land rights is an issue that significantly limits the ability of indigenous peoples to practise their traditional livelihoods.

Although many of the challenges that indigenous peoples face in employment and occupation are dealt with in a general manner in national legislation, there is a paucity of provisions establishing specific protections or foreseeing special measures in relation to the rights of indigenous peoples. Furthermore, the fact that most indigenous workers can be found in the informal economy acts as a barrier to protecting their rights.

Overall, it appears that many policies, national laws and strategies relating to development, employment and occupation in Central Africa fail to take into account the specific challenges that indigenous peoples face in the world of work, or the broader issues affecting their access to, and conditions of, work such as land rights, discrimination, education and access to

citizenship. Many strategic interventions overlook indigenous peoples' own aspirations or visions of development. Recognizing indigenous peoples' rights and obtaining information on the specific challenges they face in various national contexts constitute important steps towards improving the situation of indigenous peoples in Central Africa.

One of the key challenges faced in this area is indeed the need for reliable information. Much more needs to be done to ensure the more systematic gathering of information and data on indigenous peoples' employment and occupation, and of the obstacles that they face. A better understanding of the existing issues and problems could be achieved through data disaggregated by ethnic origin, sex and age, alongside other key characteristics. Without this, it will remain difficult not only to get a full picture of the issues at stake – essential for establishing a proper baseline of data against which to measure progress – but more importantly, how to tackle the problems. At the same time, a lack of adequate research on indigenous peoples' traditional knowledge and practices also impedes policymakers from exploring possible synergies and opportunities necessary for effective climate action. Recognition that indigenous peoples are a specific group requiring specific measures to address their rights is the first, essential step in gaining this understanding. Indeed, States committed themselves to this at the World Conference on Indigenous Peoples in 2014:

We commit ourselves to working with indigenous peoples to disaggregate data, as appropriate, or conduct surveys and to utilizing holistic indicators of indigenous peoples' well-being to address the situation and needs of indigenous peoples and individuals, in particular older persons, women, youth, children and persons with disabilities.<sup>105</sup>

A rights-based approach to addressing the obstacles that indigenous peoples face in employment and occupation would constitute another essential step. Such an approach would align national strategies with the main principles and rights set out in international standards, as described earlier. Such a rights-based approach would entail, as its essential components:

- Recognizing the specific characteristics of indigenous peoples, and their right to decide their own priorities for development;
- Ensuring adequate consultation and participation of indigenous peoples in designing and implementing measures to understand and address the issues that they face in employment and occupation, and developing strong collaboration between governments and indigenous organizations in this endeavour;
- Recognizing and respecting the rights of indigenous peoples to lands and resources and to practise their traditional occupations as essential components of the campaign against poverty and climate change, and supporting efforts to improve their situation in employment and occupation;

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<sup>105</sup> United Nations General Assembly, 2014, paragraph 10.

- Adopting special measures to combat the discrimination faced by indigenous peoples in employment and occupation, but also in other areas that affect the world of work (land, education, health, and citizenship).

The international development community has embarked on implementation of the Sustainable Development Goals set out in the 2030 Agenda for Sustainable Development.<sup>106</sup> Over the coming years, countries will endeavour to ensure that specific national strategies are devised to achieve these Goals at the national level. Goal No. 8 — “Promote sustained, inclusive and sustainable growth, full and productive employment and decent work for all” — relates directly to employment and occupation. Among its targets are those relating to equal pay for work of equal value, and forced labour — both issues of key relevance for indigenous peoples. In their efforts to attain these Goals, countries will need to adapt national strategies and actions tailored to the specific circumstances and rights of indigenous peoples.

Highly relevant in this regard are the pledges made by States at the 2014 World Conference on Indigenous Peoples, which included commitments to develop policies, programmes and resources to support indigenous peoples’ occupations, traditional subsistence activities, economies, livelihoods, food security and nutrition;<sup>107</sup> to recognize the importance of the role that indigenous peoples can play in economic, social and environmental development through traditional sustainable agricultural practices;<sup>108</sup> and to recognize the right of indigenous peoples to determine and develop priorities and strategies for exercising their right to development.<sup>109</sup> Similarly, the 2015 Paris Agreement on Climate Change has recognized that indigenous peoples and their traditional knowledge have a crucial role to play in reaching successful mitigation and adaptation outcomes.<sup>110</sup> Finally, future work on these issues in Africa can also draw from and build on the important work of the African Commission on Human and Peoples’ Rights which has provided specific guidance concerning the identification and situation of indigenous peoples in Africa.

<sup>106</sup> <https://sustainabledevelopment.un.org/>

<sup>107</sup> United Nations General Assembly, 2014, resolution 69/2 (A/RES/69/2), paragraph 25.

<sup>108</sup> Ibid., paragraph 26.

<sup>109</sup> Ibid., paragraph 37.

<sup>110</sup> See 2015 Paris Agreement on climate change, available from: [http://unfccc.int/documentation/documents/advanced\\_search/items/6911.php?preref=600008831](http://unfccc.int/documentation/documents/advanced_search/items/6911.php?preref=600008831).



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