The issue of access to citizenship for indigenous peoples of Gabon: the case of the Bakas of Minvoul

La problematique de l’acces a la citoyennete des peuples autochtones du Gabon : cas des Bakas de Minvoul

The issue of access to citizenship for indigenous peoples of Gabon: "Capacity building for the respect and promotion of the rights of forest communities" Libreville, April 2014 Project case of the Bakas of Minvoul

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The issue of access to citizenship for indigenous peoples of Gabon: case of the Bakas of Minvoul The opinions expressed in this report are those of the authors and do not represent the position of the donors. Libreville, April 2014 Authors: This publication, a joint initiative of Brainforest and the Rainforest Foundation United Kingdom, was produced as part of the project: "Capacity building for the respect and promotion of the rights of forest communities" by the Project Jurists, namely Mvé Abessolo Elvis, Ntsame Ollomo Grâce Elodie, and Mbélé Minko Marius; Under the supervision of Djinang Martial (Environmental Lawyer, Project Manager) and Sam Ziengui Kassa (Deputy Project Manager). Collaboration: Laurence Duprat (Rainforest Foundation United Kingdom), Guy-Max Moussavou (Research Teacher in Anthropology at Omar Bongo Ondimba University), and Dr. Njipgang Hermann (Doctor in Communication, Specialist in Documentary Information Systems). Keywords: Indigenous Peoples, Bakas, law, citizenship, Birth Certificate. Layout and design: Germain DJEUKING

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7 INTRODUCTION Gabon 1, a country in Central Africa whose official language is French, shares borders with the Republic of Congo, Equatorial Guinea, and Cameroon. It is a country endowed with significant natural resources where political authorities created 13 national parks in 2002 to ensure their conservation and preservation. Map No. 1: Map of Gabon Source: Report of the working group of the African Commission on Indigenous Populations/Communities 15-30 2007 (research and information visit in the Republic of Gabon, September 15-30, 2007) Estimated at around 1,633,000 inhabitants in 2012 2, the population of Gabon consists of several ethnic groups, the most numerous of which are the Fang, the Mpongwé (sub-group Myénè), the Obambas, the Punu, etc. Besides these groups, the Gabonese population also includes indigenous peoples derogatorily referred to as "Pygmies." ILO Convention No. 169 (C169) identifies indigenous peoples by certain criteria. Self-identification is considered a fundamental criterion for identifying indigenous peoples. Other criteria such as their traditional ways of life help identify indigenous peoples. Indeed, their cultures and ways of life differ from those of other segments of the national population, for example, their means of livelihood, their language, their customs, etc. Today, indigenous peoples of Gabon can be found in the provinces of Woleu-Ntem (Bakas and Bekeka), Ngounié (Babongo), Nyanga (Barimba and Baghama),

Ogooué-Ivindo (Bakas and Bakoya), and Haut-Ogooué (Babongo) 3. 1 Report of the working group of the African Commission on Indigenous Populations/Communities Research and information visit in the Republic of Gabon September 15-30, 2007 (the African Commission on Human and Peoples' Rights took note of this report during its 45th ordinary session in 2009) 2 http://data.worldbank.org/ 3 Report of the working group of the African Commission on Indigenous Populations/Communities, Geographical or territorial location of indigenous "Pygmy" peoples of Gabon. Source: 2005 Report Association for the Development of Pygmy Culture in Gabon (ADCPPG)

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The issue of access to citizenship for indigenous peoples of Gabon: case of the Bakas of Minvoul 8 Map No. 2: Map of the Location of Indigenous Peoples in Gabon Source: Guy-Max Moussavou in Pharmacopoeia and Traditional Medicine, 2009. The indigenous populations of Gabon are a semi-nomadic people of hunters-gatherers-fishers who, to this day, face new survival challenges due to the destruction of their natural habitat or restrictions regarding the management of their environment; this explains their gradual transformation into farmers and sedentary people. In general, Pygmy populations across Africa suffer as a consequence of changes in their traditional way of life. Many Pygmy tribes are now forced to leave the forest environment to settle or live in cities, due to logging or the creation of conservation areas. These changes lead to serious consequences for their integration into the lifestyle of modern societies. They are often forced to conform to the lifestyle of the Bantus, to which they have great difficulty adapting. These populations also have restricted access to basic services (health, education, justice, etc.) and a high illiteracy rate, despite the efforts of various actors, including the State. Very often, Indigenous Peoples are exploited by their neighbors who use them as cheap labor. Yet Gabon has a Constitution that protects citizens against all forms of discrimination and declares the equality of communities. The Gabonese Republic has also ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the African Charter on Human and Peoples' Rights, and most recently on September 13, 2007, it adopted the United Nations Declaration on the Rights of Indigenous Peoples, which still needs to be ratified. Their status as "indigenous peoples" should lead public authorities to recognize certain rights for them beyond those already recognized to all citizens. Besides the difficulties mentioned above, indigenous peoples also face problems regarding access to citizenship. Citizenship is, however, the right that establishes an individual's belonging to a country and the legal provisions that arise from it. Therefore, without possession of their official documents, the indigenous peoples of Gabon cannot validly claim Gabonese nationality and the related rights and duties.

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The context 9 i. The CoNTexT i.1. The project The Gabonese government has recently made efforts to ensure social coverage for all citizens. This initiative has taken into account the specificity of indigenous peoples by adopting derogatory measures that allow them to enroll simply by their status as "indigenous peoples" without administrative formalities such as presenting an identity document. Indeed, to benefit from social coverage from the National Health Assistance and Social Guarantee Fund (CNAMGS), registration is conditioned by the presentation of an identity document. The majority of indigenous nationals, who do not possess civil status documents, have registered and now benefit from social coverage. However, this approach is not enough to address the root problem as many other concerns remain, particularly in their daily lives marked by the absence of official documents (birth certificates and national identity cards). To contribute in this regard, the project "Capacity Building for the

Respect and Promotion of the Rights of Forest Communities" supports the facilitation of knowledge and enjoyment of their forest, land, and civil rights by forest communities in general and indigenous peoples in particular. This project is supported by the Rainforest Foundation United Kingdom, which has developed similar actions in other Central African countries such as Cameroon, the Democratic Republic of Congo, and the Central African Republic. This project has an overall objective which is to "reduce poverty and contribute to the development of forest communities through the promotion and defense of their rights to participation and management of forests, and to enjoy the benefits of this management as well as their land rights." Regarding indigenous peoples (IPs), one of the target groups of this project, the protection of their rights is essential to reducing poverty as they are not always taken into account in the processes of reforms and management of natural resources. This is due to discrimination and the policy of assimilation to which they are daily confronted, particularly in their relations with their Bantu neighbors. Thus, the project will target rights and specific legal and political frameworks and will seek to influence the processes we have just presented. In the specific case of Gabon, the project is implemented by the NGO Brainforest, a partner of the Rainforest Foundation United Kingdom, and is deployed in three sites: Minvoul (in the north of the country), Makokou (in the northeast), and Ikobey (Fougamou in the south). The objectives of the project in this part of the Central African sub-region are essentially to: - Develop legal skills in Law and Natural Resource Management through the continuous capacity building of 3 young national jurists and the connection with the academic environment; - Support communities in the knowledge and use of their various forest, land, and civil rights; - Facilitate the consideration of community rights in the development of forest concession management plans and protected area management plans and ensure that these communities can benefit from their management; - Facilitate the establishment of multi-stakeholder dialogue frameworks (NGOs, Communities, Private Sector, and Administration) at local and national levels to achieve a form of governance that better takes into account the interests of forest communities; - Facilitate community participation in decision-making and management processes of forests and protected areas (land management contracts, local management advisory committees, etc.); - Support communities in their organization and the development of community dynamics to promote their rights; - Share the experience developed by the project through publications; - Contribute to the improvement of the national framework and national processes for natural resource management based on recommendations from field experiences.

The issue of access to citizenship for indigenous peoples of Gabon: the case of the Bakas of Minvoul 10 Despite the adoption of the Indigenous Peoples Development Plan (PDPA) 4 in 2005, within the framework of the Sectoral Forest Environment Program, whose objective was to achieve better governance of the forestry sector, including the consideration of the rights of rural populations, the situation of indigenous peoples has not seen progress in terms of access to land, natural resources, and state services. This is why the project has also contributed to the promotion of their fundamental rights related to citizenship. The project that led to this publication has a particular approach. Indeed, it relies on Community Jurists who are based in rural areas to provide legal and organizational support to partner communities. 4 This is a document that was developed in 2005 for Gabon within the framework of the Sectoral Forest Environment Program (PSFE). Through this, it is clearly established that the PSFE, by developing land allocation plans and management plans, establishing and improving the management of protected areas and national parks, applying the forestry code, developing timber and non-timber forest product sectors, etc., is likely to have effects on all forest inhabitants and particularly on Indigenous Peoples. To remedy this, the PDPA should allow for the integration, in

the design and implementation of the PSFE, of measures and mechanisms allowing: - indigenous peoples to express their views on the design and implementation of the PSFE on their lands from which they derive the resources necessary for their existence, informed participation taking into account the inclusion of representatives of both sexes, - to avoid, if not minimize, or mitigate as much as possible the negative impacts on them; and - to ensure that the benefits intended for them will be culturally appropriate. To achieve these objectives, the PDPA was prepared in collaboration with the concerned indigenous populations in May 2005 by Dr. Kai Schmidt-Soltau as part of a consulting contract with the PSFE, a unit of the Ministry of Forest Economy, Water, Fisheries, and Environment responsible for Nature Protection (MEFEPEPN), which will manage the PSFE. In accordance with OD 4.20 and in addition to the introduction, the report includes the following sections: Project Description, Baseline Data on Indigenous Groups, Consultation, Legal Framework Review, Impacts and Risks of the PSFE and Proposals for Mitigation Measures Specific to Indigenous Populations, Analysis of Institutional Capacities, Implementation Schedule, Costs and Financing Plan, Monitoring and Evaluation.

The context 11 i.2. Indigenous Peoples in Gabon I.2.a. An Overview Gabon has an area of approximately 26.7 million hectares and is covered by one of the largest humid tropical forests in Africa. This forest represents 85% of its total area and harbors a very high biodiversity. Gabon's forests are home to indigenous populations whose survival is closely linked to the use of lands and forests considered as common goods, accessible and usable without restrictions. They represent the foundation of their existence. Indeed, it is their nurturing mother, their source for pharmacopoeia, the setting for distraction and cultural and spiritual celebration 5. And despite their existence, indigenous peoples do not receive official recognition in Gabon. Indigenous peoples in Gabon are present throughout the country and include numerous ethnic groups identified by their location, language, and culture. According to a 2005 census 6, the pygmy population is estimated to be around 20,005 out of a national population of 1,534,300 inhabitants. The colonial administration's project of "village regrouping" 7 resulted in some members of these communities settling along roads, even though their livelihoods and culture remain inextricably linked to the forested areas of the country. Originally hunter-gatherers and/ or hunter-gatherer-fishers, these populations, due to their settlement alongside their Bantu neighbors, now engage in agricultural activities. I.2.b. Concerns Regarding the Rights of Indigenous Peoples in Gabon In Gabon, the rights of indigenous communities are not legally recognized and protected by special national legal instruments, despite the signing and ratification of several binding or non-binding international legal instruments 8. Indeed, the rights of indigenous peoples are identical to those of other citizens. The general provisions provided by the legislator do not protect these communities, which face the following challenges: i. The Fragility of Customary Land Rights In general 9, indigenous peoples can be defined as "the descendants of those who inhabited a country or geographical region at the time when groups of populations of different cultures or ethnic origins arrived and subsequently became predominant, through conquest, occupation, colonization, or other means." In other words, indigenous peoples are those who first occupied the lands that form our current countries. However, following the "village regrouping" policy, Bantu populations were the first to join the roads, thereby occupying the available lands. Indigenous populations, on the other hand, remained in the forest, and it was only later, sometimes under the influence of the Bantus, the State, or resource management processes, that they eventually emerged from the forests, finding themselves de facto without true customary land ownership (without land that is legitimately recognized as theirs). As a result, some of these populations occupy lands that their Bantu neighbors allocate to them without compensation or not, depending on the

circumstances. However, the notion of "indigenous people" remains closely linked to the land criterion in its definition. One cannot imagine an indigenous people without land and access to natural resources. This is indeed the idea shared by Mr. José Martinez Cobo 10, UN Special Rapporteur in 1987 on the rights of indigenous peoples, who believes that it is quite difficult to provide a universal definition of the notion of indigenous people, although it can be identified through "the historical continuity of characteristics such as, for example, the occupation of ancestral lands or at least a part of those lands; common ancestry with the first occupants of those lands." Following this definition, one can say that there is an unbreakable link between indigenous peoples and the lands they have always occupied. 5 Djinang Martial in Collaboration with Marc Ona Essangui in: "the analysis of the legal and regulatory framework for large-scale land transfers in Gabon" (August 2012, Friedrich Ebert Stiftung Foundation, Yaoundé Cameroon) 6 According to Denis MASSANDE, data from the 2005 ADCPPG census 7 Village regrouping: means the gathering of previously dispersed communities to form larger concentrations of populations, strategically placed near roads, administrative posts, or public offices. The term refers here to a series of official measures instituted as early as the 1930s in Gabon and continued in the post-colonial period of the 1980s, which resulted in forcing rural communities to settle along the roads. These results went hand in hand with the territorial and economic control of the country and laid the foundations for the modern state system. 8 See the list and excerpts in the annex of international texts signed and ratified by Gabon and involving the consideration of the rights of Indigenous Peoples 9 Wikipedia article; the free encyclopedia, 2014,http://fr.wikipedia.org/w/index.php?title=Peuple_autochtone&oldid=100143577 10 A Spanish citizen living in exile in France, he proposed a definition of the notion of indigenous peoples that is now commonly used. It is based on three fundamental criteria. Article to read on Wikipedia

The issue of access to citizenship for indigenous peoples of Gabon: the case of the Bakas of Minvoul 12 In several Central African countries, including Gabon, there is no legal text that protects customary land ownership in the same way as modern land ownership 11. Worse still, some of the lands occupied by indigenous peoples generally belong to their Bantu neighbors. These lands are made available but can be reclaimed at any time, particularly in cases of financial stakes. Beyond this practical difficulty, another reason for the fragility of indigenous peoples' land rights lies in the texts. Indeed, while establishing state ownership over the lands and forests of Gabon based on the system of domain 12, national texts only recognize ownership to those holding a land title 13. Unfortunately, the procedures to obtain such titles are not accessible to indigenous peoples; they would also need to "own" land to register and know the procedures to implement, along with their rights and duties related to it, like any other Gabonese citizen. In such a context, the situation appears more than delicate, and the problem truly arises with acuity. Therefore, the governing bodies should take special measures in favor of these communities as recommended by international texts, which, unfortunately, are not implemented despite being ratified 14, and this despite the monist system of Gabonese law 15.

ii. Low participation in decision-making processes and public affairs In this area, there is no legal text in Gabon prohibiting the participation of indigenous peoples in public life on the same level as other citizens. However, it is observed in practice that these communities are poorly represented and sometimes weakly consulted in these processes, except in cases of forestry and agricultural certifications where this prerequisite is imposed by various standards. This situation is justified by several factors: - Lack of citizenship: Indeed, because they do not have official documents, they are sometimes considered foreigners; - Absence of customary land rights: This absence of customary land rights leads the Bantus to deem it unnecessary to involve indigenous

populations in consultations related to land and forests, as they consider themselves the "true owners"; - Assimilation policy with the appointment of Bantu chiefs in mixed communities: in such cases, village issues are debated and resolved at the chiefdom level and sometimes without prior consultation of indigenous peoples; - Low literacy rate: this severely penalizes indigenous peoples and leads to their exclusion from all exchanges not conducted in the local language. This is also the case when these exchanges are based on written documents, as many cannot read or write.

iii. Difficulties accessing health and education services In Gabon, indigenous peoples face real difficulties accessing health and education services. The fact that Gabonese laws place all citizens on an equal footing does little to favor indigenous peoples whose specific way of life is not taken into account when developing appropriate programs. Regarding schooling, not only do their children lack birth certificates to access it, but the current educational system also seems ill-suited to their culture. Perhaps it is necessary to think of an educational system that integrates their particularities. 11 Forest People Program: "Land Rights and Forest Peoples of Africa; Historical, Legal and Anthropological Perspectives," March 2009; Djinang Martial: "Investment and Protection of Community Rights in Central Africa: The Case of Gabon," December 2013, CED Cameroon; 12 The Torrens Act established the land title system in Australia. It was indeed for Australia that Colonel Robert Torrens developed his system and that the Torrens Act was adopted on July 2, 1858, in the province of South Australia. In the spirit of the 19th-century colonizer, it was about carving out land free of rights and distributing it among newcomers. The division was the work of the cadastre, the colonial authority presided over the allocations to each arrival of immigrants, and registration in the land title book was equivalent to a title of ownership. When the land changed hands, it was sufficient to record the mutation in the register, which thus remained the legal proof of ownership. The Torrens system came to bring order to colonial practices. 13 Articles 25 (the land title cancels any title and purges any right not mentioned therein) and 26 (registration is mandatory), Ordinance No. 5/2012 of February 13, 2012, establishing the regime of land ownership. 14 NGO ClientEarth: Briefing on the Property and Use Rights of Local and Indigenous Communities (Gabon), February 2014 15 Liz Alden Wily with contributions from Nathalie Faure, FERN (June 2012): "Land Rights in Gabon: Facing the Past and Present"; Page 31: According to the Constitution, endowed with legal supremacy, treaties ratified by the head of state are immediately applicable and do not require transformation by law to be fully effective (unlike what is the case in dualist countries, which are mainly found in common law systems, where an establishment law "transforms" treaties into national law). This has considerable implications when the international obligations to which the state commits itself to comply are immediately applicable in the national legal order and therefore immediately enforceable for the beneficiaries of the rights enshrined by these international provisions. However, there is a limit: the ratification of the texts by the President and publication in the Official Journal. The obligations will remain void if the signing of the agreement or convention does not lead to ratification.

Citizenship and recognition of the rights of indigenous peoples 13 Regarding access to health services, it must be said that their remoteness and sometimes the relatively high costs practiced, given their means, exclude them outright. Certainly, indigenous populations prefer traditional pharmacopoeia by custom, but in some cases, because they do not have real sources of income to access appropriate healthcare services when traditional treatments are no longer sufficient. Another element that we can also mention in this regard is the reluctance of indigenous peoples towards administrative procedures that they often do not know. But all these difficulties are linked to a key element, that of access to citizenship, which implies other related rights and

benefits. I.2.c. The importance of supporting indigenous peoples in accessing Gabonese citizenship This interest is justified first by the objectives pursued by the Rainforest Foundation United Kingdom and Brainforest, which among other missions aim to support communities in knowing and enjoying their rights, including civil rights. Another interest is justified by the very particularity of this right without which one cannot enjoy the related benefits. It should also be noted in this section the availability and openness of the municipal authorities of Minvoul who facilitated the implementation of various activities (raising awareness in villages about the importance of the birth certificate and the procedure to follow for obtaining it, facilitating birth declarations with the civil status officer), all of which has contributed to increasing our interest in this issue. A final element that has sparked our interest here is the increased difficulty of these populations compared to their Bantu neighbors regarding access to citizenship. Indeed, our survey reveals that the groups most affected by the lack of birth certificates in the visited villages are the Bakas children.

I.3. Indigenous peoples in the locality of Minvoul I.3.a. Their Presentation and Location The locality of Minvoul, like other localities in Gabon, has a significant proportion of indigenous peoples in its population. The Bakas are scattered across the villages where they often coexist with the Fangs. Even though this coexistence is not effective, these populations occupy the former Bantu plantations. This is the case for the Bakas villages of Bitouga and Eto'o (which has no official recognition and is considered a campsite by local authorities). The indigenous peoples of Minvoul are in the process of sedentarization due to their way of life, which now involves permanent occupation of the land and the practice of agriculture as their main means of subsistence. Despite this, fishing, hunting, and gathering remain central to their lives and constitute their main daily activities. Socially, it can be noted that public services in health, education, or social affairs, and even the Town Hall remain open to them, although some difficulties persist at this level. I.3.b. The Difficulties Encountered Regarding the Law The indigenous peoples of Minvoul are generally confronted with problems of access to citizenship, access to education for their offspring, issues of consultation and participation in the management of natural resources, and land issues as they have no customary rights over the lands they occupy. I.3.c. Difficulties Accessing Citizenship Citizenship being a fundamental right for all citizens, it is more than imperative for indigenous peoples to access it. This will subsequently allow them to fully enjoy related rights such as the right to education, work, health, voting, benefiting from revenues and advantages arising from the management of natural resources, the right to participation and consultation, freedom of movement, etc. Access to Gabonese citizenship will also give them the capacity to promote their rights to land and natural resources on which their survival depends. Thus, citizenship appears as an essential right through which the enhancement of many other rights passes.

 ii. CiTiZeNShIp aND ReCoGNITION oF ThE RiGhTS oF iNDigeNOus PeOPLeS ii.1. Definitions and Contextualization Indigenous peoples are "the descendants of those who inhabited a country or a geographical region at the time when groups of people from different cultures or ethnic origins arrived and subsequently became predominant, through conquest, occupation, colonization, or other means" 16. Indigenous peoples represent approximately 370 million 17 people worldwide. Other terms have sometimes been used to refer to them, such as aboriginal, "first people", "root people", "first nation", or "native people", succeeding the pejorative term "primitive people", but all officially abandoned in favor of indigenous people. However, there is no universally recognized definition. International legislation uses this term more precisely and applies it to "culturally distinct ethnic groups, whose identity differs from that of the society to

which they belong, who derive their livelihoods from local resources and are politically non-dominant." (Marcus Colchester, Wild Nature, Saved Nature?)18. According to the World Bank 19, indigenous peoples are "social groups with a distinct social and cultural identity from that of the dominant society, which makes them vulnerable and likely to be disadvantaged by the development process." The International Labour Organization (ILO), which addresses both indigenous and tribal peoples, emphasizes the notion of "residence in an area prior to its conquest, colonization, or the establishment of the current state borders." From all these definitions, key elements can be extracted to understand and define the concept of "indigenous", which are: - An occupation and use of a specific territory prior in time to that of the society to which they belong; - The voluntary perpetuation of distinctive cultural characteristics, whether through language, social organization, religious and spiritual values, modes of production, laws, or institutions; - Recognition by other groups or by state authorities as a distinct community. In light of the above, the notion of indigenous peoples, in the case of Gabon, refers to a part of the population that is trivially referred to as "pygmy", which is actually a people of either hunter-gatherers-fishers or hunter-gatherers. There is a great linguistic variety within the indigenous population of Gabon. Among others, there are the Babongo, Bakoya, Bakas, Barimba, Baghama, and Akoa. 20. ii.2. Content of Regional and International Texts At the international and regional levels, various texts provide and guarantee rights to indigenous peoples. This includes the United Nations Declaration on the Rights of Indigenous Peoples of 2007, which was adopted by a majority of 143 states, 4 votes against (Australia, Canada, the United States, and New Zealand) and 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, the Russian Federation, Samoa, and Ukraine). The Declaration establishes a universal framework of minimum standards for the survival, dignity, well-being, and rights of indigenous peoples worldwide. The Declaration addresses collective and individual rights; cultural rights and identity; rights to education, health, employment, language, as well as other themes. It prohibits discrimination against indigenous peoples and promotes their full and effective participation in all matters that concern them. It affirms their rights to respect for their specificity and to pursue their own priorities in economic, social, and cultural development. This text explicitly encourages harmonious relations and cooperation between states and indigenous peoples. ILO Convention 169 on the rights of indigenous and tribal peoples is a binding text for states on this issue. Unfortunately, Gabon has not yet signed it. To date, it has been ratified by 20 countries. After ratifying the convention, a country has one year to adapt its legislation, policies, and programs to the convention before it becomes legally binding. Countries that have ratified the convention are subject to monitoring regarding its implementation. Given that indigenous and tribal peoples may face discrimination in many areas, the first fundamental and general principle of Convention No. 169 is non-discrimination. Article 3 of the convention states that indigenous peoples have the right to enjoy human rights and fundamental freedoms without hindrance or discrimination. Article 4 of the convention also guarantees the enjoyment of citizens' rights without discrimination. Another principle of the convention concerns the application of all these provisions to indigenous women and men without discrimination (Article 3). Article 20 addresses the prevention of discrimination against indigenous workers. Gabon's ratification of this convention would constitute a significant advance for the recognition of the rights of indigenous peoples. There is also the International Covenant on Civil and Political Rights, to which Gabon is a signatory. This instrument guarantees the dignity of "all members of the human family." This text aims to protect individuals against all forms of harm to dignity and other tortures. The rights thus protected are as follows: - Art 1: Right of peoples to self-determination and "to freely dispose of their wealth and natural resources"; - Art 6: Right to life and on the Convention for the Prevention and Punishment of the Crime of Genocide regarding deprivation of life; - Art 7: Prohibition of torture and cruel, inhuman, or degrading treatment or punishment; - Art 8: Prohibition of slavery and forced labor;

- Art 9: Right to liberty and security, prohibition of arbitrary detention; - Art 11: Prohibition of detention due to civil law obligations; - Art 14: Equality before courts and tribunals. Right to silence, presumption of innocence; - Art 16: Right to recognition of legal personality; - Art 18: Right to freedom of thought, conscience, and religion, as well as the freedom to manifest one's religion; - Art 19: Freedom of expression (and the conditions under which this freedom may be restricted); - Art 20: Prohibition of any propaganda for war and incitement to discrimination; - Art 21: Right to peaceful assembly; - Art 22: Right to assembly and on the International Labour Organization; - Art 25: Right to vote and to be elected by universal and equal suffrage (paragraph b); - Art 26: Right to equality before the law; - Art 27: Cultural rights of minorities. At the institutional level, the body responsible for promoting human rights and peoples in Africa is the African Commission on Human and Peoples' Rights (ACHPR), which has the mission, among others, to promote human and peoples' rights; to ensure the protection of human and peoples' rights under the conditions set by the African Charter on Human and Peoples' Rights; to interpret any provision of the Charter at the request of a state party, an OAU institution, or an African organization recognized by the OAU; to carry out any other tasks that may be entrusted to it by the Conference of Heads of State and Government. The promotional function of the Commission is explained in paragraph 1 of Article 45 of the Charter. This function has the main objective of raising awareness among populations and disseminating information on human and peoples' rights in Africa. Alongside the ACHPR, there is the African Court on Human Rights (AfCHPR) responsible for resolving conflicts related to human rights. To accomplish the missions assigned to them, these institutions rely on a battery of texts, the main one being the African Charter on Human and Peoples' Rights (ACHPR). Other texts complement the Charter to complete the range of legal instruments aimed at guaranteeing human and peoples' rights. This includes the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and the African Convention on the Conservation of Nature and Natural Resources. The institutions and instruments we have just presented constitute the African system for the protection of human rights. Furthermore, in the Central African sub-region, the Central African Forest Commission (COMIFAC), beyond themes related to forest management, also addresses issues related to the consideration of the rights of indigenous peoples

The issue of access to citizenship for indigenous peoples of Gabon: the case of the Bakas of Minvoul 16 with a view to facilitating their involvement in the conservation and sustainable management of forest ecosystems in Central Africa. ii.3. The rights of indigenous peoples in the legal texts in Gabon The Gabonese Constitution does not provide specific provisions regarding the rights of indigenous peoples, as is the case in some African countries such as Tanzania, where the Fundamental Law provides for a number of seats for the representation of indigenous peoples in the National Assembly. In Gabon, the Constitution stipulates the "equality" of all citizens without taking into account the specificities inherent to indigenous minorities. Just like the Constitution, no other legal text recognizes specific rights for indigenous populations. However, within the framework of implementing sustainable natural resource management policies, the Gabonese government initiated a Forest Environment Sector Program (PSFE) in 2005, funded by the World Bank (WB). In this project, the WB imposes an operational directive 4.20 known as "Indigenous Peoples". Indeed, given the existence of the impacts of the PSFE on indigenous populations, the preparation of an Indigenous Peoples Development Program (PDPA) is a condition imposed by the World Bank's Operational Directive 4.20. The main objective of this PDPA21 is to ensure that the PSFE respects the dignity, rights, and culture of pygmy populations in Gabon and to ensure that they also benefit from the PSFE. The content of the PDPA includes a

number of recommendations to the Government regarding the consideration of the rights of indigenous peoples in the natural resource management sector. The implementation of this PDPA would surely have addressed the shortcomings of the Gabonese legal system related to mitigating the impacts of forest management and conservation on the livelihoods of these populations. Unfortunately, this document will not be subject to effective implementation. 21 To achieve these objectives, the PDPA was prepared in collaboration with the concerned indigenous populations in May 2005 by Dr. Kai Schmidt-Soltau as part of a consulting contract with the PSFE, a unit of the Ministry of Forest Economy, Water, Fisheries, and Environment responsible for Nature Protection (MEFEPEPN), which will manage the PSFE. In accordance with OD 4.20 and in addition to the introduction, the report includes the following sections: Project description, Baseline data on indigenous groups, Consultation, Review of the legal framework, Impacts and risks of the PSFE and proposals for mitigation measures specific to indigenous populations, Analysis of institutional capacities, Implementation schedule, costs and financing plan, monitoring and evaluation.

The contribution of the project regarding access to citizenship for indigenous peoples 17 iii. The Contribution of the Project Regarding Access to Citizenship for Indigenous Peoples iii.1. The Relevance of the Project and the Importance of Strengthening Legal Capacities in the Process The project "Capacity Building for the Respect and Promotion of the Rights of Forest Communities" aligns with the objectives of the PSFE and the World Bank's Operational Directive 4.20. Its overall objective is to reduce poverty and contribute to the development of forest communities through the promotion and defense of their rights, support for participation and forest management, and support for enjoying the benefits of this management. It also aims to promote the rights of indigenous peoples by assisting them in the legal processes of accessing Gabonese citizenship through support for the establishment of birth certificates. III.1.a. The Problems Faced by Communities on a Daily Basis In their daily lives, indigenous populations generally rely on hunting, fishing, gathering, and agriculture. In other words, their survival depends on the use of natural resources. In this situation, the forest ensures their food security, and this is more so for indigenous peoples than for the rest of the population, which often turns to other sources of income. The valuation of land and forest spaces by the State has had a significant influence on the lifestyle of communities. Access to land is now regulated, and the rural forest domain is not clearly defined, so these communities, in some cases, no longer have sufficient space for their subsistence activities, which often leads to several conflicts with other stakeholders in the management of natural resources. Beyond these difficulties, indigenous peoples face problems of another order: Victims of various forms of discrimination and due to their limited financial means, they struggle to access basic social services such as health and education. In the locality of Minvoul, for example, some Bakas communities live in very isolated areas (such as the communities of Bitouga and Eto'o); under these conditions, the education of young people is only possible if schools are established in their villages. However, one of the greatest difficulties for these populations remains the issue of their citizenship. Indeed, more than three-quarters of the Bakas population of Minvoul do not possess any civil status documents. The consequence of this situation is that they cannot legitimately enjoy the benefits inherent to nationality. III.1.b. The Problems Related to Access to Citizenship in the Texts and Practice The issue of access to citizenship for indigenous peoples in Gabon does not seem to present difficulties in terms of the texts. Indeed, the Gabonese legislator, in accordance with the Constitution, outlines the procedure for establishing birth certificates and supplementary birth judgments for all Gabonese citizens without any distinction. As a result, Article 169 of the second part of the civil code states that "Birth declarations are made to the civil status officer within

three days of childbirth for children born in municipalities and district capitals, and in other cases, within one month." From reading this article, it can be understood that the Gabonese legislator, regarding birth declarations, provides for two situations: on the one hand, there are birth declarations in municipalities and district capitals, for which the prescribed deadline is three days from the day of childbirth, and on the other hand, there are birth declarations outside the two aforementioned locations, for which the legal duration is one month from the day of childbirth. In other words, in the birth declaration procedure, all Gabonese citizens have 3 days for births that occur in municipalities and district capitals, and 1 month in other cases. After these deadlines, it would be necessary to follow the procedure for supplementary birth judgments. The law as presented seems to be simply applicable to all citizens. However, its implementation appears to be more uncertain than one might think, and it is precisely at this level that the real problem of access to citizenship for indigenous peoples arises.

The issue of access to citizenship for indigenous peoples of Gabon: the case of the Bakas of Minvoul 18 Indeed, during our multiple field visits, we identified various elements that hinder the implementation of Article 169 of the civil code by indigenous populations. The first element we can mention concerns the relatively short prescription periods in certain cases, especially considering what actually happens in reality. For a birth that occurs in a municipality or in a district capital, three days seem insufficient to declare a birth because, to achieve this, parents necessarily need to be issued a birth certificate; it is with this document that these parents can present themselves before a civil status officer. However, in practice, the time taken to issue this document exceeds the three days prescribed by law for the declaration of birth. The second element is related to the lack of knowledge of the relevant procedures and the importance of civil status documents among indigenous populations, and it is precisely in this context that we support them in capacity building through training, assistance in the procedures for declaring births, and ongoing monitoring of the procedures in progress. The third element is the lack of interest and enthusiasm observed among certain indigenous populations regarding the establishment of this document, certainly due to a lack of understanding of its importance. It should be noted that these elements are not the only ones, but the main ones that hinder the proper implementation of Article 169 of the civil code, along with the problem of access to citizenship for indigenous peoples. After analyzing the issue of access to citizenship for indigenous peoples through the normal procedure for establishing a birth certificate, this question will be analyzed from the perspective of establishing a supplementary birth judgment, which can be considered as a derogatory or contentious procedure granted to individuals who have not complied with the legal deadline. In this case, Article 172 of the civil code states that "If the birth of a child has not been declared within the legal deadline and subject to the provisions of the previous article, the civil status officer can only relate it by transcribing a judgment from the civil court containing, to the extent that they can be established or presumed, the statements provided for in Article 167 of this chapter. The competent court and civil status officer are those of the place of birth of the person concerned. If this place is unknown, the competent court is that of the domicile of the applicant, and this court decides the place where the judgment will be transcribed. If the date of birth is certain or presumed, mention of the judgment is made on that date in the margin of the civil status registers. Mention of the judgment is also made, if applicable, in the margin of the minutes of discovery or the declarations provided for by the previous articles". It is clear from this article that the legislator provides measures for the benefit of parents affected by forfeiture in the normal procedure for declaring the birth of their children. But here again, and specifically for indigenous peoples, the problem remains related to the possibility of effective application of this article by them. Indeed, beyond the causes mentioned

in the normal procedure, there are other causes specific to the supplementary judgment procedure itself. If this procedure seems accessible to an average citizen, it is not always the case for indigenous peoples who live far from administrative centers and sometimes have just enough to eat. In its implementation, the supplementary judgment procedure is costly for indigenous populations, which represent one of the economically weakest social strata. According to information gathered from the First Instance Court of Libreville (civil chamber), the required documents for a supplementary judgment are as follows: - A request addressed to Mr. President of the Court; - The legalized documents of both parents; - The legalized documents of three witnesses plus their written testimonies; - A birth certificate or apparent age plus a copy of the birth register; - A copy of the birth register issued by the hospital of the place of birth; - File fees of 20,000 FCFA. In addition to the file fees and those related to the preparation of other documents, transport and accommodation costs must be added, not to mention the applicant's subsistence. Specifically regarding the case of the Bakas populations of Minvoul, to travel to Oyem, which is the provincial capital and the city that houses the only First Instance Court in this province, an average of 4,000 FCFA for round-trip transport and at least 5,000 FCFA per night for the cheapest hotel rooms must be planned. Similarly, there are documents that are almost impossible to provide for indigenous populations, such as the "legalized documents of both parents," because how can these documents be required from people who are almost certain not to possess them?

The contribution of the project regarding access to citizenship for indigenous peoples 19 Shouldn't there be a provision for exemption at this level, at least for indigenous populations? III.1.c. The Need for Capacity Building in Communities In light of the above, capacity building for legal issues in general and for issues related to citizenship in particular appears to be essential. Indeed, it is a matter of providing training to communities on the importance and the procedure to follow for obtaining official documents, and to practically assist them in establishing these documents. The ultimate goal here is that communities are able to initiate and follow the procedure themselves. The uniqueness of such an approach lies in the fact that theory is combined with practice. Likewise, once the document is obtained, the project provides support on the possible uses that can be made of a birth certificate. It should be noted that while presenting the merits of such a document, the project emphasizes the disadvantages faced by individuals who do not hold official identity documents. iii.2. The Approach Adopted by the Project To support communities in resolving their issues, we have carried out a number of activities whose implementation unfolds according to the steps below: III.2.a. Identification of the Problem and Its Consequences The identification of the problem was carried out through participatory diagnosis and exchanges with indigenous peoples during our field visits. They expressed the need to possess civil status documents, as in the absence of these documents, they cannot move freely (go from one municipality to another) and their children face difficulties in their schooling. Not possessing any civil status document is characteristic of a stateless person (without legal nationality). De facto, stateless persons cannot legitimately claim a right pertaining to a specific State. In the case presented here, individuals from the Bakas communities of Minvoul who do not possess civil status documents are considered, in this context, as stateless or even foreigners. As a result, these communities cannot legitimately claim the enjoyment of rights recognized to nationals. On what basis could they, for example, claim their right to work, health, participation, consultation, sharing of benefits from the exploitation of natural resources, education, voting, or even their freedom of movement? III.2.b. Awareness/ Training of Communities and Respect for Gender Approach In the face of the issue of access to citizenship that indigenous peoples in general, and those of Minvoul in particular, are confronted

with, it was necessary to first discuss the importance of having a civil status document. To do this, following the basic participatory diagnoses, we organized awareness campaigns and small training workshops in Minvoul with the communities of Bitouga, Elarmintang, Nkok'akome, and Doumassi. Very quickly, indigenous women showed a particular interest in the issue of citizenship and requested from the beginning of the project that this issue be treated as a priority, particularly concerned about the future of their children. The project, in its general methodology, ensures a participatory approach and guarantees a gender approach so that the interests of women and men are well identified and that all groups within a community can express their expectations, share their concerns, and find answers to their worries. Following the request from women who wished to meet without the presence of men, focus groups were organized to work in depth on the theme of citizenship, while men were informed of this methodology and regularly invited to participate in certain meetings. On this basis, the communities designated 5 Bakas women who benefited from this ongoing training and would be responsible for disseminating information to other members of their villages.

 20 During these training sessions, the various legal steps to follow in order to obtain a birth certificate were presented. Both the normal declaration procedure with the civil registry officer and the exceptional procedure before the courts through supplementary judgment were discussed. To facilitate understanding, a particular emphasis was placed on practical illustrations. Adapted participatory tools were developed by the project and made available to all communities. III.2.c. The Census of Persons Without Birth Certificates As capacities were developed within the communities, it seemed necessary to move to the stage of census of persons without birth certificates. This was done on a case-by-case basis. Indeed, the issue of access to citizenship varies according to the situations. For the youngest, the question is relatively simple as parents can declare the birth of their child up to the age of 6 months, particularly in the Minvoul area. The problem is acute for the rest of the population who need a procedure for establishing supplementary judgments. In this context, it is an expensive and complicated procedure for the indigenous peoples of Minvoul. On one hand, they face the problem of free movement as they cannot travel without identification to the provincial capital Oyem, for the establishment of supplementary judgments with the judicial authorities. On the other hand, the costs associated with this procedure may be beyond the reach of the indigenous peoples. During the census phase, the project's para-legals were involved and facilitated the realization of this activity by going door to door because, failing to contain the problem, it was a matter of limiting it by facilitating the identification and then the declaration of all Bakas children under 6 months with the Civil Registry Officer of the Minvoul Town Hall. III.2.d. Consultation with the Competent Local Authorities and Their Involvement in the Process The issue of access to citizenship inevitably involves public authorities as stakeholders. In this sense, we opened a dialogue with the prefectural and municipal authorities on the citizenship issues of indigenous peoples. They encouraged the conduct of our activities in the locality and agreed to support us because, they argue, "the role of civil society is to support the actions of the Government which cannot always do everything at once." This collaboration with local authorities is now effective. The civil registry officer of the Town Hall has also participated in some training sessions with the communities. Birth declarations made by the indigenous peoples are recorded in a register specifically provided for this purpose. Regarding the collaboration with the administrative authorities, it is important to emphasize that a consultation framework has been established. It has already allowed for the definition of the actions currently being undertaken. It will subsequently allow for an evaluation and the definition of future actions to be developed in

order to definitively resolve this issue. III.2.e. Support for Indigenous Peoples in Administrative Procedures Beyond the training sessions, this support consisted not only of identifying cases of children under six months without a birth certificate, but also of facilitating the movement of parents from the village to the Town Hall and the dialogue with the authorities. Subsequently, we facilitated the birth declaration procedure with the civil registry officer. The support also included the follow-up of these cases. III.2.f. Collaboration with the NGO MINAPYGA To support our activities on the ground by involving indigenous organizations, we organized a joint mission to Minvoul, with the NGO MINAPYGA (Indigenous Minority of Pygmies of Gabon), which is an organization working for the defense and promotion of the rights of indigenous peoples of Gabon, and which had previously conducted similar activities in the locality. This field visit had the following objectives: - To assess the progress made in the work of MINAPYGA in Minvoul regarding access to citizenship; - To raise awareness among Indigenous Peoples about the importance of the birth certificate; - To update the file of Indigenous Peoples without birth certificates and determine the persons to be supported to remedy this. As can be seen, this joint mission allowed us not only to become aware of the work already done, but also to consider what needed to be developed for the future, and it allowed for the pooling of efforts of Gabonese civil society organizations on this front. III.2.g. Current Results Since the beginning of our activities and thanks to the involvement of various partners, the project has achieved the following results regarding support for indigenous peoples in terms of access to citizenship: - At least 200 members of indigenous communities have been trained on the importance of the birth certificate and the procedure to follow to obtain it; - A permanently updated file has been established, listing the names of the main indigenous members without birth certificates in the locality of Minvoul and more specifically in the villages concerned by our action; - The project facilitated the establishment of 30 birth certificates that have been issued to the rightful owners. Other certificates are in the process of being established. Two cases of lost birth certificates have also been resolved. Indeed, the project facilitated the search in the archives and subsequently the legalization of the records for the benefit of those concerned, through their relatives. - Another result that can also be presented is this dynamic of group work that has been developed with the local administrative authorities who effectively facilitate this process and are genuinely involved in it. - A collaboration with resource persons and organizations such as MYNAPYGA has been established and allows for mutual capacity building and better coordination within Gabonese civil society regarding actions related to access to the citizenship of indigenous peoples in the locality of Minvoul. IV. The Analysis of Opportunities / Threats and Best Practices IV.1. Major Opportunities for the Successful Implementation of the Process The involvement of local authorities in supporting indigenous peoples for access to citizenship is seen as an asset and an advantage in the implementation of the process of acquiring this civil status document. This support and involvement of local authorities are largely responsible for the achievement of current results. They have facilitated the progressive implementation of measures adopted at the local level. At the central level, the government of the Republic had already initiated the development of the sectoral forest environment plan (PSFE) which was accompanied by a Development Program for Indigenous Peoples (PDPA). Beyond the PSFE, Gabon is a signatory to several international texts that protect human rights in general and the rights of indigenous peoples in particular. These various state initiatives demonstrate the willingness of leaders to take into account the rights of indigenous populations and the communities living near the forests in general. Following initiatives like the one led by the project, organizations working to promote the rights of indigenous peoples now have case studies and concrete results to present to decision-makers to encourage the effective implementation of these various texts that address the issue of the rights of indigenous peoples in all its aspects or new recommendations directing towards better protection of the rights of indigenous peoples in Gabon.

The issue of access to citizenship for indigenous peoples of Gabon: case of the Bakas of Minvoul 22 iV.2. Threats to the implementation of the process The difficulties encountered in the implementation of the process are of several kinds. First, there are legal difficulties, the consequence of which is the absence of specific legislation adapted to the situation of indigenous peoples in Gabon. Indeed, the Constitution, which is the fundamental text, does not take into account the specificities of a people; it has rather a holistic view of the notion of people, and as a result, all individuals are equal before the law, without any distinction. Although some progress has been noted, such as the development of the PDPA or the ratification of texts relating to the rights of indigenous peoples, it must be said that these are not yet subject to real application. The institutions responsible for implementing this plan and directives are not well defined, making it difficult to identify relevant actors and establish a strategy to encourage a policy of promoting the rights of Indigenous Peoples in Gabon.

Then there are structural difficulties characterized by the low number of indigenous peoples' organizations working to promote their rights. Moreover, these organizations do not always have the necessary legal expertise to conduct such advocacy.

Finally, there are difficulties related to financial costs that are not always bearable for indigenous peoples wishing to follow a procedure for establishing supplementary judgments.

V. Perspectives and Recommendations for Access to Citizenship and the Realization of Civil and Political Rights of Indigenous Peoples V.1. Analysis of the reality of the process The issue of access to citizenship for indigenous peoples will certainly remain as long as the institutional and legal framework of Gabon does not specifically recognize these rights. Indigenous peoples in Gabon lag significantly behind other peoples in Central Africa. Very few of them reach secondary education level, which poses a serious problem for their literacy. Under these conditions, they cannot truly participate in the development of actions aimed at promoting their rights as indigenous populations in the sense of International Law. Likewise, their consultation and involvement in public affairs management can only be limited. Worse still, their status risks not evolving. And while it is true that one of the actions should focus on strengthening the legal capacities of indigenous peoples and supporting them in the processes of establishing birth certificates, as is currently the case, it must be noted that the real challenges lie at other levels and require strong commitment from the highest authorities of the State.

V.2. Recommendations/Concerns of the communities Discussions with the indigenous peoples of the Minvoul locality clearly show their desire, given the current context, to achieve a level of development similar to that of their Bantu neighbors. They also wish to be involved in the various decisions made in the locality. However, they remain very skeptical about any potential change because they feel relegated to the background and continue to be victims of all kinds of discrimination. They also mention the frustrations their children face at school. According to them, it would be desirable for them to have their own reception structures for the education of their children. An initiative in this direction has already been undertaken by the NGO Lézard Humanitaire, which is committed to building a school for Bakas children in the Bitouga community in Minvoul.

V.3. Recommendations for improving the legal and institutional framework As a first element, we believe that the international texts signed by Gabon concerning the rights of Indigenous Peoples should be subject to effective application. This application will certainly lead to the recognition of a special status for indigenous peoples and the implementation of all the legal consequences attached to it.

Perspectives and recommendations for access to citizenship and the realization of rights 23 Another quicker solution to implement could be the simplification of the supplementary judgment procedure, which, beyond its free nature, should be based on a simple declaration by the head of the family or the traditional authority of the applicant. Still within this framework, the establishment of an apparent age certificate in a health facility should also be free for all indigenous peoples.

Given the isolation of certain villages, we propose the mobility of the civil registrar. Thus, he could travel from time to time to the villages to register various births and facilitate the birth declaration procedure by parents. These trips could be made periodically with a prior announcement addressed to the interested parties.

Beyond these measures, actions to strengthen the legal capacities of the concerned communities must continue, as these aspects are also part of the main difficulties related to access to citizenship for indigenous peoples. The better they are trained and informed, the more they will make their birth declarations on time.

V.4. Recommendations for practical implementation V.4.a. Mechanisms and specific measures The reform of the legislative framework finally recognizing specific rights for indigenous peoples must place great importance on the respect and application of these rights. Indeed, the rule of law is a legal system by which the State must submit itself to the Law it has created. The real question is how to lead the State to recognize a substantive right for indigenous peoples.

Given the monist nature of the Gabonese legal system, which implies the direct application of ratified international norms (and not the transcription into domestic law by the integration of international norms included in internal laws – principle of parliamentary sovereignty), the ratified international texts are not only a reference but also a normative constraint for conducting reflection and recommendations aimed at improving the content and applicability of national texts and processes. We have mentioned several times that Gabon is a signatory to several international texts on human rights and the rights of indigenous peoples, but the reality is quite different, and the means of internal or external pressure to compel the State to respect these rights, in general, and those of indigenous peoples in particular, remain weak due to the national sovereignty of every State.

It is therefore desirable that a genuine advocacy based on international standards be developed by the various concerned actors for the recognition of specific rights for indigenous peoples. Once these specific rights are recognized for indigenous peoples, it will then be necessary to develop genuine national mechanisms for supporting and monitoring the application of these rights. These mechanisms must naturally refer to both national law and international law and will require effective involvement of the Justice system, particularly the Constitutional Court, which guarantees fundamental rights in Gabon.

V.4.b. Support provided by the project and civil society For better protection of the rights of indigenous peoples, in addition to the ideas mentioned above, there should be active involvement of NGOs and civil society as a whole. This is already what the project is striving to do since its implementation, by strengthening the legal capacities of young lawyers, who in turn train and support communities in promoting their various forest, land, and civil rights. Thanks to this support and without claiming to solve the issue of access to citizenship for Indigenous Peoples, it has been contained. But beyond this aspect of strengthening legal capacities, the second stage must necessarily focus on advocacy for the affirmation and respect of Gabon's international commitments regarding indigenous peoples in the sense of International Law.

22 Let us recall that the rights of communities are divided into two categories: procedural rights

and substantive rights. Substantive rights are the legal rules that define rights and obligations in a given legal system. In other words, substantive law is the content of the law. Procedural rights, on the other hand, are the rights that specify how individuals can assert their rights. In other words, these are the steps and mechanisms for realizing the law.

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Conclusion 25 Vi. CoNCLUSioN The analysis we have just conducted has allowed us to generally address the situation of the indigenous populations of Minvoul, particularly the issue of their access to citizenship. At the end of our analysis, it is important to note that this problem is particularly acute for adults and those over 6 months old who must necessarily go through the procedure for establishing supplementary judgment. The reasons for this problem are numerous and involve various actors, including the communities themselves, who have not all assimilated the importance of birth registration. However, the real problem lies at a higher level and requires solutions at the politico-administrative level. The Gabonese government has expressed support for several texts and directives at the regional and international levels that directly or indirectly refer to the rights of indigenous peoples; this same government has initiated some actions aimed at taking into account certain rights of indigenous peoples, following the inconveniences that may be caused by conservation projects and forest management, particularly with the preparation of the PDPA within the framework of the Sectoral Forest Environment Plan (PSFE); however, these efforts have never been materialized on the ground. Their application would certainly have advanced matters but would not have been sufficient to fully resolve the issue, which is the recognition of a special status for the indigenous populations of Gabon. Indeed, the Gabonese Constitution has a monistic and unitary vision of the notion of “State” and, consequently, of that of “people.” It makes no reference to the word “indigeneity” when discussing the notion of people in its corpus. Moreover, Gabon is a signatory to a number of instruments that could allow it to understand the notion of indigenous peoples, such as the United Nations Declaration on the Rights of Indigenous Peoples or the African Charter on Human and Peoples' Rights of 1981. Although these texts are included in the internal legal order, they do not have any real binding force. To date, the only binding text for states is ILO Convention 169, of which only the Central African Republic is a signatory on the African continent. This convention recognizes substantial rights for indigenous peoples, such as the right to self-determination. It would therefore be desirable for public authorities to sign this convention to advance the rights of indigenous peoples in Gabon; failing that, they should ensure the application of already signed texts despite their non-binding nature for some.

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 ANNEXES Annex 1: Identification of Indigenous/Aboriginal and Tribal Peoples Indigenous/aboriginal and tribal peoples represent at least 5,000 distinct peoples for a total of 370 million individuals, residing in 70 different countries. It is difficult to produce a universal definition that encompasses such diversity, and it is now agreed that it is neither necessary nor desirable to adopt an official definition of the term “indigenous/aboriginal peoples.” Similarly, there is no internationally recognized meaning regarding the terms “minorities” and “peoples.” The convention does not impose a strict definition on the term “indigenous and tribal peoples” but rather focuses on describing the peoples it aims to protect (Article 1). Annex 2: Some International Texts on the Rights of Indigenous Peoples − □ILO Convention No. 169 Article 1.1 This convention applies (a) to tribal peoples in independent countries who are distinguished from other sectors of the national community by their social, cultural, and economic conditions and who are governed wholly or partially by their own customs or traditions or by special legislation; (b) to peoples in independent countries who are considered indigenous because they descend from populations that inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of the current borders of the State, and who, regardless of their legal status, maintain their own social, economic, cultural, and political institutions or some of them. The elements described in Article 1, paragraph 1, constitute the objective criteria delimiting the scope of application of ILO Convention No. 169. It is possible to objectively determine whether an indigenous/aboriginal or tribal people meets the requirements of Article 1(1) and is itself able

to recognize and accept a person's belonging to that people. Article 1, paragraph 2, establishes self-identification as a fundamental criterion. This is the subjective criterion on which ILO Convention No. 169 is based, placing great importance on the fact that a people defines itself as indigenous or tribal according to the terms of the convention, and that a person feels they belong to that people. Historically, ILO Convention No. 169 is the first international instrument to recognize the importance of self-identification. The scope of this convention is therefore delineated based on objective and subjective criteria. The concept of self-identification complements the objective criteria and vice versa. The convention adopts a generic approach and applies to both indigenous and tribal peoples. It thus focuses on the current situation of indigenous/aboriginal and tribal peoples, although the concepts of historical continuity and territorial roots are important elements in the identification of indigenous/aboriginal peoples. The criteria described in Article 1, paragraph 1 b) of ILO Convention No. 169 have been widely used to identify indigenous/aboriginal peoples in political and legal processes, both nationally and internationally, well beyond the group of states that are signatories to the convention. At the international level, these criteria serve as a working definition when identifying indigenous/ aboriginal peoples, including in the application of the UN Declaration on the Rights of Indigenous Peoples. Several specialized UN agencies have also based their own definitions of the term “indigenous peoples” on these criteria, including the World Bank and the United Nations Development Programme.

The issue of access to citizenship for indigenous peoples of Gabon: the case of the Baka of Minvoul 28 Article 1.2 The feeling of indigenous or tribal belonging should be considered a fundamental criterion for determining the groups to which the provisions of this convention apply. The identification elements of tribal peoples include, among others: A culture, social organization, economic situation, and way of life that distinguish them from the rest of the population of a country, particularly in terms of livelihoods, language, etc.; Traditions and customs that are their own and/or a special legal status. The identification elements of indigenous peoples include, among others: A historical continuity, meaning that they are societies predating conquest/colonization; Territorial roots (their ancestors already inhabited the country or region); Distinct social, economic, cultural, and political institutions (they have retained some or all of their institutions). − The UN Declaration on the Rights of Indigenous Peoples The UN Declaration on the Rights of Indigenous Peoples identifies "indigenous peoples" as the holders of the rights it proclaims, without defining this term. However, the preamble of the declaration lists certain characteristics generally attributed to indigenous peoples, such as their uniqueness, the fact that they have been dispossessed of their lands, territories, and natural resources, their historical presence prior to colonization in certain territories, their linguistic and cultural specificity, and their political and legal marginalization. Article 33, paragraph 1, also states that: Indigenous peoples have the right to determine their own identity or affiliation in accordance with their customs and traditions, without prejudice to the right of indigenous individuals to obtain citizenship of the state in which they live.

Bibliographic References / Annexes 29 NOTES ----------

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