



## Theoretical and Analytical Debate on the Human Rights of Autochthonous Africans<sup>1</sup>

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Significant studies on aboriginal (ethnic) minority groupings in the social sciences are negligible. Anthropology is probably the exception. This paper discusses concisely the human rights issues of marginalized, indigenous collectivities in Cameroon and Gabon, as brief case studies on the human rights of autochthonous Africans, within the following framework:

1. Introduction.
2. Some General Theories of Human Rights.
3. Human Rights Instruments and Indigenous Groups.
4. Brief Case Studies on Human Rights of Indigenous Populations in Cameroon and Gabon.
5. Conclusion.

### INTRODUCTION

Commonly, despite the participation of African states in international organizations (the United Nations, the African Union, *inter alia*) that approved measures for promoting the human rights of Africans the leadership of African states, overall, have been relatively unsuccessful in implementing the precepts contained in human rights declarations. Accordingly, my hypothesis in this paper is inadequate attempts are made by the guardians of African nation-states to respect the tenets of their national constitutions and international human rights instruments relating to the issue of aboriginal groups. This political stance, arguably, tends to exacerbate political angst; it also mitigates the drive toward peaceful cohabitation among diverse collectivities that are critical for uniting all sub-national units into a cohesive nation-state. The outcome of this department



and conduct implies that it is one thing to pass laws and sign national and international human rights instruments that could further the practice of human rights in society, but quite another to enforce these inspiring rules.

Indeed, there is a paradox that arises from the fact that African governments, with a few exceptions, that ought to be in a situation, within the context of human rights texts and constitutions, of protecting human rights are culpable in the violation of their citizens' basic rights (often through their agents and agencies). Notwithstanding my preceding suppositions, however, there is still hope for improving human rights performance in the region. This optimism is recognized—and even promoted—in part by the internationalization of the issue of human rights and sensitization of our global community to the need for a coordinated effort to deal with the vexing problems of human rights breaches worldwide. In this regard, the United Nations, international and national non-governmental organizations (NGOs) are active in advancing human rights observance. Further, Human Rights Watch and internationally renowned activists—concerned with human rights dilemmas—are playing superb roles in reducing rights violations in many African societies. The comprehensive U.S. Department of State's annual reports on human rights globally, the exposition and provision of solutions on rights issues in Africa and the rest of the world are encouraging.

Fundamentally, this matter of human rights infringements is a perennial issue. This development is noteworthy because of the impact of rights problems nationally and globally. Little wonder, then, that the intellectual debates on rights infractions gathered momentum after WWII—following the catastrophic blows dealt on human dignity/rights during that war. The advent of the holocaust added zing to the urgency and call for the respect of human rights globally.

Although attempts have been made to highlight the evils of human rights violations world-wide, at least since 1948, the results have been mixed in some countries and challenging in many others. This was and is the case partially because of the issues of



interpretation and enforcement of human rights doctrines. The theory of cultural relativism based on historical and cultural contexts and specificities of a society creates a problem of implementation.<sup>2</sup>

In Africa, the human rights quagmires of autochthonous groups are extraordinary and, in some peculiar ways, analogous to those confronted by similar collectivities in other regions of the world. In truth, colonialist division of Africa at the Berlin Conference of 1884/5 was an important watershed in African history. The ethno-political problems in Rwanda, Burundi, Kenya, Zimbabwe, the Sudan, Ivory Coast, Nigeria and others have transpired, among other factors, because of the zigzag boundaries drawn up in Africa at that meeting. The outcome of Berlin was the amalgamation of disparate and sometimes antagonistic ethno-religious groupings. The extant territorial policies, separatist movements, internal and irredentist wars, political unrest, refugee crisis and the attendant human rights violations in many countries on the continent, flow partly from the continent's colonial antecedent. It is against the backdrop of this foregoing brief introduction that I shall examine a few theories of human rights. These postulations are precursors to exploring pithily the human rights cases of indigenous ethnic minority groupings in Cameroon and Gabon whose lifestyles and lives are at risk.

### **Some General Theories of Human Rights**

Undeniably, human rights issues and discussions on how to moderate their problems became universal in the 20th century and gathered impetus in the 21<sup>st</sup>. In fact, human rights concerns have become worldwide in our contemporary global village. Accordingly, human rights NGOs, activists, and the international community, such as the African Union, the Organization of American States and the United Nations, condemn gross human rights committed anywhere in the world.<sup>3</sup>

Nevertheless, the uneasiness felt among human rights campaigners, despite impressive human rights proclamations, is that not all citizens in most polities enjoy these rights equally. However, constitutionally and doctrinally (in religious sermons) individu-



als—not least autochthonous groups—are meant to enjoy identical human rights because they are protected by international human rights instruments and in national constitutions.<sup>4</sup>

My concise forgoing theoretical views highlight the matter of human rights practices in many societies. This development is to a degree the result of conflicting interpretations of the cultural validity of human rights norms in different political and social milieus. At best, my preceding brief notional discourses are basic. They explain what may be theoretically sound, but are not always practicable.

### **Human Rights Instruments and Indigenous Groups**

The following analyses derive in part from a document on which the entire edifice of this concise paper and presentation rests: *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities*. This significant human rights instrument, *inter alia*, declares:

...Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, ...the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Beliefs, ...as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between protection of the rights of persons belonging to national or ethnic, religious or linguistic minorities [since such safeguard could] contribute to the political and social stability of states in which they live.<sup>5</sup>

Additionally, Article 1, of this text, affirms, “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of their identity.” Substantive sections in this proclamation place emphasis on the state’s role and its policies in encouraging full participation of minority groups in economic and national development. This is critical for uplifting these groupings’ social, economic and political position



in society. The problem today is that nation-states have not lived up to the tenets of this document apropos of their aboriginal populations?

## **Brief Case Studies on Human Rights of Indigenous Populations in Cameroon and Gabon**

Characterized by their “Lilliputian” stature, vis-à-vis other dominant ethnic groups, aboriginals belong to the hunter/gatherer communities who live mainly in the equatorial rainforests across Central Africa. They depend on, and enjoy a symbiotic relationship with, the rainforest; it is their home and the source of the groups’ livelihood. They have primordial and spiritual attachment to the forest that is indispensable for their human existence. These original peoples are found in Burundi, Central African Republic, Democratic Republic of Congo, Congo Brazzaville, Angola, Cameroon and Gabon. For my case studies, I shall discuss the plight of the Baka in Cameroon and Gabon.

### **Cameroon and Gabon**

Statistically, it is difficult to provide an accurate census of the Baka population in Cameroon and Gabon. However, the population in eastern Cameroon is estimated at 54,000<sup>6</sup> and in Gabon about 500 in the North<sup>7</sup> but close to 2,000 indigenous people live in the Republic of Gabon as reported by some anthropologists.<sup>8</sup> It has been noted that because the Baka community live in a non-cephalic society—one that lacks political leader or hierarchy—there is real problem for this group to conform to the dominant socio-political cultures of Cameroon and Gabon. Moreover, their behavioral patterns—especially nomadic life—do not synchronize with that of the larger and dominant public to which they belong. Accordingly, they are non-conformists. In fact, Alec Leonhardt contends that the struggle for Baka rights is neither in the political agendas of Cameroon and Gabon nor “of the UN Draft Declaration on the Rights of Indigenous Peoples, a working group whose purpose is to fight for the rights of indigenous peoples.”<sup>9</sup> Very much like their cousins elsewhere in the region, they are forest people and they suffer from the outcomes of severe environmental policies that deny them the benefits of the rainforest on which their existence depends. So, their lives are constantly at risk.



The Cameroon government in its attempt to implement its version of France's colonial policy of "*mission civilisatrice*" toward its Baka population and promote the country's resources conservation policies, promulgated laws that aimed to change the cultural identity of this group. These laws subjected them to unjustified abuse of their basic rights to their way of life. For example, the adoption and implementation of the country's 1993 Forestry Policy and 1994 Forestry Law impinged on the customary rights of the Baka. An insensitivity to the rights of the Baka was demonstrated in the country's enforcement of the "no man's land" concept to land rights. This policy holds that all lands in which an individual, or for that matter group of individuals, is unable to show evidence of land ownership, could be ordered to surrender (to the state) their claim to that territory. In part because of their lack of Western education and by way of their custom, the Baka have a history of un-written laws. Their rules are referred to as "customary laws" by which the group regulates the way it manages its forest land without the use of land deeds or titles. With the enforcement of the government's Forestry policies, the usurpation and administration of forests, the habitat of the Baka, became the preserve of the state and its overseers. What is more? The government in violation of the human rights of the Baka population arrogated to itself the power to grant concessions (of their forest lands) to corporations that have greased the palms of corrupt political actors to exploit the timbers and other resources. Generally such decisions, that make it possible for investors to take advantage of the resources in the forest without consideration on the predicaments of the Baka who for centuries made these forests their home, violate their rights.

Another problem, issuing from the Forest Laws enacted by the government, that the Baka population confronted by their forced displacement and denial of their rights to live in locations of their choice was that they were compelled to live a sedentary life. The Baka, in short, are denied their nomadic lifestyles within the forest where they practiced their act of hunting and gathering. Dounias and Fromentare noted caustically the outcome of forced sedentary settlement accordingly: "[t]he economically, environmentally and politically driven relocation of nomadic people jeopardizes their health conditions by exerting enormous pressure on their natural environment... [Sadly], 80 percent of the



sedentary Baka in Cameroon developed yaws disease.”<sup>10</sup> This infection happened in part because they lost their laboratory—the forest—from which they produced their herbal medicines.

The above narrative notwithstanding, the preamble of this republic's 2008 constitution on human rights is inspiring. To support my view, a brief reference to the following provisions of the constitution will suffice:

We, people of Cameroon,

-Declare that the human person without distinction as to race, religion, sex or belief, possesses inalienable and sacred rights;

-Affirm our attachment to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the United Nations and the African Charter on Human and Peoples' Rights, and all duly ratified international conventions relating thereto, in particular, to the following principles:

-All persons shall have equal rights and obligations.

-The State shall provide all its citizens with the conditions necessary for their development.

-The State shall ensure the protection of minorities and shall preserve the rights of **indigenous populations** in accordance with the law...<sup>11</sup>

Despite the laudable tenets of this constitution on human rights, a major dilemma has always been that of implementation. Lawmakers in Cameroon, and much of Africa, tend to circumvent the constitution, or apply extra-constitutional powers to abrogate its precepts, in pursuit of elite interests. Such was the case when politicians and entrepreneurs connived to take over the lands of aboriginals on the pretext that their lands are useful for national development that would be beneficial to all citizens.

## **Gabon**

In Gabon, the marginalization of the Baka is exacerbated by the fact that they are poorly educated. Consequently, they are unable to claim their rights since they do not know how to fight for them. In fact, anthropologist Nabutaka Kamei noted that even



though public schools for all children exist in the polity, the Baka frequently are unenthusiastic about attending such institutions. This is so partially because “foreign” education is normally not a vital part of Baka culture. Moreover, they are not interested in attending schools because of their physical distance from these schools. There is also a feeling of discomfort in these formal schools. In fact, based on real or imagined perception the Baka believe that because of their diminutive heights, Bantus shun them. Most importantly, too, they do not feel at ease when attending school since they do not understand the dominant Bantu and French languages that are the mediums of communication in schools.<sup>12</sup>

The marginalization of the Baka in Gabon is made more severe because the history and culture of the society are dominated by the Fang. Pascale Paulin described the relationship between the Fang and Baka accordingly:

The Baka are often looked down upon by the Fang. The latter do not consider themselves simply as the bosses of the “Pygmies” ...but as their owners ... their property ... as well as their material goods. And as I have already mentioned, some people have gone so far as to say that they are not human beings. The Fang have successfully convinced the Baka that they are inferior to them, [in part because] they are not schooled and therefore uneducated. [As an outcome of the perception that they are at the bottom of the society hierarchically, they have a very low opinion of themselves].<sup>13</sup>

This forgoing attitude the Fang toward the Baka in Gabon is disconcerting in human rights discourses. Indeed, Articles 4 and 5 of the Universal Declaration of Human Rights deplore the above political and social treatments of human beings. Article 4 states: “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.” Article 5 supplements Article 4. It avers that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>14</sup>

The content of the 1991 constitution (as amended in 1997 and 2003) is scanty on the principles of human rights. Even so, it states in Article 1 (1) that “Each citizen has the right to the free development of his person, by respecting the rights of others and public order. No one shall be humiliated, mistreated, or tortured, especially when he [or she] is in a state of arrest or imprisonment.”





Advancing beyond my above representations, of the human rights infractions of the Baka and some official ways for moderating them in Gabon, are policies that further marginalize this group in the republic. For instance, the reduction in oil production and a series of economic woes in the 1990s led the government to intensify logging and mining on their land as alternative ways for generating wealth to make up for shortfalls from oil proceeds. The heavy burden on the aboriginal population and their habitat as an outcome of the government's faulty economic policies was unjust. Baka rights to their land were by this action violated.<sup>15</sup>

The problem for indigenous peoples in Gabonese society is that the laws stipulate that government owns the land. Thus, there is no prohibition inhibiting the state from accessing the forest that the Baka called home. Legislation exist as to where logging activities are not to happen. Nevertheless, because land rights are based on fixed association with a given location, also known as *effectivites* in French legal system, the nomadic lifestyle of autochthonous forest people makes it difficult to enforce land claims by indigenous minority groups in this society. The law of *effectivites* stipulates that to claim ownership of a parcel of land will require a family or group to have established residency on the land for several generations.<sup>16</sup> This has not been the case for nomadic indigenous groups such as the Baka. Further, this law makes it possible for the government, without consultation with the forest people, to assume ownership of indigenous peoples' traditional territories with no legal resistance and without compensation, too. Such a government policy makes the Baka economically worse off in the society. This is so because they suffer from lack of education and inadequate political power to defend their interest and human rights.

In all, both Cameroon and Gabon are signatories to many international human rights instruments including the famous Universal Declaration of Human Rights. They are also parties to the Rio Convention that stressed, *inter-alia*, the importance of protecting the environment and sustainable development that could exculpate indigenous peoples from the unhealthy effects of environmental degradation. For a policy that protects the environmental health of this society to happen there is a need for a holistic approach by all stakeholders. Little wonder, then, that "Rio Summit's principle 10," states:



Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, [everyone] shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunities to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.<sup>17</sup>

## Conclusion

The difficulty that indigenous populations confront when tackling their human rights breaches is enormous. This is the case partly because they lack political and economic power to fight for their rights. Frequently, they rely on external human rights NGOs to represent their interests; but they are not always successful against the backdrop of the opposition from powerful government and entrepreneurial aficionados who seek to exploit their forest. Accordingly, to solve their human rights challenges will require collaborations between the governments of Cameroon and Gabon and international human rights groups committed to protecting their rights so that the lives of aboriginals in these republics would be less at risk.

## Notes



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- <sup>1</sup> See E. Ike Udogu and Sambuddha Ghatak (eds.) *Human Rights Dilemmas in the Developing World: The Case of Marginalized Populations at Risk* (Lanham, MD: Lexington Books, 2017)
- <sup>2</sup> E. I. Udogu. “National Constitutions and Human Rights Issues in Africa,” *African and Asian Studies* Vol. 2, No. 2 (2003): 101-123.
- <sup>3</sup> Udogu. “National Constitutions and Human Rights Issues in Africa.” pp. 89-94 (see Note 4 above).
- <sup>4</sup> E. I. Udogu. “National Constitutions and Human Rights Issues in Africa,” *African and Asian Studies* Vol. 2, No. 2 (2003):101-123.
- <sup>5</sup> “Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities.” G. A. Res 47/135, annex. 47 *U.N. GAOR Supp.* (No. 49) at 210, U.N. Doc (1993). A/47/49.
- <sup>6</sup> See Joshua Project, Pygmy, Baka, Eastern Cameroon. [https://joshuaproject.net/people\\_groups/10587/CM](https://joshuaproject.net/people_groups/10587/CM) (retrieved 5/2/16)
- <sup>7</sup> P. Paulin, “The Baka of Gabon: the study of an Endangered Language and Culture,” in M. David, N. Ostler and C. Dealwis (eds.), *Proceedings of FEI, Working Together for Endangered Languages: Research Challenges and Social Impacts* (University of Malaya, Kuala Lumpur, Malaysia, 2007: 163).
- <sup>8</sup> J. F. Barnes, *Gabon: Beyond the Colonial Legacy* (Boulder, CO: Westview Press, 1992: 105).
- <sup>9</sup> A. Leonhardt, “Baka and the Magic of the State: Between Autochthony and Citizenship,” *African Studies Review*, Vol. 49, No. 2 (September 2006: 69-94).
- <sup>10</sup> E. Dounias and A. Fromentare, “When Forest-based Hunter-Gatherers become Sedentary: Consequences for Diet and Health,” Food and Agriculture Organization Corporate Documentary Repository. <http://www.fao.org/docrep/009/a0789e/a0789e07.htm> (retrieved 4/14/16)
- <sup>11</sup> Constitution of the Republic of Cameroon, 2008 <http://africanagenda.org/wp-content/uploads/2012/cont.of-Cameroon2008pdf> (Retrieved June 23, 2016)
- <sup>12</sup> N. Kamei, *African Study Monographs*, Vol. 2 (Supplementary Issue, 2001: 185-195).
- <sup>13</sup> Paulin, “The Baka of Gabon: the study of an Endangered Language and Culture,” p. 167-168 (See Note 30 above).
- <sup>14</sup> See The Universal Declaration of Human Rights. [www.un.org/universal-decalration-humanrights/](http://www.un.org/universal-decalration-humanrights/) (Retrieved 5/2/16)
- <sup>15</sup> J. Knight, “Indigenous People of Gabon Face Uncertain Future.” International Work Group for Indigenous Affair, [www.iwgia.org/iwgia\\_publications\\_files/IA\\_4-06\\_Gabonpdf](http://www.iwgia.org/iwgia_publications_files/IA_4-06_Gabonpdf) (retrieved 4/15/16)
- <sup>16</sup> E. Ike Udogu, “Historicizing and Contextualizing the Discourse on African International Law and a Concise Overview of the Pacific Settlement of the Cameroon-Nigeria Bakassi Peninsula Dispute,” *African and Asian Studies*, Vol. 7, No. 1 (2008: 94).
- <sup>17</sup> See “The Rio Summit’s Principle 10 and its Implication.” <http://www.gdrc.org/decision/principle-10.html> (retrieved 4/16/16)