

**Testimony
Of
Lavinia Currier
and
Lori Udall
on behalf of
Sacharuna Foundation
Before**

**The Tom Lantos Human Rights Commission
United States Congress**

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I. Introduction

Thank you for the opportunity to testify before the Tom Lantos Human Rights Commission. I am Lavinia Currier, Trustee of the Sacharuna Foundation. Sacharuna's main grantmaking priority areas are land and wildlife conservation and indigenous rights in Botswana, Mexico, Canada and Central African Republic (CAR). The Foundation has also supported Tibetan refugees and Tibetan independence. Since 2004, Sacharuna has made over \$ 1 million in grants for wildlife conservation, BaAka Pygmy health, training and capacity building in the Dzangha-Sangha region of southern Central African Republic. Our primary mission there is to promote and sustain the rights and livelihoods of the BaAka people that live in the reserve in addition to supporting wildlife conservation. We believe that these objectives are mutually supporting.

I am testifying as a witness today because of my long-standing interest in the region of Dzanga-Sangha, which began in 1999 when I traveled there as a World Wildlife Fund (WWF) Board member 11 years ago, then most recently directing the Feature film *Oka!Amerikee*, the fictionalized story of ethno-musicologist Louis Sarno who has lived with the BaAka of Yandoumbe for 25 years. The film will be released theatrically this coming fall as the first Central African/US co-production.

Over several years and many visits camping in the forest with the BaAka hunters I observed their profound understanding of forest ecology, as well as their superb abilities as storytellers and musicians. Making the film I traveled around the region to far-flung villages and encampments to cast BaAka in lead roles, training the actors in theater games and confidence-building exercises, and interacting with village elders on behalf of the film in order to secure locations, actors, and permission to tell their story. Producing the film also involved negotiations with the Central African Government, from the highest levels of the Ministries to the local gendarmerie, and every agency in between.

My testimony today will focus on our concerns about the BaAka people and recent positive developments such as the ratification of ILO 169 that may improve the BaAka and other indigenous people's situation in the CAR.

II. Background Context on Central African Republic

The Central African Republic is a land locked country about the size of Texas and has a population of 4.5 million people. The per capita income is \$750 (US) with about 67% of the population living in poverty.

According to the World Bank, the agricultural sector (cotton, coffee, tobacco, timber) generates more than half of the country's gross domestic product and 80% of the population is in subsistence agriculture. Timber and Diamond industries account for a combined 56% of export earnings. CAR's natural resources include diamonds, uranium, timber, gold, and oil. While CAR is rich in natural resources, it remains one of the world's poorest and least developed countries due to its landlocked position, weak institutions, economic mismanagement, corruption, unskilled work force, and an unstable security situation.

CAR gained its independence in 1960, but that was followed by three decades of mostly military governments. In 1993, civilian rule was established which lasted until March of 2003 when General President General Francois Bozize led a successful military coup, and established a transitional government. General Bozize has remained in power since that time, and was recently re-elected in February 2011.

CAR has also been affected by influx of over 100,000 refugees from Chad and Sudan, as well as three rebel groups in the north that have taken up arms against the government. While the current government has negotiated a peace agreement with rebels there are still pockets of lawlessness in eastern and northern parts of CAR.

According to the World Bank, this instability has had severe humanitarian consequences, including over 1 million people affected by violence, 295,000 persons displaced, food insecurity, chronic malnutrition and a decimated health infrastructure.¹

Because of this instability, donor attention and NGO activities have been mostly focused in the North, as the southwest region of the Dzanga-Sangha Protected area complex (park and reserve) where the BaAka Pygmies live is considered relatively secure.

III. Background on BaAka Pygmies in Dzanga-Sangha in CAR

Dzanga-Sangha complex in southwest CAR, which is co-managed by World Wildlife Fund and the Government of CAR (GCAR), is divided into three management areas including two national park areas, and the Dzanga Sangha Dense Forest Special Reserve. While the parks are strictly protected from all forms of exploitation except tourism and research, the reserve is a mixed use area that allows community hunting and commercial logging. The Special Reserve has been subject to commercial

¹ The World Bank, Emergency Project Paper on a Proposed Grant to the CAR for Support to Vulnerable Groups Community Development Project, March 17, 2009, page 4.

logging activities for over 25 years through a series of boom and bust cycles of different companies coming and going from the region. A combination of unsustainable practices, no regulatory control and poor business practices has led to threats to the BaAka people's livelihoods in the forest.

Currently there are two groups that the GCAR recognizes as indigenous. These include the Mbororo in the north and the pygmies in the southern rainforest districts of Ombella-M'Poko, Lobaye, Mambere-Kadei and Sangha-Mbaere. This pygmy group is referred to by the GCAR as Aka or BaAka. Our testimony mainly concerns the BaAka Pygmies living in the Dzanga-Sangha Protected reserve.² The BaAka live in series of seven villages in the Special Reserve and it is estimated there are around 5,000 BaAka people in and near the reserve.³ The BaAka are indigenous to the Congo Basin generally and are considered to be ancient nomadic dwellers of the region. Traditionally hunter-gatherers, over time the BaAka have also become subsistence farmers and adopted a more sedentary way of life.

The BaAka are renowned for their exceptional knowledge of the forest and its animals, insects and medicinal plants. They collect honey from eight different bee species by climbing upward to over 100 feet into the forest canopy. BaAka rank among the world's most skilled animal trackers. Their heightened senses can detect subtle animal tracks even in dense forest foliage. They hunt with large nets while whistling to each other like birds to report their locations. Their small body size enables them to move about the forest and to dissipate their body heat more efficiently.

Most BaAka spend part of the year near a village in the Special Reserve where they practice slash and burn agriculture and trade their agricultural and forest products, bush meat and honey for produce, and other goods. Periodically they return to the forest to gather and hunt, and build huts sheltered by the tree canopy for a life style with less disease, cleaner water, fewer disputes with Bantu neighbors, and no need for money. Entire families can fit inside their waist-high beehive huts fashioned out of bent branches covered with large leaves and daubed with mud. A distinctive mark of beauty in BaAka appearance is the careful chipping of their teeth into pointed triangle shapes.

Music is highly-valued in BaAka life. Their frequent call-and-response songs harmonize with the sounds of birds, crickets and cicadas and other forest life around them. Whole communities of BaAka will sing and dance in chorus during communal ceremonies. The complexity and profundity of their music arise

² See Mathamale, Jean Jacques, Saint Jerome Sitamon, et al, The Situation of Forest Peoples of the Central African Republic, Rainforest Foundation, 2009.

³ Estimates vary. Forest Peoples Programme estimates 15,000 BaAka in the Congo Basin.

from their amazing ability to reflect the complex sounds of the forest around them. Their rich-voiced singing is based on pentatonic five-part harmonies organized in 64-beat cycles.

The BaAka speak the Aka language, along with the language of whichever of the various Bantu peoples they live among. In 2003, UNESCO designated their oral traditions as a *Masterpiece of an Intangible Heritage of Humanity*.

Issues of Concern: The BaAka face serious problems related to their traditions, cultural identity, health, welfare and livelihoods. These include land tenure or rights over traditional hunting areas, economic marginalization/sedentary lifestyle, the bushmeat trade, education, health care, and extractive industries such as logging and mining.

Land and Hunting Rights are key to the continued viability of the BaAka's cultural survival, and eventually their physical survival as well depends on their access to an intact forest and the game and forest products upon which they depend. When the Park and Reserve at Dzanga Sangha were established 3 decades ago, the BaAka were denied access to some of their important food sources (elephants and primates) and hunting areas. However, a traditional hunting area was established at the same time for the BaAka which has now become a communal hunting zone.

BaAka cannot be ensured the exclusive use of the now communal hunting areas because of the historic patterns of in-migration of ethnic groups and the overlapping use of lands in CAR generally. In the case of Dzanga Sangha Reserve, the BaAka arrived in the area hundreds of years ago at the same time as the Sangha-Sangha people, who fish the Sangha River. Further complicating the situation, the arrival of commercial logging in the area brought an influx of Bantu (or Bilo), coming from all over CAR, who now number about 4,000.

The logging industry, being marginal at best in such a remote region, has created a boom and bust cycle. It has been defunct for 8 years in Bayanga (the main town in the area), throwing the logger immigrants out of work and making them dependent on resources from the same hunting reserve as the BaAka. Enforcement of the "traditional" hunting has been difficult, even despite the presence of park guards who are Bantu and often related to the poachers.

Economic viability/relationship between BaAka and Bantu:

The relationship between the BaAka and the local Bantu appears to be a steadily degenerating one. Originally arguably a symbiotic relationship where the nomadic BaAka would trade bushmeat and forest products to the Bantu for metal implements and other manufactured goods, the Bantu have steadily dominated the less aggressive BaAka. The Bayaka have become like vassals, hunting for the Bantu, often with illegal weapons, working in their manioc fields for wages as low as 3 cigarettes daily, and even conducting their magic rituals for them as diviners. A Bantu farmer commonly refers to "his" BaAka, and even rents their labor to other farmers.

As the forest has been diminished through logging and increased bushmeat trade, the BaAka have become more and more sedentary and thereby more dependent on the villagers for economic survival. In spending more time in the villages, besides the diminishment of their independence, they have become consistently less healthy. Unused to attending to sanitary concerns of a sedentary life, they suffer from dirty latrines, parasites, and addiction to the alcohol that the villagers supply them.

It is now more difficult for the BaAka to retreat to the forest, so they are also prey to the continual threats and bullying of local authorities, who often use them as scapegoats for poaching and sorceries, even if the schemes were commissioned by Bantus.

The employment of 40 or so trackers in the Park by the Dzanga-Sangha Park and Reserve has been of considerable benefit to the local BaAka, as a source of income, status in the community, and access to the albeit limited tourist trade.

Bushmeat: Conflicts over hunting and bushmeat are increasing as sources of meat become scarce, and trade in bushmeat has become organized and international, with poachers coming in to the region with heavy weapons, in addition to hunters from the in-migrant population of Bayanga.

The designated traditional hunting areas within the Dzanga Sangha Reserve, originally intended for use by BaAka and Sangha-sangha, are now shared with Bantu villagers who originally came to the Bayanga to work in the sawmill or logging operations. Poaching with guns and metal snares has increased steadily in the last 12 years. For example, the BaAka in the village of Yandoumbe reported that many years earlier they had to travel 30 minutes to reach a forest area where they could be sure to find small game for dinner, such as porcupine, blue duiker. Now they must travel deep into the forest for half a day or more and even then are not guaranteed to find meat. This is due to the large numbers of immigrants in the area and the increasingly commercialized nature of the bushmeat trade.

The park guards are focused mostly on anti-poaching of the elephants and gorillas, and smaller animals vital to the BaAka's survival in the forest are being killed in unsustainable numbers.

Education: Education has been virtually non-existent for the BaAka of the region outside the Christian missionary organizations whose ideology often conflicts with BaAka animism and cultural traditions of song and dance. State-sponsored education for the logging families has been of poor quality and intermittent, and almost never has included girls as students.

Furthermore, combining BaAka and Bantu children in the same school has been problematic for the BaAka for several reasons: the Bantu dominate the meeker BaAka; the scheduled school year prevents the children from accompanying their parents on hunting/gathering excursions into the forest, thereby depriving them of learning important cultural practices; and the curriculum is not in any way adapted for their needs or beliefs. At the same time, with increasingly sedentary lifestyle and exposure to village culture, BaAka children are losing traditional knowledge and culture.

Health Care: As described above, the increasingly sedentary pattern of the BaAka's lifestyle and the ensuing increased interaction with outside immigrants has increased their health issues, from poor

hygiene at their villages resulting in parasites, tuberculosis, and alcoholism, as well as the ever present threat of contracting HIV-Aids. The village diet of manioc is far less nutritious than the diverse forest meats, fruits and tubers that they used to harvest. At the same time, they are losing their traditional knowledge of medicinal and edible plants from the forest.

The Project has over the past decades provided some access to health care, establishing a clinic close to their village of Yandoumbe and even supplying a mobile doctor who traveled by motorbike to the villages. At present, the diseases plaguing the BaAka are common treatable ones, and much progress has been made already on digging wells for safe drinking water.

Extractive Industries: Logging and Mining

As cited above, extractive industries have had a largely destructive impact on the BaAka of the region. When the forests are logged, the animals the BaAka depend on are diminished, and the immigrant population compete for what remains. When the BaAka do get jobs in the logging industry they are of the least paid and most dangerous categories, such as climbing the tall Sapelli trees.

V. International Legal context for Indigenous Rights in CAR

On the domestic side, the CAR is in the process of adopting new legislation on forests and human rights that could potentially recognize indigenous rights. Previously a forest code that was signed in October 2008 was the first legislation that actually referred to “indigenous people” as well as containing language on free, prior and informed consent.

We congratulate the GCAR for making efforts on the national front. However the GCAR will now have to ensure that the national legislation conforms with its treaty obligations.

In terms of International Treaties that relate to indigenous rights, the GCAR has signed (1992) and ratified (1995) the Convention on Biological Diversity. The Convention on Biological Diversity contains a critical article 8 (j) which calls on states to:

“ respect, preserve and maintain knowledge, innovations, and practices of indigenous and local communities embodying traditional lifestyles, relevant to conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge [] and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.”

The GCAR also signed the UN Declaration on Indigenous Rights which is non-binding, but highly important in terms of the language and boosting the status of indigenous peoples.

Even more impressive, in April 2010, the GCAR ratified ILO 169. This premier indigenous rights treaty came into force in 1991, and has only been ratified by 22 countries. ⁴CAR is the first African Country *ever* to ratify this treaty which we believe this will set a strong precedent in Central Africa and Africa wide. **We strongly congratulate the GCAR on this courageous move and encourage the new government to treat this commitment with a high priority.**

The ILO 169 Convention covers a wide range of issues, including land rights, access to natural resources, health, education, vocational training, conditions of employment and contacts across borders. Its overarching principle is that indigenous and tribal peoples should be consulted and fully participant at all levels of decision-making processes that concern them. ⁵

Some of the critically articles to summarize include:

- ✓ **Article 5** recognizes the social, cultural, religious and spiritual values and practices of indigenous people and requires that the integrity, practices and institutions of these peoples shall be respected.
- ✓ **Article 6** requires consultation with indigenous Peoples concerned through appropriate procedures and processes, and in particular through representative's institutions whenever consideration is being given to legislative or administrative measures which directly affect them. Articles 6 also requires government to establish means by which indigenous people can freely participate in all levels of decision making regarding programs that affect them.
- ✓ **Article 7** gives IPs the rights to decide their own priorities, and exercise control over their own economic, social and cultural development and also stipulates improvement of the conditions of life and work and levels of health and education with participation and cooperation. It also requires governments to take measures to protect and preserve the territories that IPs inhabits.
- ✓ **Article 8** recognizes the right of IPs to retain their own custom and institutions.
- ✓ **Articles 13-16** are critically important covenants regarding Indigenous land and land rights.
- ✓ **Article 14** recognizes the "rights of ownership and possession" of IPs land which they traditionally occupy. It stipulates that shall be taken to safeguard the right people to use the land not exclusively occupied by them but to which they have had access for their subsistence and traditional activities.

⁴ CAR has also ratified the Universal Declaration on Human Rights, the African Charter on Human and People Rights, and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression.

⁵ International Labor Organization, C169 Indigenous and Tribal Peoples Convention, 1989, view at www.ilo.org

- ✓ **Article 15** stipulates the rights of IPs to not only use natural resources, but to participate in the use, management and conservation of these resources.
- ✓ **Article 25** states that governments shall ensure adequate health services are available to IPs and that resources will be provided to allow the IPs the design and deliver these services under their own control. Health services should also be community based.
- ✓ **Article 21-31** cover IP education and calls for programme and services to be delivered to IPs and to be developed and implemented in cooperation with the people themselves to address their special needs. Education should incorporate their histories, knowledge, value systems and their social, economic, and cultural aspirations. Governments should also the rights of IPs to establish their own institutions and facilities.

Finally ILO 169 also provides that the governmental authority responsible for the convention should ensure that agencies or other appropriate mechanisms exist to administer the programmes, and shall ensure that they have the resources necessary to fulfill the functions. ***It calls for programs to include: planning, coordination, execution and evaluation in cooperation with IPs.***

The treaty also calls for proposing legislation and other measures to ensure there is oversight of the measures taken to implement the convention. The implementation of the Convention will be an endeavor that will require not only resources but also technical expertise, experience and considerable efforts. The Central African Republic is now expected to develop a coordinated and unprecedented system and action plan to protect the rights of its peoples and to establish appropriate and effective mechanisms for their consultation and full participation.

For an already struggling Central African country, the implementation of ILO 169 is certainly a tall order. However we have confidence that CAR government authorities are taking their ILO commitment seriously.

V.Activities in CAR since Ratification of ILO 169

In November 2010, the GCAR, ILO and local NGOs convened an ILO workshop in Bangui. The meeting was attended by CAR Government officials, including ministries, members of parliament and the judiciary, as well as indigenous peoples' representatives from inside CAR, Democratic Republic of Congo, Cameroon, Rwanda, Burundi, Gabon. Also attending were UN agencies, bilateral and multilateral and representatives of the African commission on Human and Peoples rights. The level of interest far exceeded the expected number of attendance and the last day close to 100 people attended. ⁶

The purpose of the workshop was to:

- ✓ Consult the various stakeholders on the activities that need to be undertaken;

⁶ Report about the ILO 169 workshop was submitted to Sacharuna by Mr. Jerome Sitamon, of the CAR NGO Maison de l'Enfant et de la Femme Pygmées.

- ✓ Initiate a dialogue between stakeholders and GCAR on an action plan for ILO 169 and of the UN Declaration on Human Rights.

Challenges identified by the various stakeholders included:

- ✓ The lack of awareness of indigenous rights promoted by the convention
- ✓ The semi-nomadic nature of hunter gather indigenous people in CAR would cause a lack of recognition of land rights or land tenure.
- ✓ The need to change attitudes (which are often negative) towards indigenous people in the country;
- ✓ Promoting indigenous representation in various institutions;
- ✓ Reforming existing legislation to come into line with the ILO convention

While there was both praise and criticism of the workshop, it represents a first step in a long process.

The second activity is the formation of a Committee under the auspices of the CAR High Commissioner for Human Rights and Good Governance. The High Commissioner is forming a committee of experts, in the areas of culture, justice and governance. The mandate is to create a “road map” for implementing the treaty. Due to the recent elections and the new governments’ just taking office, as well as lack of funds, the Committee currently has no resources to conduct its activities.

VI. Recommendations:

Recommendations for GCAR Action Pursuant to implementation of ILO 169 Treaty:

- ✓ We commend the GCAR for forming a high level ILO 169 Committee (Reporting to High Commissioner for Human Rights) to provide oversight on implementation of these important articles of ILO 169. ***In the spirit and letter of the treaty we strongly suggest that the process for identifying priorities be community based, participatory, inclusive, and use prior informed consent for all indigenous communities in the CAR.***
- ✓ As a preliminary measure, it will be very important to have an education piece, as most indigenous populations in the CAR will not know of or understand their rights under ILO 169. This will require workshops and informational seminars in the indigenous communities instead of city-based workshops.
- ✓ The highest priority should be given the concerns, issues, and priorities of the indigenous communities as expressed by their own people. Indigenous peoples in CAR must be given the opportunity to exercise control over their lives, resources and livelihoods. This should be the overarching principle of the Committee’s work.
- ✓ The ILO 169 Committee must have indigenous representatives from within CAR. It may be advantageous for CAR to include a person from the African Indigenous network. Non-indigenous members of the committee should be highly knowledgeable regarding indigenous rights issues and international agreements such as ILO 169.
- ✓ In addition to the indigenous component, composition of the committee should include government, NGOs, and one or 2 donor agencies. We also suggest representatives from the

International Scientific Community who have worked for decades in the region in disciplines combining Indigenous and conservation communities.

- ✓ We hope the CAR will consider the following candidates for the committee:
 - Jean-Bernard Yarrisem, the Liaison Officer for WWF based in Bangui.
 - Serge Bahuchet or Alain Epelboin of France,
 - Anna Kretsinger of UK
 - Louis Sarno of CAR-Bayanga
 - Marcus Colchester , Forest People Program
- ✓ The Committee should commence a review of CAR codes and legislation dealing with forests, indigenous peoples and other relevant issues in order to ensure that its national legislation is in line with ILO 169 and its other international treaty commitments.

Recommendations specific to the BaAka, and the Sangha-Sangha peoples

- ✓ **BaAka Land, Resource and Hunting Rights:** Based on the expressed desire of the people in Dzanga-Sangha and other areas, we recommend an aggressive movement to a system of co-management with the indigenous residents in all conservation projects and regions. This will require a high degree of self-education and delicacy by the CAR government and fundamental changes in education of the BaAka, as their social system is non-hierarchical and non-representational.
- ✓ **Economic Viability:** Under this system of co-management, in our view the indigenous people's economic standing should be more closely tied to the tourism revenues of the Park. At present in the Dzanga Sangha Park, 90% of all revenues are intended to be assigned "locally", but the system of assigning those revenues has not functioned as intended and is unclear and not participatory. There should be incentives in place for the communities to make their livelihood from wildlife conservation, and for the conservation groups to include the indigenous peoples as stakeholders. One model for this on the African Continent is the LIFE or Namibian Natural Conservation Project, funded by USAID, where indigenous people run and benefit in the conservation effort.
- ✓ **Bushmeat Trade:** There must be a renewed international effort to eliminate poaching if the BaAka's traditional lifestyle is to continue. Based on their own views and self-expressed aspirations, we recommend that the BaAka and other traditional peoples such as the Sangha-Sangha be given more jobs in the enforcement of the anti-poaching. These peoples are often victims of violence and incarceration from local officials and need to be provided greater protection. Generally, the justice system of CAR must be improved so that important poachers are punished and not automatically released to do more poaching.
- ✓ **Education/Health Care:** As CAR is in a group of the 6 poorest countries in the world, any efforts on behalf of indigenous peoples, including the BaAka, have to be funded through international

donors. In order for an educational effort not to further assimilation of the indigenous BaAka into the dominant Bantu population, education must be designed and undertaken in the most participatory way possible. Given that functional literacy is at least a generation away from most of today's children, a system of oral education or expression through the creation of a radio station in Bayanga where BaAka and all local groups can express themselves may be a useful and inexpensive step towards self-determination.

In addition to funding education, international donors should be encouraged to put additional resources into mobile health care services that also take into account the BaAka's semi-nomadic lifestyle. The strengthening of the health clinics in Bayanga will also help attract eco-tourists as an alternative to the extractive industries.

- ✓ **Extractive Industries:** We strongly believe that logging and other extractive industries are not compatible with the BaAka's continued hunter-gatherer existence, nor to their livelihoods, for all the reasons discussed above. ***Therefore we urge the CAR government and international donors to develop alternative businesses such as ecotourism and small-wood forest crafts and products after consultation with the affected communities.***
- ✓ **Inclusion of Sangha-Sangha Peoples in ILO 169 Implementation:** There are other traditional people living in the Dzanga Sangha Reserve called the Sangha-Sangha peoples. We recommend that they should be considered indigenous by GCAR for purposes of implementing ILO 169. Not including them could result in local discord.

C. Resources Needed for Implementing ILO 169: we strongly urge donors such as the World Bank, African Development Bank, bilateral agencies and United Nations Agencies to make funds available to the GCAR for implementation of ILO 169.