



## CIVIL SOCIETY'S ADVOCACY FOR THE FULFILLMENT OF INDIGENOUS PEOPLES' CULTURAL RIGHTS: A CASE STUDY

\*Masah Tise Vigiline, Esq.

Doctor of Philosophy (PhD) in Law, Faculty of Laws and Political Science, University of Buea, Cameroon

Received 20<sup>th</sup> July 2020; Accepted 25<sup>th</sup> August 2020; Published online 30<sup>th</sup> September 2020

### Abstract

Indigenous peoples' rights have been guaranteed under international conventions, declarations and charters and mechanisms and institutions have been put in place to ensure the fulfilment of their cultural rights. Despite these mechanisms indigenous peoples right to culture are continuously violated. This is why efforts are being made to protect these rights at the judicial as well as through out of court actions. These actions could be carried out by national and international institutions, state and non state actors including nongovernmental organisations formed by these peoples to fight for the protection of their fundamental rights. For this reason, the Moko-oh People formed AFTRADEMOP to advocate for the protection of their cultural rights. Since the days of colonisation, The Moko-oh people in Cameroon live in a state of extreme poverty and violation of their fundamental right to culture. Some of these cultural rights include the dispossession of their ancestral lands and natural resources, their language, customary and traditional rites, craft and artefacts. Such violation threatens their identity, existence and ability to survive as individuals and as a group. They formed AFTRADEMOP which has been advocating for their fundamental rights from the date of its creation. It acts both at the national and international level. AFTRADEMOP has faced numerous challenges in this fight but Government's violation of its obligations to ensure the respect and fulfilment of these rights has contributed to the association's failure to realise most of its objectives.

**Keywords:** Indigenous Peoples', advocating Cultural rights, Civil Society Organisation.

### INTRODUCTION

In the Mexico City Declaration on Cultural Policies,<sup>1</sup> the concept of culture has been defined as: the distinctive traits, including the total spiritual, material, intellectual and emotional traits that characterise a society or social group and that include, in addition to arts and literature, their ways of life, the manner, in which they live together, their fundamental rights, their value systems, and their traditions and beliefs. The right to culture is essentially about the celebration and protection of creativity and traditions. Individuals have the right to participate, have access as well as contribute to their cultural life. In General Comment 21,<sup>2</sup> the protection of culture encompasses two concepts. Firstly, 'the right of peoples to practice and continue shared traditions and activities, that is their ways of life, language, religion, beliefs, rites, custom and tradition, etc.' Secondly, it covers the scientific, literary and artistic pursuits of society.<sup>3</sup> Under international human rights law, states have the duty to promote and protect cultural activities and artefacts. They equally have the obligation to ensure and guarantee everyone's access to and enjoyment of their cultural life without any discrimination. Indigenous peoples' right to culture is clearly guaranteed in article 27 of the International Covenant on Civil and Political Rights (ICCPR) as it states that: Members of ... ethnic, religious, or linguistic minorities ... shall not be denied the right ... to enjoy their own culture, to profess and practice their own religion, or to use their own language and do all of these things both as individuals and as a group.

A cultural right of indigenous peoples is one of the core claims of these peoples.<sup>4</sup> It is both an individual and a collective right.<sup>5</sup> It encompasses, among others, the right to land and natural resources.<sup>6</sup> They are very important for these people's sustained existence<sup>7</sup> as well as their culture and traditional<sup>8</sup> way of life. This is why articles 14 and 21 of the African Charter guarantee the right to land and equally the methods through which it may be recovered. They equally provide for compensation in case the right is violated. Land and natural resources play a very important role on the culture and tradition of indigenous peoples.<sup>9</sup> This is why the Inter-American Commission on Human Rights stated in *Awasi Tingni V. Nicaragua*<sup>10</sup> that 'indigenous peoples have a recognised claim in ownership of ancestral land under international law even in the absence of title deeds.'<sup>11</sup> As such, the fulfilment of these rights is very vital because they have a direct bearing on the identity and existence of these peoples.<sup>12</sup> Land provides them with the means of economic survival and

<sup>4</sup> African Commission on Human and Peoples' Rights *Indigenous Peoples in Africa: the Forgotten Peoples?* (2006) IWGIA 10. See art 8 & 17 of the African Charter.

<sup>5</sup> United Nations Declaration on Indigenous Peoples' Rights (UNDRIP) adopted by the United Nations on 13 September 2007, arts 34 & 46.

<sup>6</sup> UNDRIP art 26.

<sup>7</sup> African Charter arts 8, 17 & 21.

<sup>8</sup> ICCPR General Comment 23 Paras 3.2 & 7.

<sup>9</sup> As above.

<sup>10</sup> *Awasi Tingni v Nicaragua* IACHR (31 August 2001) Ser L/ Doc 79.

<sup>11</sup> C Heyns & M Killander cited in 'Compendium of Key Human Rights Documents of the African Union' (2010) 4 Pretoria University Press 242.

<sup>12</sup> Centre for Human Rights University of Pretoria 'Overview report of the research project by the International Labour Organisation (ILO) and the African Commission on the constitutional and legislative protection of the rights of indigenous peoples in 24 African countries' (2009) 87.

<sup>1</sup> Mexico City Declaration on Cultural Policies adopted by UNESCO during the world conference on Cultural Policies in Mexico City (06 August 1982) Para 6.

<sup>2</sup> United Nations Committee on Economic, Social and Cultural Rights (CESCR) GC 21 Para 13.

<sup>3</sup> GC 21 Para 2.

it is equally the source for their cultural identity, spiritual wellbeing and social welfare. Since the survival of these peoples is directly linked to their inherited land, the dispossession of such land will also lead to the destruction of their cultures and beliefs.<sup>13</sup> In the case of *Centre for Minority Rights Development (Kenya) and Minority Rights Group International (on behalf of Endoris Welfare Council) V. Kenya*,<sup>14</sup> the African Commission on Human and Peoples' Rights (African Commission) held that:

The Endoris' culture, religion and traditional way of life were intimately intertwined with their ancestral lands and that without access to their ancestral lands, the Endoris are unable to fully exercise their cultural, religious rights. As such they fell disconnected from their lands and ancestors.<sup>15</sup> More to that, articles 5 and 8 of the United Nations Declaration on Indigenous Peoples' Rights (UNDRIP) as well as article 22 of the African Charter on Human and Peoples' Rights give indigenous peoples the right to cultural development and protection from assimilation. For this reason, the African Commission on Human and Peoples' Rights stated in the *Malawi African Association and Others V. Mauritania*<sup>16</sup> that language is an essential element of culture. In order to guarantee the protection of the culture of indigenous peoples, article 8 of the UNDRIP provides that forced assimilation and destruction of culture may take different forms and therefore states have the obligation to protect and remedy any act that is aimed at 'depriving indigenous peoples of their cultural integrity and ethnic identity'.<sup>17</sup> They equally have to protect them from acts that aim at taking away their lands, territories and resources,<sup>18</sup> acts of obliged migration, assimilation and integration aimed at violating their rights.<sup>19</sup>

One of the unique traits of indigenous peoples is their unique cultures and traditions that make them different from other parts of the society. Their cultures are central to their well-being and identity.<sup>20</sup> They can only conserve their uniqueness and spread their rich customs only if the latter are protected from every violation.<sup>21</sup> In line with this, article 2(2) of ILO Convention 169 requires governments to take measures for 'promoting the realisation of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and institutions.' It is important for us to note that language is a crucial element of culture and a medium through which it is transferred from one generation to the other. It is an instrument used not only to show the identity of a group, but equally a means of communication and protection of the cultures and values of a

people. For this reason, the African Commission underlined the fundamental legitimacy of language as it stated that: Language is an integral part of the structure of cultures; it in fact constitutes its pillar and means of expression par excellence. Its usage enriches the individual and enables him to take an active part in the community and its activities. Depriving a man of such participation will amount to depriving him of his identity.<sup>22</sup> One of the challenges that indigenous peoples in Africa face is the loss of their language and customs and traditions rooted in them. The recognition and protection of their languages are thus indispensable components of indigenous peoples' rights. Article 13 of the UNDRIP guarantees the right of indigenous peoples to transfer to future generations 'their histories, oral traditions, philosophies and writing systems and places an obligation on states to adopt effective measures to ensure the enjoyment of this right.'<sup>23</sup> For this reason, the Association for the Reconstruction and Development of the Moko-oh people Cameroon AFTRADEMOP was created to ensure the realisation of this right.

### Presentation of AFTRADEMOP

AFTRADEMOP was founded in 1999 by the Moko-oh People.<sup>24</sup> The Moko-oh People are composed of a group of five small villages named Ekwen, Gumbo, Guwu, Afong and Dom. They made up the Moko-oh (upper) people of Moghamo, a clan in Batibo Sub-division in the Momo Division of the North-West of Cameroon.<sup>25</sup> Activated by government's lack of response to their plight, the Moko-oh people formed AFTRADEMOP. It is civil society organisation duly registered under number E30/201/573/AR/BASC of 19 October 1999 in conformity with law 90/053 of 19 December 1990.<sup>26</sup> It is an apolitical, a non-profit making and has a legal status and is thus a moral person. Pursuant to article 10(1) of the 1990 Law on associations, AFTRADEMOP can accomplish acts of civil life and can sue and be sued. AFTRADEMOP is located in Ekwen quarter, Guzang village, Batibo Sub-Division, Momo Division, North-West Region of Cameroon. It has a secretariat in Bamenda and is a member of the Coalition for the International Criminal Court (CICC), World Organisation against Torture (OMCT), the Indigenous Peoples of Africa Coordination Committee (IPACC). AFTRADEMOP has been granted an Observer Status within the African Commission on Human and Peoples Rights.

### Objectives of AFTRADEMOP

According to Chapter 2 of AFTRADEMOP's Articles of Association signed on 14 September 1999,<sup>27</sup> some of the objectives of the association are to:

- Advocate for, protect and promote the rights of the Moko-oh people;
- Secure the recognition of the Moko-ohs' identity and land rights, by ensuring their resettlement and

<sup>13</sup> Centre for Human Rights University of Pretoria 'Overview report of the research project by the International Labour Organisation (ILO) and the African Commission on the constitutional and legislative protection of the rights of indigenous peoples in 24 African countries' (2009) 87.

<sup>14</sup> Communication 276/2003, Twenty Seventh Annual Activity Report (2009).

<sup>15</sup> As above.

<sup>16</sup> Communications 54/91, 61/91, 164/97, 196/97 & 2010/98 (2000) AHRLR 19 (ACHPR 2000).

<sup>17</sup> Art 8(2)(b).

<sup>18</sup> Art 8(2)(c).

<sup>19</sup> Art 8(2)(d & e).

<sup>20</sup> International Labour Organisation *Country report of the research project by the ILO and the African Commission on the Constitutional and legislative protection of the rights of indigenous peoples: Egypt* (2009) 37.

<sup>21</sup> As above.

<sup>22</sup> ILO n 20 above, 39.

<sup>23</sup> UNDRIP Arts 13(2) & 13(3).

<sup>24</sup> President of AFTRADEMOP.

<sup>25</sup> AFTRADEMOP'S Activities report 2009.

<sup>26</sup> Law governing associations in Cameroon before the adoption of law 99/014 of 22 December 1999 or Law 99/011 of 20 July 1999, modifying art 5(1) adding NGOs to the list of associations to be governed by special laws.

<sup>27</sup> Revised on 4 November 2004.

rehabilitation in the three villages of their ancestral lands;

- Revive and promote their cultural heritage and traditional knowledge lost since the colonial wars;
- Promote sustainable management of natural resources, eco-systems and biodiversity in the Moko-oh community.
- Regenerate the Moko-oh sacred forest and develop it into a community forest and an eco-touristic site;

### Organisation and functioning of AFTRADEMOP

AFTRADEMOP is composed of family and associate members. Family members are those born by Moko-oh sons and daughters and women married to Moko-oh sons. Associate members are those who are willing to associate with the Moko-ohs and if they exist, they are free to do so. The main bodies of the association are the General Assembly (GA), the Executive and the Audit Bench. The GA comprises all registered members, be it family or associate members. It reserves the right to request the dismissal of any member of the Executive or GA who is undisciplined. Members of the GA meet once a month according to the Moko-oh customary calendar. It initiates and monitors the execution of all development projects and develops the plan of action for the year. Major decisions are taken by a vote of 2/3 of the members of the GA. The Executive meets as often as need arises. It communicates all decisions arrived at to the GA. It works as a team and no individual action is tolerated. It is accountable to the GA and is composed a President, Vice President, Secretary General, the Financial Secretaries, Minute secretaries, and Advisers. Members of the Audit Bench are appointed by the GA at the end of every year. Its duty is to audit or examine the accounts of the association to see that they are in order. AFTRADEMOP is financed by membership contributions. Members contribute towards the projects of the association. It also receives donations from the international community. An example could be seen as on the 23<sup>rd</sup> of March 2006, AFTRADEMOP was a beneficiary of the World Bank's computer donations, evaluated at about 1.1 million FCFA. Family members must pay a registration fee of 1.000FCFA and associate members 5.000FCFA. These registration fees are non refundable and non renewable. Registered members have the right to vote during decision -making meetings that are held once in a month, on their traditional Sunday called *Kweih*. Decisions are often taken with the aim of protecting the Moko-oh people's rights.

### Who are the Moko-oh indigenous people?

The Moko-oh people of Cameroon are an agro-pastoral indigenous community of about 10 000 inhabitants<sup>28</sup> living in the Batibo Subdivision, located in the Northwest region of Cameroon. From approximately 1400 until 1845, the Moko-oh people were the sole inhabitants of three villages of Ekwen, Gumboh, and Guwu. During this period, many of them lived peacefully in the neighbouring villages of Afong and Dom. These five villages constituted the Moko-oh indigenous community. In 1845, the Bali-Nyongas (Balis), a migrant tribe from Northern Cameroon, arrived in the Moko-oh indigenous community. While the Balis had a different language, culture, and religion, they were welcomed by the Moko-oh people. The peaceful co-existence of the Moko-ohs and the Balis was

interrupted in 1889, when German colonisers arrived and aligned themselves with the Balis. The Fon of Bali was incorporated into the colonial power restructure. Moko-oh villages were burned and their plantations destroyed. Guwu, a village of the Moko-oh community, was renamed 'Bali valley'. The Moko-ohs were forced into Bali valley and made to work as slaves for the benefit of the Germans and Bali populations. When the Germans withdrew in 1914, the Moko-ohs returned to their villages. However, British colonisers quickly moved in and again ghettoised the Moko-ohs, forcing them back into the Bali valley through raids and patrols. Many Moko-ohs fled from the ghetto established for them in the Bali valley. Inhabitants of Ekwen and Gumboh villages became refugees in Guzang village, while inhabitants of Guwu village became refugees in Mbunjie village. In 1928, the British colonisers redrew the administrative boundaries established by the Germans, reducing Bali territory and carving out a land area for the Moko-oh people. In 1929, The Buea Provincial Resident of Cameroon inspected and confirmed the new boundaries. The new demarcation infuriated the Fon of Bali, who formed an armed group to forcefully stop the Moko-ohs from returning to their lands. This gang was known as the German-Bali Armed Group.<sup>29</sup> The Balis were now considered as the owners of the land. They will 'work for the Bali man and work their own'.<sup>30</sup> In desperation, the Moko-oh people continued to live a precarious life. Men engaged in sharecropping at the whims and caprices of the Balis. Women and girls in search of food and farmland became the targets of sexual violence and exploitation during their search for land to farm. They suffered hunger, widespread illiteracy, and exclusion from governmental processes that might improve their condition.

In 1978, the Governor of the Northwest Province created a Commission to settle disputes involving Bali-Nyonga and surrounding villages.<sup>31</sup> Despite the Moko-oh people's complaints, they were completely excluded from the Commission. In 1982, the Moko-ohs were again excluded from ameliorative land relief when the President granted land for resettlement to the neighbouring villages of the Widikum tribe, but ignored the Moko-ohs. This situation has several times been reported to government but the latter has failed to ensure the protection of the Moko-oh indigenous people's right to culture.

In defining indigenous peoples, Rodolfo Stavenhagen<sup>32</sup> states that:

There is no internationally agreed upon definition of indigenous peoples. Different states adopt different definitions in terms of their particular contexts and circumstances. The term indigenous is frequently used interchangeably with other terms, such as 'aboriginal', 'native', 'original', 'first nations' or else 'tribal' or other similar concepts. In its advisory opinion on UNDRIP,<sup>33</sup> the African Commission is of the view that a

<sup>29</sup> AFTRADEMOP, 'Utilisation Moko-oh peoples lands by the German and British Governments for military purposes during colonization' Presented by Mrs. Musongong Cecilia, president of the association for the reconstruction and development of the Moko-oh peoples Cameroon, Email:aftrademop@yahoo.com , moko-ohpeoples.uk.tt.

<sup>30</sup> Mrs. Teken Grace, Moko-oh Women President.

<sup>31</sup> *Ibidem*.

<sup>32</sup> Rodolfo Stavenhagen 'Indigenous Peoples in a Comparative Perspective' Human Development Report Office (2004) 1 37.

<sup>33</sup> Adopted by the African Commission at its 41 ordinary session held in Ghana (on May 2007).

<sup>28</sup> As stated by Mrs C MUSONGONG, Secretary General of AFTRADEMOP.

definition of indigenous peoples is not necessary or useful because there is no global acceptable definition of the term and no single definition can contain all the characteristics of indigenous populations. However, indigenous peoples' definition that suits the context of this work is that found in the Oxford Dictionary of Law.<sup>34</sup> It defines indigenous peoples as: Those peoples and nations that have a historical continuity with pre-invasion and pre-colonial societies that developed on their territories and considers themselves distinct from other sectors of the societies now prevailing in those territories (or parts of them). Forming a non-dominant sector of the prevailing society, they exhibit a determination to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basic of their continued existence as peoples, in accordance with their own cultural patterns, social institutions, and legal systems.

Article 1(2) of the ILO Convention on Indigenous and Tribal peoples 169 completes this definition by stating that '*Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.*'<sup>35</sup>

As far as this definition is concerned, elements necessary for the identification of indigenous peoples are similar to those criteria given by Erica Irene Daes<sup>36</sup> and other instruments dealing with indigenous peoples.<sup>37</sup> When analysed, it is clearly seen that the Moko-oh people fit in the following criteria:

1. The occupation and use of specific territory. The Moko-ohs were the original occupant of the lands which the Balis are now exploiting before German and British colonisations;
2. The voluntary perpetration of cultural distinctiveness, which may include aspects of language, social organisation, religion and spiritual values, modes of production, laws and institutions. The Moko-ohs have their own culture and language which are different from that of the Balis;
3. Self-identification recognised by article 1(2) of the ILO Convention 169 recognizes self-identification of indigenous and tribal peoples, as a fundamental criterion, as well as recognition by other groups as a distinct group. The Moko-ohs have recognised themselves as indigenous peoples and have formed AFTRADEMOP to fight for their rights and the Balis recognise them as a distinct group since they are not allowed to speak their dialect before an individual from Bali ;
4. An experience of subjugation, marginalisation, dispossession, exclusion or discrimination. The Moko-ohs have experienced subjugation, dispossession,

exclusion and discrimination on the part of the Germans, the British, after their departure, the Balis who are still suppressing and preventing them from occupying their lands, thereby dispossessing them of their lands. They are being excluded from every activity carried out on their lands.

5. In the workshop held in Yaounde from 18 to 20 September 2006,<sup>38</sup> some criteria were given to guide groups identifying themselves as indigenous peoples on the African continent. These criteria come in to complete the four already listed above. They are:
6. The fact that they often live in inaccessible regions, often geographically isolated. The Moko-oh lived in an isolated area which has become a forest since they were chased away from their lands.
7. They have a special attachment to their lands and territories. The Moko-ohs are specially attached to their lands in that they are fighting to regain their lands in order for them to be able to practice their annual rites on the tombs of their ancestors. These tombs are found on their lands and since they were sent away by the Germans, the British and now, the Balis, they have not been able to practice their annual rites, meanwhile this is very important as far as the Moko-oh tradition is concerned.

The Moko-oh people have the right to preserve their culture and language. Since respect for indigenous peoples' cultures will often depend on the respect for their physical worlds, including their land and natural resources on which they live and depend,<sup>39</sup> they also have the right to their ancestral lands which have been seized by the Balis. In order to recover these lands so as to preserve their cultures, one of the main objectives, of AFTRADEMOP is to advocate for the recognition and restoration of the Moko-oh people's ancestral land rights and their resettlement in the villages of their ancestral lands, there-by recovering their lost identity and culture which had been disrupted and destroyed to near extinction for a whole century.

#### **AFTRADEMOP's actions advocating for the cultural right of the Moko-oh People**

Advocacy is the act of pleading for or actively supporting a cause or proposal,<sup>40</sup> to speak in support of an idea, or cause of action,<sup>41</sup> or to plead in support of an action.<sup>42</sup> AFTRADEMOP's advocacy actions are out of court and litigations.

#### **Out of court actions**

AFTRADEMOP advocates for the Moko-oh people's cultural right through petitions and writing and depositing project proposals.

<sup>34</sup> AE Martin & J Law *Oxford Dictionary of Law* (sixth edition Oxford University Press 2006) 271 272.

<sup>35</sup> ILO Convention 169, Signed at Geneva at the 76 Session of the Conference (adopted on 27 June 1989 and came into force on 05 September 1991).

<sup>36</sup> The chair person of the UN working group on indigenous populations which was established by the UN Human Rights Sub-Commission on the Prevention of discrimination and protection of minorities in 1982.

<sup>37</sup> ILO Convention 169 (article 1(1)), UNDRIP (preamble & art 33) & World Bank Operational Directive 4.20 IWGIA (1991) 19.

<sup>38</sup> Participants included members of the African Commission, the ILO, CHR, IWGIA, indigenous experts and researchers on subjects related to indigenous peoples and NGOs working with indigenous peoples

<sup>39</sup> Centre for Human Rights n 12 above viii.

<sup>40</sup> AB Garner *Black's Law Dictionary* (1999) eighth edition West Group 55.

<sup>41</sup> Cambridge International Dictionary of English (Low Price edition, Cambridge University Press 1973) 21.

<sup>42</sup> The Advance Learners Dictionary of Current English (Second Edition, Oxford, English Language Book Society and Oxford University Press, 1963) 16.

## Petitions

AFTRADEMOP has written various formal requests which it presented to various official bodies<sup>43</sup> with the aim of regaining their lands thereby regaining their culture and identity which are inextricably tied up to their land and provide a connection with their ancestors.<sup>44</sup> Prior to the creation of AFTRADEMOP, the Moko-ohs petitioned the local administration to enforce the land boundaries several times. From the 1940s to the 1990s, during and after colonisation, the colonial and post colonial governments continued to ignore the Moko-oh people's petitions to be resettled in their lands. The Moko-ohs' Chief, Mbakurewan filed several petitions the Governor of the Northwest Province for recognition of the Moko-ohs and their right to their ancestral lands but no positive response was given to the demands. The Moko-ohs believed they were subject to discrimination and this in the violation of their right to non-discrimination and equality provided for in article 21 of the UNDRIP.<sup>45</sup> After the declaration of AFTRADEMOP, its members petitioned the Governor of the North-West province and weekly working sessions were held in the Governor's cabinet in April 2001 in order to seek for a solution to the Moko-oh's plight. AFTRADEMOP gave a brief of the Moko-ohs case. on 28 February 2002, the Governor instructed the Chief of Bali-Nyonga to allow them resume cultivation the portions they were cultivating to ensure their subsistence while a sorting for a lasting solution. Following these instructions, the Moko-oh people returned to the said farmland but were once more attacked. Some of them were caught and taken to the Bali Palace where they were allegedly tortured by a group called "German- Bali Armed Group".

In 2003, the Moko-oh people again petitioned the Governor to allow them to return to their lands. In reply, the Governor seized the Senior Divisional Officer for Mezam who directed the D.O. for Bali sub-division to ensure that the Fon of Bali-Nyonga abided by the North-west Governor's previous orders. Many Moko-ohs again returned to their plots of farmland but were once more attacked by the same gang of armed men who had avoided prosecution for the previous reprisal. The attack resulted in the injury of men, women, and children, as well as the death of some Moko-oh indigenes. A meeting was thus convoked and chaired by the governor on 23 July 2003. All administrative authorities in the North West region were invited to this meeting where it was recognized that, due to circumstances beyond their control, the Moko-ohs left their ancestral land and had long been struggling to return to the said land but were unfortunately stopped from doing so by the chief of Bali. In a correspondence with reference No E.30.01/C122/2 dated 13 November 2003, AFTRADEMOP was invited to a meeting with members of a commission to be chosen by the Minister of Territorial Administration. Three members of the association were chosen to attend the said meeting and they were to represent three out of the five villages that make up the Moko-oh community. Mrs. Musongong Cecilia, represented Gumbo village, Richard Tikum, the President, represented Ekwen village, Sama George, the Vice President represented Guwu village. The commission formed was aimed at demarcating of the

boundaries between the people of Batibo and those of Bali-Nyonga. Unfortunately, it is alleged that till date, the commission has not been formed and the elected members of AFTRADEMOP are still waiting for the commission with impatience. For this reason, on 3 January 2005, AFTRADEMOP circulated an urgent message to their indigenous partners to mount pressure on the Cameroon Government to create an Inter-ministerial Commission to address the Moko-oh's land rights.

## Petitions addressed to the President of the Republic

The African Charter guarantees the Moko-ohs the right to land, natural resources and environment.<sup>46</sup> They are important for the continued existence of the Moko-oh people.<sup>47</sup> However, this right has been constantly violated since the colonial days. This is why on 8 January 2001, AFTRADEMOP petitioned the President of the Republic of Cameroon for the resettlement of the Moko-oh people to "their land which is their life and their life is their land."<sup>48</sup> It is rather sad that the Moko-oh people have never received a reply from the presidency despite the gravity of the situation.

## To International organisations

AFTRADEMOP petitioned the ILO and submitted their problem. It was called to participate in a Workshop, organised by the ILO in Yaoundé. This workshop was chaired by the Minister of Social Affairs, on indigenous and tribal peoples' issues in Cameroon, from 15 to 17 June 2005. During this workshop it was recommended that, an Inter-Ministerial Commission be formed in order to ensure the return of the Moko-ohs' inherited lands and their resettlement in their villages. It was suggested that the commission should comprise the Ministry of Territorial Administration and Decentralisation, Ministry of Justice and the Ministry of Social Affairs. AFTRADEMOP has equally petitioned the Special Rapporteur on indigenous issues in Geneva, Amnesty International, Justice Initiative, Minority Rights Group, and International Federation of Human rights (FIDH), World Organisation Against Torture (OMCT) and many other Human Rights organisations but nothing has yet been done to remedy the plight of the Moko-oh People.

## Writing and submitting project proposals

Due to the incessant raids and patrols that occurred during that British reign causing the Moko-ohs of Ekwen, Gumbo and Guwu villages to escape in different directions. Their artefacts, antiquities and treasuries were all ransacked and shattered and nothing was recovered. This was a violation of articles 11 and 10 of the UNDRIP which state respectively that '*indigenous peoples shall not be forcibly removed from their lands or territories and they have the right to practice and revitalise their cultural traditions and customs. These include the right to maintain, protect and develop the past, present and future manifestations of their cultures such as artefacts and designs.*' In order to revive these crafts, AFTRADEMOP discussed and deposited a project proposal on "*the revival of*

<sup>43</sup> AB Garner (n 37 above) 1165.

<sup>44</sup> Mrs Musongong Cecilia.

<sup>45</sup> United Nations Human Rights Committee (HRC) GC 18 on Non-discrimination (1989) para 10.

<sup>46</sup> Guaranteed under arts 21 & 24 of the African Charter.

<sup>47</sup> Art 21 of the African Charter.

<sup>48</sup> AFTRADEMOP, 'Utilisation Moko-oh peoples lands by the German and British Governments for military purposes during colonisation' (2000) 7.

the production of the Moko-oh crafts by the Moko-oh women” on 22 February 2007 at the North-west Regional Delegation on Culture. However, they have never received a reply to that effect. An aspect of the Moko-oh culture which has been in constant violation since the colonial days is their custom and tradition. Before colonisation, they usually organised annual feasts during yams season. During this season, a male sacred call was made once a week for 7 consecutive weeks, on every traditional Sunday called ‘Kweih’. On this day, no one was permitted to work on a farm, be it to till or to harvest. This day was considered as a day which the gods’ visited the land. When this season was done, the notables resumed their normal weekly meetings on the same Kweih. Moreover, when a mistune stroke a family member such as a strange or a prolonged disease, an accident or a sudden and what they termed ‘unnatural death’, the entire family members were invited to pay a visit to their shrine and seek for blessings, cleansing and apology from their ancestors. Unfortunately, the Moko-ohs have been deprived of this aspect of their culture and tradition which they believe their physical and spiritual wellbeing depends on. Equally, the Moko-ohs have lived as internally displaced persons from 1914. They were completely dispossessed of and denied access to their ancestral tombs, shrines and sacred places of worship. These sites are known in the Moghamo dialect, native language of the Moko-ohs as *Nwiew* meaning god. Their customs and tradition recognised several gods such as *Nwiew* Tekah, god of Tekah, ancestor of Gumbo village, *Nwiew* Njiekizem, god of Njiekizem ancestor of Ekwen village, *Nwiew* Chiektingwiew, god of Chiektingwiew, ancestor of Guwu village. They have also been stopped of worshiping their gods as tradition demands. Moreover, the Moko-ohs have been prevented from practicing certain rights in which they believed that their physical and spiritual wellbeing depended on. An example could be seen when a Chief died, certain rites were performed in their shrines before his burial before the enthronement of his successor who is equally subjected to such rites. Since the Chiefs of Ekwen and Guwu died in 1986 and 1996 respectively, their successors have not been enthroned till date because the Moko-ohs have been refused access to to their ancestral villages. To this effect, the Fon of Ekwen, Fon Aboh,<sup>49</sup> said: Since we were sent away we don’t have any traditional things and now we have a lot of problems when we have some traditional ceremonies to carry out. Since my brother died we needed those traditional things to solve certain problems but we don’t have them. We are really suffering. Also, the Vice President of AFTRADEMOP said ‘*We left behind our shrines and we no longer talk to our gods*’ and they are forbidden from using their language which is different from that of the Bali-Nyongas. They are forced to hide before they can speak their dialect so as to avoid that the Bali could hear. By so doing, the Balis are depriving the Moko-ohs of their identity contrary to the provisions of article 2(2) of the ILO Convention N°169. AFTRADEMOP thus decided to undertake court actions in order to protect the Moko-oh People’s right to culture.

### Litigations

Litigation is the process of carrying on a law suit.<sup>50</sup> In order to fight against the violation of the Mo-oh People cultural right, AFTRADEMOP filed a motion before the High Court for

Momo Division as well as before the Moghamo Customary Court.

### Motion filed in the High Court of Momo Division

The motion filed in the High Court of Momo Division in favour of the protection of the Moko-oh people’s cultural rights was suit number MBHC/17m/99-2000 between **Richard Tikum and 20 others v Ngwang Mbanysig (III)**<sup>51</sup>. In this case, the plaintiffs claimed that the court should give an order prohibiting the respondent from preventing applicants in reviving and maintaining their cultural heritage and identity. In this case, the complained filed against the fon of Bali was that being the traditional ruler of Guzang village had the duty to respect and protect the Moko-ohs’ right to culture which is inextricably linked to their lands. On the contrary, he went on to persecute the Moko-ohs and violate their rights. In 1999, Mbanysig, ordered the arrest of AFTRADEMOP’s executive officers, Secretary-General and President and ordered that the organisation suspended indefinitely. That same year, he equally attempted to exile Moko-oh inhabitants from Guzang village. In 2009, a school was built in their resettlement area and the Fon of Bali ordered Bali People to discontinue renting the land to Moko-ohs for subsistence farming. Counsel for the plaintiffs pointed out that in a bid to ensure the implementation of fundamental rights contained in the Constitution, the government has organised different forums to create awareness, respect and implementation of human rights. He went ahead to say that that a number of seminars were held in the North-West province to educate traditional rulers amongst other things on the respect and implementation of human rights, under the auspices of the US Embassy. That traditional values are peculiar to each village or tribe, and Traditional rulers are considered as auxiliaries of the administration and are expected therefore to do only those things which enhance the respect for human rights contained in legal instruments, to which government was signatories or which were subsequently ratified by parliaments.<sup>52</sup>

The Court passed a prohibitive injunction restraining the respondent from violating the applicants’ constitutional rights, including their right to culture. Also, since AFTRAFEMOP was banned by that time, the claims in this motion included the fact that court should suspend the ban. This was done and AFTRADEMOP was recognised as the Moko-oh people’s association created for the protection of their rights. The association was asked to resume its activities so as to achieve it aims. However, Mr. Mbanysig refused to abide to the orders and law officials were unwilling or unable to enforce them. AFTRADEMOP petitioned the States Counsel and the Ministry of Justice to enforce the court’s orders in 2000 and 2001 respectively, but no action was taken by either entity. In 2002, the Governor of the Northwest Province, Adrian Kouambo instructed the Fon of Bali to allow the Moko-ohs to resume cultivation of the same plots of lands they had farmed before the Fon of Bali ordered Bali farmers to cease renting farmland to the Moko-ohs. Relying on the Governor’s orders, the Moko-oh people returned to their previous plots of farmland. Subsequently, many Moko-oh farmers were captured, tortured by a gang known as the German Bali Armed

<sup>49</sup> During an interview carried out in the Moko-oh community.

<sup>50</sup> BA Garner (n 37 above) 944.

<sup>51</sup> A traditional head in Bali.

<sup>52</sup> Cited by Counsel for the plaintiffs in the course of hearing.

Group, and then taken to the Bali Palace. The Moko-ohs were forced to flee with their families to other towns.

### Motion filed in the Moghamo Customary Court

The motion filed by AFTRADEMOP in the Moghamo Customary Court was against Bah Ndah Jacob Ngo who is the successor to the Moko-oh ancestor. Taking into consideration the fact that he is considered to be the only one who knows exactly the place the Moko-ohs occupy in Moghamo. AFTRADEMOP brought an action against him under *Ndifon Cecilia Eneck v Bah Ndah Jacob Ngo Nwachan*, suit number MCC/013/2010 of 19 July 2010. He was called upon to explain why he has been neglecting the Moko-oh people and has not been taking any action so as to take the Moko-oh people out of their situation. AFTRADEMOP's claims were that he should restore the Moko-ohs to the lands they occupied before colonisation by following the administration traditionally, administratively and legally and to do everything within his power to restore their rights that have been lost because of colonisation. AFTRADEMOP went forward to present the documents that justify the fact that the Moko-oh peoples are the owners of the land the Bali peoples confiscated. These documents comprised of a map of Bamenda Division of 25 January 1938, showing the boundary of Moghamo and Bali Native Authorities, a document dated 27<sup>th</sup> of July 1921 which proves that the Moko-ohs were driven from their land, letter with reference number 48/E.30.01/519 of 18 December 1978 written by Divisional Officer of Batibo to the Governor of the North-West province appealing for assistance to the Moko-oh peoples, a copy of the judgment from Momo High Court prohibiting Mbanyamsig III from disturbing the Moko-oh peoples, a copy of the judgment from the Batibo Court of First Instance saying same as that of the Momo High Court and many other documents to support the claims. It also brought in three witnesses who came and confirmed the allegations against the defendant. The defendant Mr Bah Ndah approved the fact that he is an ancestor of the Moghamo clan, including the Upper Moghamo which are the Moko-ohs. He stated that he had given an inheritance to the Moko-oh which made them to become independent. He said he was out of the country when the matter came up and when he returned, he heard what had happened to them but that he expected the administration to exercise justice to his citizens and in this particular case which everybody sympathise. He said it was his sincere believe that it is the place of the administration to restore them to their heritage since he is powerless to do that alone. He then went on to call on powers to do everything possible to assist these peoples so that they can return to their ancestral grounds. The Court ruled that Gumbo, Ekwen and Guwu were autonomous and independent villages before the colonial disruptive forces caused them to run and seek refuge in Guzang and Mbunjeik villages respectively. It also included Afong and Dom which became captives to Bali, as these three villages and say they form the Upper Moghamo villages of the Moghamo native authority area as shown on map with reference number B.D. 05 of 25 July 1938. It continued that these villages which were autonomous and independent before colonisation and headed by fons should have their fons as tradition requires. The court stated that WOREGOWI<sup>53</sup> should do everything within his traditional powers and laws of the country to put a stop to any further suppression and oppression of his descendants by the Bali and Gwans of Guzang and to

proceed to cleanse the land traditionally, for the safe return of the Moko-oh people to their fatherland. The Court ended by calling on authorities to lend WOREGOWI support in the struggle to restore the rights of his descendants and that WOREGOWI should meet the authorities to restore peace to the Moko-oh people. This judgment was rendered on 11 January 2011.

### Complaint filed at the African Commission

Due to Government's continued unwillingness to demarcate land for the benefit of the Moko-oh indigenous community, as well as its failure to effectively prosecute individuals responsible for the persecution of AFTRADEMOP's members and leadership, AFTRADEMOP sought the assistance of the African Commission to vindicate their rights under the African Charter. AFTRADEMOP, represented by Mrs Musongong Cecilia and Global Welfare Association sent a Complaint to the Secretariat of the African Commission on Human and Peoples' Rights on 9 February 2007 against the State of Cameroon for violating articles 3,4,5,10,11,12,14,19, 20(1), 20(2), 20(3), 21, and 24 of the African Charter. The Commission considered the Complaint with the decision to be seized at the 41st Ordinary Session, held from 16 to 30 May 2007 in Accra, Ghana. After having received the decision of the African Commission consideration of the Complaint, a written submission on the Admissibility of the matter was forwarded on 11 August 2007 by the Complainants. Commission sent a letter to the Complainant on 19 August 2012 giving one month deadline to make its submission on the Merits, failing which the Commission will proceed to strike out the Communication for lack of diligent prosecution. Unfortunately, the Complainants didn't respect the deadline and didn't send their submission on the Merits of the Communications. Deadline terminated one month after 21 August 2012, but till 25 February 2013, the Commission had not receive any submission or from the Complainants. Consequently, the Commission struck out the Communication for lack of diligent prosecution at the 13th Extraordinary Session of the African Commission on Human and Peoples' Rights.<sup>54</sup>

### Effectiveness of AFTRADEMOP's actions advocating for the Moko-oh People's cultural right

AFTRADEMOP's faces several difficulties which at the same time are its problems<sup>55</sup> that need attention to be solved or dealt with.<sup>56</sup> These difficulties concern those which come from the association itself and those external to it. These difficulties make the association to achieve very few objectives.

### Difficulties arising from AFTRADEMOP

AFTRADEMOP's internal difficulties are those which are faced inside the organisation itself<sup>57</sup> and they are the association's means of action and the actions themselves. Its means of action are its available resources and things that help

<sup>53</sup> Whose successor is the defendant and who accepts the name.

<sup>54</sup> *E Abolarin 'Committee on the Implementation of the Rights of Indigenous Peoples of the International Law Association (ILA): Report of the Meeting held in the Hague on 20-21 February 2015' (2015) 1 14.*

<sup>55</sup> Cambridge International Dictionary of English (n 38 above) 387.

<sup>56</sup> As above 1125.

<sup>57</sup> Cambridge (n 38 above) 743.

the association to attain its goals.<sup>58</sup> AFTRADEMOP pursue its goals using financial and material means as well as the hand work of its members. However, these financial means are insufficient and its members contribute in making the realisation of its aims very difficult. AFTRADEMOP is financed by membership contributions. It witnessed the most difficult and stressful financial year in 2005 when its membership contributions dropped from 50 in 2004 to 5 in January and 1 from February to December 2005. If members are unable to contribute, the organisation cannot function. This pushed the association to seek financial assistance from international organisations when it presented a project proposal on “Legal and Advocacy Assistance to the Moko-oh indigenous Peoples” to the Netherlands Centre for Indigenous Peoples (NCIV). As a reply to this, on 09 June 2006, AFTRADEMOP received a financial grant to the tune 5.2 million FCFA, as Advocacy and Legal Assistance to 16 Moko-ohs, victims of the attacks of the 16 July 2003 from the NCIV. A Project Committee was formed to monitor the execution of the NCIV Grant. This enabled AFTRADEMOP to re-open the case which the Moko-ohs had abandoned because of lack of funds to hire counsels and to continue the prosecution.

The case was finally re-listed and the Moko-oh resumed the prosecution on 05 July 2007. AFTRADEMOP started its activities without adequate materials. All what was done was to hold their meetings which take place once a month and discuss the issues at hand. This made the execution of its work very difficult since there is limited financial means to purchase computers, chairs and build a house where the association will have its independent seat. Till date the association’s office is in one room which the Secretary General has been willing to liberate in her house so that it could serve as an office. However, the World Bank made a donation to the association on the 23<sup>rd</sup> of March 2006. This consisted of 2 desktops, 2 Laptops, a photocopy machine and accessories worth about 1.7 million FCFA. Though still not sufficient, it enabled AFTRADEMOP to have certain equipments to enable it to carry out its activities properly. Another problem faced by the association is the fact that most of its members are poor and aged people, mostly farmers, who had acquired little or no education, primary or secondary, or concerning human rights. They are at ease only when they speak their Moko-oh language. Their prime preoccupations are how to get land to farm. They manage to speak Pidgin English. This makes the running of the activities very difficult since it is difficult to claim their rights without knowing what these rights are all about. The Secretary General who is one of the most educated amongst all is the person who does most, if not all the oral and writing activities. She is the one who attends seminars in the name of the association, writes reports of the association, file petitions on behalf of the association and many other actions which the association carries out. This is much burden for a single individual. This makes the smooth functioning of the association difficult. Defined as using money placed at one’s care in a wrong way or for one’s benefit,<sup>59</sup> embezzlement is one of the major problems AFTRADEMOP faces in the course of its activities. An example is in 2004 when the former president misused the funds meant for the association’s activities. He equally took away chairs offered as grants for the running of the association’s activities used same for his

personal interest. Without funds and material, the activities of the association cannot be carried out. Moreover, after the constant attacks against the Moko-ohs by the Balis, AFTRADEMOP lost most of its members as they resigned. Their resignation was due to fear of the fact that they might be attacked again and that may lead to the loss of their lives. As a result, some members had to cumulate posts. The posts of the President and Secretary General were occupied by one person, the former Secretary General. The post of the Vice-President and Minutes Secretary were held by the former Minutes Secretary. As if this was not enough, some of the members decided to join the camp of the oppressors, working as spies, thereby abandoning the cause for which they were fighting for. Also, AFTRADEMOP lacks injunctive powers. AFTRADEMOP does not have the power to give commands, directions or instructions to whosoever it may be. When it takes an action, it can only wait that the people against the action was taken may conform to the provisions of the law. It has no power to force them to obey. AFTRADEMOP has reported the violations of the Moko-oh people’s rights both at the national and international levels. It has also gone as far as petitioning the courts to put an end to these violations. The courts have ruled in favour of the Moko-oh people and have given orders to the violators. However these orders have not been obeyed and AFTRADEMOP has no power to force the perpetrators to obey. This is mostly the case with one of the Fons of the Balis, who AFTRADEMOP consider today that has “proven to be above the law” due to the fact that the Motion on Notice filed in the High Court of Momo Division on the 10th of August 2000, where the court ordered him to uplift the injunctions within 7 days, to allow the Moko-ohs to proceed with their struggles for their rights and to pursue their developmental goals and to pay 500,000frs CFA as cost to the Moko-ohs.<sup>60</sup> He has simply ignored the court’s orders, which has not been enforced till date. The above difficulties result from the activities of the association, notwithstanding the fact that there are certain external causes rendering difficult the execution of the association’s activities.

### External difficulties

These are difficulties faced by the association as a result of some inactions not caused by its means or actions.<sup>61</sup> Some of these difficulties come from the administrative authorities’ and others from the Moko-oh people themselves.

### Administrative authorities’ reluctance to act

Failure by government representatives to take concrete actions to ensure the Moko-oh peoples enjoyment of their cultural right is a continuous breach of their duty under national and international laws. Under international and national laws, states have the duty to protect the rights of indigenous peoples. It is stipulated in the Preamble of the Cameroon Constitution that the state shall ensure the protection of the rights of indigenous peoples. This could be interpreted as the fact that the state must do everything possible to make sure that the rights of the Moko-oh people are fulfilled. AFTRADEMOP has been drawing the attention of the state on the violation of their cultural and other rights, but the state has allegedly been taking very timid and limited actions. Through its acts and

<sup>58</sup> BA Garner (n 37 above) 995.

<sup>59</sup> The Advanced Learners Dictionary (n 39 above) 323.

<sup>60</sup> President of AFTRADEMOP.

<sup>61</sup> Cambridge International Dictionary (n 38 above) 487.

omissions, the Government of Cameroon has violated its obligations to ensure that these rights are given domestic effect, as required by Article 1 of the African Charter. The State has also failed to adjudicate fundamental rights violations in accordance with recognised due process of protection, such as timely adjudication before a competent, impartial tribunal able to provide an effective remedy as provided for in article 7 of the African Charter. It has failed to promote and ensure the respect of the fundamental rights as provided for in article 25, as well as it has failed to guarantee the independence of the courts as per article 26 of the African Charter.

Cameroon Government has allegedly ignored the Moko-oh People's continuous pleas to be resettled in their land since 1928. These people complain that government has unreasonably delayed the prosecution of individuals responsible for persecuting them before and after they created AFTRADEMOP. An example could be seen as on 14 March 2002, the Moko-ohs allege that they were ambushed, captured, tortured and taken to the Bali Fon's palace to be killed. AFTRADEMOP reported the matter to the State Counsel for the North West province, but investigation and prosecution of perpetrators has never been carried out. AFTRADEMOP has been persistently advocating before the Cameroon Administration for the establishment of an inter-ministerial Committee for the recognition and restoration of the Moko-oh's land rights and their resettlement villages, but administration has failed to do so. By so doing, Government is attempting to render the Moko-oh people invisible in the same manner she did during an African Commission seminar in Yaoundé, Cameroon in September 2006.<sup>62</sup> All these cause enormous difficulties to AFTRADEMOP in the execution and achievement of its objectives.

### Reluctance of the Moko-oh People

The Moko-oh people reluctance has been as a result of the fear they have towards the Bali people. They have been scared of the Balis for years and even the creation of AFTRADEMOP has changed very little or nothing from the fear they have for the Balis. It is very difficult for the association to achieve the aims if most of its members are scared of acting properly. The most courageous member is the Secretary General who took the initiative to gather the Moko-oh people and form the association. Her fearless attitude and willingness to act has led her to be nicknamed "Iron Lady". She is always at the forefront of every action and does everything possible to see that the Moko-oh people return to their land. She has tortured, beaten, stabbed, wounded and detained in police cells, but she does not give up.

### The realisation of AFTRADEMOP's objectives

AFTRADEMOP has faced various difficulties in its advocacy activities and they have made it to achieve very little of its objectives. Recapitulating what the association has achieved in advocating for the cultural rights of the Moko-oh People, the following can be observed:

- AFTRADEMOP has succeeded in promoting and fighting for the protection of these people's right through sensitisation, advocacy, petitions and court

litigations. Doing this, it has created awareness on the rights of these people.

- As for securing the recognition of the Moko-ohs' identity and land rights, by ensuring their resettlement and rehabilitation in the three villages of their ancestral lands, AFTRADEMOP has just been able to secure their recognition as could be seen with the decisions rendered by the courts, but has failed to resettle these people in their ancestral lands. The Moko-ohs are still living in Guzang village.
- Providing road infrastructure, social amenities and community utilities, as well as promoting environmental protection in the Moko-oh community can only be done if these people return to their lands. As for now, nothing has been done.
- Reviving and promoting the Moko-ohs cultural heritage and traditional knowledge lost since the colonial wars, through its actions, AFTRADEMOP has succeeded in making these people recollect their long lost traditional musical instruments and as for now, the Moko-ohs are able to dance their traditional dances again. It has also retraced and documented the lost culture of the Moko-ohs and the customary court ordered that their traditional institutions be reconstituted and their land cleansed of colonial bloodshed and desecration. It also asked that steps be taken to protect the people. However, this is on paper, nothing has been done practically.
- For regenerating the Moko-oh sacred forest and develop it into a community forest and an eco-touristic site, it can only be done if they return to their ancestral lands.

Faced with these difficulties and failures, ADTRADEMOP has lost the hope of making the Moko-oh people return to their land and its members seem to have decided to leave everything to divine retribution.

### Suggestions to ameliorate AFTRADEMOP's actions

In order to facilitate the smooth running of its activities, AFTRADEMOP should take the initiative of sensitising its members on the rights of indigenous peoples in particular and human rights in general. By so doing, they will know the rules of international and national laws guaranteeing their fundamental rights in general and that to culture in particular, the content of their individual and collective right and the possible remedies in case violation. AFTRADEMOP, being a legal person should sue in its own name. This means AFTRADEMOP should not be petitioning the courts using the names of one of its members followed by that of others. As such, instead of a case between *Musongong Cecelia and 20 others v X*, they should file the case as *AFTRADEMOP v X*. If the case is filed in the name of the association, it might be treated with more seriousness than when it is in the name of a single person. When a suit is filed in the name of an individual, might be interpreted as if person is acting in his own private interest and not in the interest of the association and the entire community. AFTRADEMOP should open a bank account in the name of the association and not in the name of one of its members so as to avoid embezzlement and mismanagement of funds. Three or more members should be signatories of the account. AFTRADEMOP should seek forceful execution of court decisions and take actions against government officials who fail to carry out their duty as provided for under the law. Law No. 92/008 of 14 August 1992 stating certain provisions

<sup>62</sup> AFTRADEMOP's Written Submissions on Admissibility 336/2007 (11 August 2007) para 6.

on the execution of court decisions and Law No 97/18 of 7 August 1997 amending articles 3 and 4 of law No. 92/008 of 14 August 1992 stating certain provisions on the execution of court decisions gives the possibility for carry out forceful execution of court judgments. As such, judgments which have become final can be executed following the provisions of this law rather than addressing simple correspondences to the administration hoping that they will execute accordingly. Government should investigate and prosecute perpetrators of the cultural rights of the Moko-oh people in accordance with article 7 of the African Charter, enforce and execute judgments rendered in favour of the Moko-oh people's cultural rights. Government should implement the recommendation made by the ILO Bureau for Central Africa workshop organised in Yaounde from 15-17 June 2005, by establishing the Commission to restore the Moko-ohs land rights and rehabilitate their villages. The International Community should pressurise the Cameroon Government and insist on the latter to take necessary measures to take the Moko-oh people out of their precarious situation. It should oblige the State to fulfil the Moko-oh people's rights as defined by international, regional and national instruments. The International Community should take measures to ensure that the rights of the Moko-oh indigenous peoples to own and benefit from their ancestral lands and territories are fully protected in Cameroon domestic laws and policies. It should equally insist on the fact that the State should redress the breach of their land and cultural rights, as well as to prevent the recurrence of such violations.

## Conclusion

The cultural right of indigenous peoples<sup>63</sup> is both individual and collective rights.<sup>64</sup> They need protection by the international community and by the state.<sup>65</sup> There are many aspects influencing the protection of indigenous peoples like human rights, activities of international organisations or the role of nongovernmental organisations and of the civil society in law-making and decision-making.<sup>66</sup> The Moko-oh people have suffered a variety of violations of their cultural right under the African Charter, including continued dispossession of their ancestral lands without government's redress, and persecution by the Chief of Bali-Nyonga and his associates that threatens their right to existence and impede their ability to survive as individuals and as a group. They formed AFTRADEMOP, a nongovernmental organisation which has been advocating for the Moko-oh people's right both at the national and international level. At the national level, it sought redress for the violation by the Balis for dispossessing them of their land and at the regional level, it complained to the African Commission in accordance with Article 56 of the African Charter<sup>67</sup> blaming government for its inaction and the violation of articles 3, 4, 7, 14, 19, 20, 21 and 22 of the African Charter. Through its acts and omissions, the Government of Cameroon has violated its obligations to ensure that their

cultural right is given domestic effect, as required by Article 1 and 7 of the African Charter.<sup>68</sup> Consequently, the international community must urge government to respect the international instruments signed and ratified protecting the cultural right of indigenous peoples in Cameroon.

<sup>63</sup> D Dörr & M Cole 'The Mueller' (1999) Wilson Report 47.

<sup>64</sup> A Eide's commentary on Working Group on Minorities Rights, 10<sup>th</sup> session, originally drawn up by its former Chairperson (2001) 16.

<sup>65</sup> D Kugelman 'The Protection of Minorities and Indigenous Peoples Respecting Cultural Diversity' (2007) Max Planck Year Book of United Nations Law 254.

<sup>66</sup> SJ Anaya & J Castellino, *Indigenous Peoples in International Law*, (2005) Walsh editions, Gupta 94.

<sup>67</sup> Cameroon ratified the African Charter on Human and Peoples' Rights on June 20 1989.

<sup>68</sup> Article 7 of the African Charter.