**Indigenous Justice Sysytem And Harmoniation with the ordinary justice system**

**1- Please describe the significance of indigenous justice systems for indigenous peoples and the excercice of collective rights, including self-determination, cultute, customs and spiritual traditions**

Indigenous Justice Systems and Tribal Society. Indigenous justice systems are based on a holistic philosophy. Law is a way of life, and justice is a part of the life process. These systems are guided by the unwritten customary laws, traditions, and practices that are learned primarily by example and through the oral teachings of tribal elders. The holistic philosophy is a circle of justice that connects everyone involved with a problem or conflict on a continuum, with everyone focused on the same center. The center of the circle represents the underlying issues that need to be resolved to attain peace and harmony for the individuals and the community. The continuum represents the entire process, from disclosure of problems, to discussion and resolution, to making amends and restoring relationships. The methods used are based on concepts of restorative and reparative justice and the principles of healing and living in harmony with all beings and with nature.

Restorative principles refer to the mending process for renewal of damaged personal and communal relationships. The victim is the focal point, and the goal is to heal and renew the victim's physical, emotional, mental, and spiritual well-being. It also involves deliberate acts by the offender to regain dignity and trust, and to return to a healthy physical, emotional, mental, and spiritual state. These are necessary for the offender and victim to save face and to restore personal and communal harmony.

Reparative principles refer to the process of making things right for oneself and those affected by the offender's behavior. To repair relationships, it is essential for the offender to make amends through apology, asking forgiveness, making restitution, and engaging in acts that demonstrate a sincerity to make things right. The communal aspect allows for crime to be viewed as a natural human error that requires corrective intervention by families and elders or tribal leaders. Thus, offenders remain an integral part of the community because of their important role in defining the boundaries of appropriate and inappropriate behavior and the consequences associated with misconduct.

**2- What legal provisions establish recognition of indigenous justice systems ?**

In 2007, the United Nations General Assembly (UNGA) adopted the United Nations Declaration on the Rights of Indigenous People (UNDRIP). This was the culmination of a long-term process of reflection, consultation and negotiation within the United Nations that started back in the 1980s. Many indigenous peoples’ organizations worldwide contributed to this process and the government of Cameroon voted in favour of the declaration

The declaration covers wide-ranging issues affecting indigenous peoples’ rights, land and resource rights feature and justice system prominently. UNDRIP calls on states to recognize and protect indigenous peoples’ rights to exercise their own justice system, territories and resources that they own, occupy, use or possess, with due respect to the customs, traditions and land tenure systems of the specific peoples concerned.

**3-Are there restrictions on the exercise of indigenous jurisdiction and if so, which are these restrictions ? Can indigenous jurisdiction be exercised over non-indigenous individuals ?**

The restrictions that exist as concerns indigenous jurisdiction is that they can only exercise their justice according to the limits of their territorial boundaries. Their jurisdiction is subjected to national ordinary jurisdictional systems which usually respects aspects and provisions of human rights charters and conventions duely ratified by states.

Indigenous people can be judged by indigenous justice systems when they commit acts on their territories and do not respect their customs and tradittions when aware of them. However many difficulties exist as to the recognition by these people of the indigenous justice system and jurisdictions.

**4- Please provide examples of how jurisprudence of the ordinary justice system has referred to matters relating to the indigenous justice systems.**

The African Court of Human and Peoples’ Rights recently decided a case concerning the Ogiek of Kenya; a people claiming to have been evicted from forestlands that they felt a special connection with. The Court noted the deep relationship that the Ogiek had with their traditional land and resources, their cultural distinctiveness and their continued marginalization. It concluded that the Ogiek are “an indigenous population [...] having a particular status and deserving special protection”.

The Court went on to find that the Kenyan government had violated several provisions of the African Charter on Human and Peoples’ Rights. In recognizing the Ogiek as an indigenous people, a minority group displaying particular characteristics, the Court’s ruling followed the approach developed over the years by the Working Group on Indigenous Populations/Communities established by the African Commission on Human and Peoples’ Rights.

**5-How do the jurisdictions between the ordinary justice system and the indigenous justice systems cooperate and coordinate and how is this regulated ?**

Following Justice Arrey's judgment, the question that easily springs to mind is as follows : which is superior, written law or customary law? Both written and customary law are sources of law in Cameroon and it will be wrong, or perhaps out of context to settle either for the superiority of written law because it defines the quantum of admissible customary law or the customary law rules simply because most of the cases are hardly brought to court. Nevertheless, the people do accept the customs as binding, notwithstanding legislative enactments to the contrary. They are regulated through written law though it is difficult to establish who has superiority over the other.

**6-Are decisions by indigenous justice systems subject to appeals in, and review by the ordinary justice system ?**

In Cameroon, indigenous jurisdictions are usually subject to contestations and the system is made in such a way that appeals are made to the ordinary jurisdiction which reviews the judgement since their system of rule id different.

**7-What measures are in place to strengthen cooperation and coordination between the ordinary and indigenous justice representatives.**

The indigenous justice system in Cameroon obeys to legal authorities who are superior to them and since it is a system where the indigenous justice system is under te ordinary justice system, conflictual matters which may arise are settled by competent local authority.

**8-How is it ensured that accused are not tried in both the customary and ordinary justice system (double jeopardy) ?**

The justice system in Cameroon obeys to the principle of the double degree of jurisdiction where appeals from lower courts are made to higher courts. The indigenous jurisdictions are therefore the first jurisdictions if wanted by the beligerents to be consulted in cases of conflict. If solutions are not found here and appeals made to ordinary jurisdiction, they automatically judge the case .

**9-What financial and technical assistance is provided by the state to the administration of indigenous justice system ?**

The chiefs who are incharge of the judgements in the indigenous justice system are paid monthly according to their category.

**10- Are there measures in place to ensure that indigenous justice systems are in line with international human rigths standards and respect the rights of women, children, persons with disabilities and LGBT persons ?**

Indigenous justice systems respects customs and tradittions of people but do not go against the laws of the country. The law in Cameroon does not acknowledge LGBT’S people, worst still the customs and tradittions of people and sot hey are taken into account and is viewed as an abomination.

**11-What are the main challenges faced by indigenous people in terms of accessing the ordinary justice system ?**

Indigenous people are nationals of states where their communities reside or are hosted, they do not have problems to access to the ordinary justice system. Nevertherless, the real probleme ,may reside in their acceptance of the ordinary justice system or not.

**12- Please describe how legal aid and the right to interpretation are provided in the ordinary justice system for indigenous victims, witnesses and those accused of having committed a crime.**

**13-Are indigenous or non-indigenous experts called to give testimony during court proceedings involving indigenous persons in the ordinary justice system ? Please give examples.**

The indigenous or non indigenous experts are required under oath to testify during proceedings and court trials.

**14-In relation to indigenous persons facing criminal penalties in the ordinary justice system now and their econmic, social, and cultural characteristics taken into account and how is preference given to methods of punishment other than prison**.

The Cameroon justice system has recently made provisions for commutation of sentences below 2 years of emprisonment to alternative mode of punishment clearly defined by the revised cameroon penal code

**15- Are indigenous peoples overrepresented in pre-trial detention and prisons compared to the non-indigenous population ?**

No, no dicrimination is observed

**16-What measures are in place to ensure that places of detention respect cultural and religious practices and culturally adequate health services ?**

**17- Please indicate and give examples of how the ordinary justice has provided remedies and reparation for successful indigenous petitioners.**

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