



Implementation of community forestry in the Republic of Congo

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Introduction

In the Republic of Congo, the forestry sector is the second-largest contributor to the national economy after oil, and the principal employer after the government sector¹. Approximately 640,000 people living in forest zones are directly or indirectly dependent on the forest resources². The country is at a turning-point in terms of the management of its natural resources and in particular of its forests, as it aspires to becoming an “emerging economy” over the next two decades on the basis of national strategies for economic growth oriented towards exploitation of the natural resources, including the forests, together with the rapid development of infrastructures in the agro-industry and energy sectors.

The local communities and indigenous peoples (LCIP) are increasingly on the margins of the formal economy and of decision-making concerning the use of the natural resources, and they are confronted with growing land insecurity. Women in particular have only very little control over the land, this being principally limited to the rights to use the non-timber forest products, as a result of legislation and customs that are often discriminatory³.

There is a desperate need to detail, recognize, and guarantee the customary property and usage rights of the communities who depend on the forest. Likewise, in theory, the policies, laws, and initiatives aimed at reinforcing more inclusive and equitable management of the forests offer these communities the possibility of participating in and contributing to sustainable economic progress in harmony with their own vision of development.

In 2012, the Congolese government ratified and promulgated the FLEGT Voluntary Partnership Agreement (VPA) with the European Union and committed itself to a process for implementing said Agreement. Among these commitments are the reform of forest law, currently in the process of being revised, together with strengthening the communities' role in managing the forest resources.

The organizations in the Congolese civil society working for proper governance of the natural resources are standing up for forest management that is more inclusive and liable to improve living conditions for the communities who depend on the forest, including the indigenous peoples and women.

¹ République du Congo, Ministère de l'Économie, du Plan, de l'Aménagement du Territoire et de l'intégration, Plan National de Développement (PND), livre I : République de Congo, Ministère de l'Économie, du Développement du Territoire, de l'Intégration, National Development Plan (NDP), Book I: Strategy document for Growth, Employment, and the Reduction of Poverty (DSCERP 2012–2016), page 219

² General Population and Habitat Census (RGPH), 2007

³ Detailed case study on the participation of the communities in the management of forest concessions and protected areas, RFUK-FGDH-OC DH, October 2011

In the preliminary draft forest law, one of the provisions that the civil society regards as progress concerns the community forests; however, its contents remain to be set out. In point of fact, community forests can contribute to reinforcing the rights of the LCIP in the management of the forest resources and make it possible for them to protect the forests while improving their own livelihood and living conditions.

Current state of community forestry in the Republic of Congo

In the Republic of Congo, there is still no accurate legal definition of community forests, nor is there effective transfer of the management of the forests to the local communities, in the sense intended by the United Nations Food & Agriculture Organization (FAO)⁴.

The Republic of Congo forest policy 2014–2025 document intends promoting community forests and stipulates that “community forestry will have to be conceived on two levels: – the first level is a customary reality (the ‘lands’), which amounts to a *de facto* report and does not need any specific institutionalization. Nevertheless, thanks to participative mapping, this can benefit from policy recognition translated into co-management principles when it involves a part of the lands that overlaps an industrial concession or protected area; – the second level corresponds to an institutional innovation (the ‘community concession’), which will be formed from the customary reality but is distinct from it and can constitute the basis of community enterprises.”

The current forest legislation makes provision for a number of possibilities for management of the forests by the LCIP, in particular in the Community Development Series (CDS)⁵ provided for by the forest concession development plans for promoting local development initiatives by the communities. Furthermore, Law no. 16-2000 from 20 November 2000 relating to the Forest Code cites the promotion of community forestry, among other things, by drawing up and implementing programmes to support the associations, non-governmental organizations, and rural populations with a view to improving the productivity of the soils and to slowing the destruction of the natural forests resulting from intensive timber exploitation for the requirements for forest products⁶.

4 According to the FAO: “Participatory forestry refers to the processes and mechanisms which enable people with a direct stake in forest resources to be part of decision-making in all aspects of forest management”, from developing the resources to formulating and implementing the institutional frameworks. More specifically, community forestry refers to a component of participative forestry that focuses on the local communities as the principal stakeholder ensuring the durability of the forest management. (<http://www.fao.org/3/b-i5415e.pdf>)

5 Decree 2002-437 from 31 December 2002 laying down the conditions for managing and using forests, Article 24 Order 5053 from 19 June 2007 defining the national directives for sustainable development of forest concessions, Articles 5 and 18

6 Law no. 16-2000 from 20 November 2000 relating to the Forest Code, Article 105 Decree 2002-437 from 31 December 2002 laying down the conditions for managing and using forests, Article 34

However, the civil society considers that the CDSs are not community forests, but rather participative forests⁷. In point of fact, the State grants exploitation licences to a number of forestry companies who then, as part of their development plan, delimit the CDSs in which they recognize a certain number of rights to the resident communities, such as the exploitation of timber and non-timber forest products, agriculture and agroforestry, and rights of usage (fishing, hunting, etc.)⁸. The civil society regards a forest as a community forest where the communities manage and develop the forest resources in addition to effectively exercising their customary land rights, whether or not these are formally recognized⁹. Hence the community forests are seen as forest spaces of which the objective is to allow the LCIP to have control over a forest and to carry out sustainable economic exploitation of the forest resources, if they so wish. For example, the following activities may be envisaged: small-scale exploitation of timber, commercial exploitation and processing of non-timber forest products (NTFP), conservation of wildlife and biodiversity, ecotourism, payment for environmental services (PES), benefits in connection with the REDD+, agriculture, agroforestry, pisciculture, aquaculture, and livestock rearing¹⁰.

What model(s) of community forests?

Various models of community forests are currently being implemented in a number of forest countries in Africa, Latin America, and Asia. The Republic of Congo could take into account the various lessons to be drawn from these countries. Thus, in **Nepal**, the community forests are, from the legal point of view, former State national forests, the management of which has been entrusted to the communities in order to promote their conservation. The communities receive the rights of usage for a maximum period of 10 years, renewable. The legal framework has been developed and put in place gradually, over time and on the basis of the experience gained at local level. In **Guatemala**, community forestry began to be recognized at institutional level in the 1990s, with support from the FAO’s FTP (Forest Trees and People) programme. No specific legal status exists for the community forests. The upland community forests are managed by the communities in accordance with the customary laws. This mainly involves *commune* forests, *parcialidades* forests (family links), municipal forests, or forests of co-operatives or community enterprises. The levels of deforestation are very low in these various types of community forests. In **Cameroon**, the legal procedures for legalizing community forest concessions are lengthy, complex, and costly. Law no. 94/01 from 20 January

7 Discussion document on community forestry in the Republic of Congo, PGDF/FGDH/Fern, December 2014

8 Order 5053 from 19 June 2007 defining the national directives for sustainable development of forest concessions, Articles 19 and 20

9 Discussion document on community forestry in the Republic of Congo, PGDF/FGDH/Fern, December 2014

10 Discussion document on community forestry in the Republic of Congo, PGDF/FGDH/Fern, December 2014, Objectives of the community forests



1994 relating to a regime for forests, wildlife, and fishing has been in existence for 20 years, but few community forest concessions have been set up. Industrial concessions (or those recognised in the villages) are located in areas of almost pristine primary equatorial forests, in the permanent forest domain, which remains the property of the State. However, community concessions are only possible in the non permanent forest domain, which is likely to be cleared and appropriated for private gain¹¹.

Although in theory Congolese legislation explicitly makes provision for the LCIP to benefit from certain rights of access, usage, and management of the lands and other resources¹², no mechanisms exist, however, to guarantee full implementation of these community rights, leading to *de facto* primacy of individual rights over collective rights. In point of fact, there are various cultural, institutional, economic, and political obstacles that make it impossible to secure the community land arrangements through registration, and it is imperative that these should be removed. The preliminary draft for the law relating to the forest regime made public in May 2017 contains a number of provisions concerning “community forests”. These provide for three possibilities for setting up a “community forest”: within the Community Development Series of an adjusted forest concession; within the forest plantations located in the lands of a local community or the indigenous peoples; or within the natural forests lying within LCIP lands that have been classified for their benefit (Article 28). Hence the new forest law ought to make it possible to put in place an institutional framework for developing an effective community forests model, including accompanying the communities in the management of the community forest areas. At the same time, it is important that these three possibilities should be detailed in the texts of application and that a common vision should be developed as to the choice of these models.

¹¹ Community forests. Discussion document for Fern and its partners, Michel Merlet, June 2015, not published (see English version at http://www.fern.org/sites/fern.org/files/Community%20forests%20discussion%20document_final.pdf)

¹² Law no. 10–2004 from 26 March 2004 laying down the general principles applicable to the State property and land regime, Article 31

However, the creation of community forests is liable to be hampered by constraints of various sorts:

- legal constraints associated with the fact that the only model of community forestry recognized in the current regulations is the CDS one, and that the State Property code stipulates *that the marine, river, and land surface and underground waters and natural resources belong to the State*¹³;
- constraints relating to governance, in particular the failure to respect the forest legislation and the rights of the communities (CDS land being taken over by local elites, illegal small-scale exploitation of the timber, etc.);
- constraints associated with the low technical capacities of the LCIP;
- constraints associated with gender, arising out of the discriminatory character of statute and customary law with regard to women.

It nevertheless remains possible to remove these obstacles in order to develop an inclusive, effective community forestry model with the participation of all the relevant stakeholders and institutions.

Recommendations to the civil society

The civil society organizations have identified the following priorities in order to drive forward the required changes in favour of sustainable, equitable community forestry:

- Promoting a broader notion of the community forest
- In the preliminary draft of the law relating to the “forest regime” in the Republic of Congo, and in accordance with the VPA, the government must draw up texts of application that detail in particular the three different aspects concerning community forests: the notion of community forest, the zoning process, and the procedures for managing these forests that guarantee the involvement of all the stakeholders.
- Identifying land able to accommodate community forests

This solution is envisaged in the national forest policy. This is going to involve obtaining a reduction in the size of the forestry, mining, and agro-industrial concessions in order to free up spaces where community forests could subsequently be created.

Using the procedure for recognizing customary land rights

The law acknowledges the possibility for LCIP to have their rights to land they have been occupying for more than thirty years recorded and recognized. The use of this procedure, with proper technical and administrative accompaniment for the LCIP, ought to be encouraged by the public authorities in order to secure spaces for community forests.

¹³ Law no. 9-2004 from 26 March 2004 relating to the State Property Code

Adjusting all forestry concessions and conversion of the CDSs into community forests

The preliminary draft of the law relating to the forest regime, currently being passed, conceives community forestry, among other things, as an evolution of the CDSs. The CDSs are attached to the development plans, which are one of the concessionaires' major legal obligations. Hence it is important for the government to ensure that all the forestry concessions are adjusted.

Passing the texts of application for the Law of 2011 relating to the promotion and protection of the rights of the indigenous peoples

This Law provides that the customary land rights of the indigenous peoples must be automatically recognized even in the absence of property titles (registration). However, in order to guarantee the effectiveness of this Law, it is vital for the government to draw up the related texts of application and have these passed by Parliament.

Drawing up the national land-use plan (PNAT / NLUP)

The Government's drawing up and adopting this plan will make it possible to delimit the village land and thereby secure it with a view to creating community forests.

Campaigning for gender to be taken into account in the forest laws and policies relating to the VPA and to REDD+ and strengthening the synergies between these instruments

It is vital that the civil society strengthens its advocacy for answers to be found in the forest management laws and policies to the gender constraints in such a way that these have an influence on practices.

Increasing technical accompaniment for the LCIP

It will be possible to achieve this accompaniment via a platform for dialogue between the stakeholders, in particular those organizations from the civil society who 1) have the expertise and resources needed to accompany the LCIP and 2) undertake to accompany the LCIP in their expectations.

Promoting the involvement of the LCIP in the management of the forests classified for the benefit of the local communities

The Forest Code makes provision for the possibility of classifying forests for the benefit of local community bodies, such as the departmental councils. The local authorities have shown an interest in obtaining forests from these local community bodies, particularly in the "banal" (non-classified) zones, and in making contracts with the relevant LCIP in order to entrust them with the sustainable management of these forests.

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Members of the CoNGOs consortium who are signatories to this document:



Other signatories:



The CoNGOs project: *A collaboration of NGOs promoting equitable, sustainable community livelihoods within the forests of the Congo Basin* financed by the British government's UK Aid programme and run by a consortium of NGOs directed by the IIED. The aim of the project is to contribute to improvement in governance and livelihood for the forest communities in the Congo Basin through the development of equitable, sustainable community forestry. The project is operating in Cameroon, the Central African Republic, the Republic of Congo, and the Democratic Republic of Congo (DRC), and to a certain extent in Gabon.

The members of the CoNGOs consortium are the International Institute for Environment and Development (IIED), ClientEarth, Fern, Forest Peoples Program (FPP), Rainforest Foundation UK (RFUK), and Well Grounded. The partners in the consortium/project based in Cameroon are the Association OKANI, the Centre for Environment and Development (CED), and INADES-Formation; the *Réseau des Populations Autochtones et Locales pour la gestion durable des forestiers de Centrafrique* [network of local and indigenous peoples for sustainable management of the Central African forest ecosystems] (REPALCA) and the *Centre pour l'Information Environnementale et le Développement Durable* [centre for environmental information and sustainable development] (CIEDD) are based in the Central African Republic; the *Organisation pour le Développement et les Droits Humains au Congo* [organization for development and human rights in Congo] (ODDHC), the *Forum pour la Gouvernance et les Droits de l'Homme* [forum for governance and human rights] (FGDH) and the *Comptoir Juridique Junior* [junior legal desk] (CJJ) are based in the Republic of Congo, and Tropenbos International is the partner of the Democratic Republic of Congo.

The local communities and indigenous peoples (LCIP) are increasingly on the margins of decision-making concerning the use of the natural resources, and they are confronted with growing land insecurity. Through the FLEGT Voluntary Partnership Agreement (VPA) with the European Union, the Congolese government has committed to revising the forest law and strengthening the role of the communities in the management of the forest resources. In this document, the organizations in the Congolese civil society working for proper governance of the natural resources are standing up for forest management that is more inclusive and liable to improve living conditions for the communities who depend on the forest, including the indigenous peoples and women, in particular through the promotion of community forestry.