



SECURING LANDS, SUSTAINING LIVES

Executive Summary

RETHINKING COMMUNITY BASED FOREST MANAGEMENT IN THE CONGO BASIN

November 2014



PART OF THE
UNDER THE CANOPY
SERIES



KEY FINDINGS

1

The political economy of the forest sector in the region currently strongly favours large-scale foreign interests over local communities, despite the lack of evidence that this model generates significant developmental benefit

2

Community forests offer unprecedented, but still limited, opportunities for forest-dependent communities to gain legal rights to forest land and resources. However, for the full benefits of them to be appreciated in the long term, there is a need for reform of overarching national land and resource rights laws to permit and facilitate the transference of full forest possession and ownership rights from the state to local communities



3

Community forest models need to be adapted to multiple realities, world views and needs

4

There is a need to ensure adequate representativity and non-discrimination in the implementation of community forestry



INTRODUCTION

Rethinking Community Based Forest Management in the Congo Basin is intended to provide policy-makers and development practitioners with critical insights into how community forests can deliver equitable and sustainable outcomes for rural people.

The inclusion of community forests in the 1994 Cameroon Forest Code set a legal precedent for communities in the Congo Basin to be able to manage their local forests, albeit that it fell short of full recognition of land rights.

Two decades on, however, progress towards implementing effective models of community based forest management in the region has been very limited. After 20 years, only three per cent of forest land in Cameroon has been designated as community forest and only a handful of pilot projects to establish community forests exist in the other Congo Basin countries - some of which do not even have a basic legal foundation.

This is the executive summary of Rethinking Community Forests in the Congo Basin, which considers the **constraints** and **opportunities** for community based

forest management in the region with a careful examination of indigenous and customary systems of forest resource management and rights.

The report features an overview of forest tenure and governance systems in the Congo Basin, a brief analysis of the political economy of the sector, and a comparison of existing national community forest policies and rights frameworks in the countries. The study highlights the conditions necessary to achieve a sustainable, equitable and rights-based approach to forest management in the region. It examines lessons from community based forest management from elsewhere and the potential for adapting such models to the Congo Basin context. It concludes with specific national and stakeholder level policy recommendations.

WHAT ARE COMMUNITY FORESTS?

In its broadest sense, community forestry can be considered as ‘forestry for the people and by the people’.

Local forest communities around the world have always been involved in managing their forests to various degrees of intensity. However, the term ‘Community Forest’ as it is commonly used implies that the responsibility for management over a clearly and legally defined forest area is transferred from the State to a community, usually through a designated or elected user group, for the benefit of that community. The community may not have full ownership rights but, in the case of some Congo Basin countries, leases the forest for a period of 20-30 years renewable by the government, which retains some degree of oversight and control.

This is the sense in which the term is used throughout this study, recognising that other interpretations and definitions can be used. In the absence of overarching legal frameworks in Congo Basin countries that allow for full collective ownership of land, community forests currently provide the only viable legal option for communities in the region to assert some level of rights to forest resources on which they depend.



CONSTRAINTS: THE COMMUNITY BASED FOREST MANAGEMENT MODEL

A political economy of forests that is failing communities

In contrast to the limited progress made on community forests in the Congo Basin over the past two decades, the area under industrial concessions and protected area status in many parts has grown rapidly over this period. Areas allocated for these purposes are usually managed by foreign interests, often on land that may otherwise be used and/or claimed by local and indigenous peoples under existing customary systems.

However, despite donor investment running into hundreds of millions of dollars, much of the commercial forest sector remains chaotic and badly governed, and there is little evidence that the 'trickle-down' wealth distribution from either logging or strict conservation has ever materialised.



50 MILLION
HECTARES

Industrial-scale logging represents by far the biggest land use in the region, with concessions accounting for around **50 million hectares** of tropical forest

55%

Only around 55 per cent of these concessions are operating under government approved management plans

1%

Currently less than 1 per cent of forest land in the Congo Basin is formally managed by communities

Industrial-scale logging represents by far the biggest land use in the region, with concessions accounting for around 50 million hectares of tropical forest, around one hundred times the area currently designated as community forests. Only around 55 per cent of these concessions are operating under government approved management plans, of which 4.4 million, or just over 10 per cent, are certified by the Forest Stewardship Council¹, (FSC). Even where management plans or certified concessions do exist, this is no guarantee of genuinely sustainable forest management.

Many of the Congo Basin States' development responsibilities in rural forested areas have been transferred to foreign logging companies. The 'cahier des charge' agreements (a social contract) which such companies are by law obliged to negotiate with local communities about the construction and maintenance of roads, schools, or local medical facilities are often weak or poorly respected, especially in relation to timber values in customary areas, or lead to conflicts and other socially-divisive outcomes. There is some evidence that it supports the informal economy but benefits tend to be limited in time to short timber-cutting cycles, and often go to immigrant workers.

The forestry area taxes in the Congo Basin are extremely low, both in comparison to levels elsewhere in the world, as well as in relation to the value of the timber to be found in the area of forest². Government collection of forest taxes is often also very poor, with some of the missing 'rent' often being paid directly to forestry officials and decision-makers³. Indeed, the legitimacy of the concessionary regime in the Congo Basin has to a large extent been undermined by opaque land allocation processes and third party management structures which have sometimes been linked to vested interests at the highest levels of political office and state institutions⁴.

A growing body of research strongly suggests that attempts at strict conservation measures aimed at protecting mostly 'charismatic megafauna' such as elephants, gorillas and chimpanzees, have often further dispossessed communities of land and rights and impacted on local livelihood activities. Efforts to define community based natural resource management areas associated with national parks and other conservation areas appear to be very secondary to conservation aims⁵.

Recent evaluation reports of two of the biggest backers of Congo Basin forest sector programmes over the past two decades, Agence Française de Développement (AFD) and the World Bank, suggest that the industrial logging and strict nature conservation have fallen well short of delivering convincing poverty alleviation⁶.

The more recent expansion in the agricultural and mining sectors is placing further pressure on forest lands.

¹ AFD, 2013

² RFUK/Forests Monitor, Concessions to Poverty: The environmental, social and economic impacts of industrial logging concessions in Africa's rainforests, 2007

³ Global Witness Press release: October 28, 2013: 90 Percent of DR Congo's Logging Revenues Lost to Tax Avoidance in 2012

⁴ Labrousse, 2000

⁵ See forthcoming research by RFUK.

⁶ AFD 2013; and IEG 2013 : XV

POORLY FORMULATED AND UNVIALE COMMUNITY FOREST MODELS

The failing industrial logging/strict nature conservation paradigm provides impetus for more people-focused forest policies. However, attempts at community based forest management thus far have been largely unsuccessful in transferring meaningful rights or benefits to local communities.

The sheer extent of logging concessions, mining permits, protected areas and increasingly agro-industrial plantations preclude millions of forest-dwellers from being able to establish community forests, or more secure forms of rights to forest land. Outdated land and forest classification systems give the State complete ownership of the land and dictate that community forests form part of the rural (or 'non-permanent') forest domains, effectively a 'residual category' of land use that is prone to being reclassified. Limits on the size, duration and activities permitted in the community forest areas pose further problems for local people.

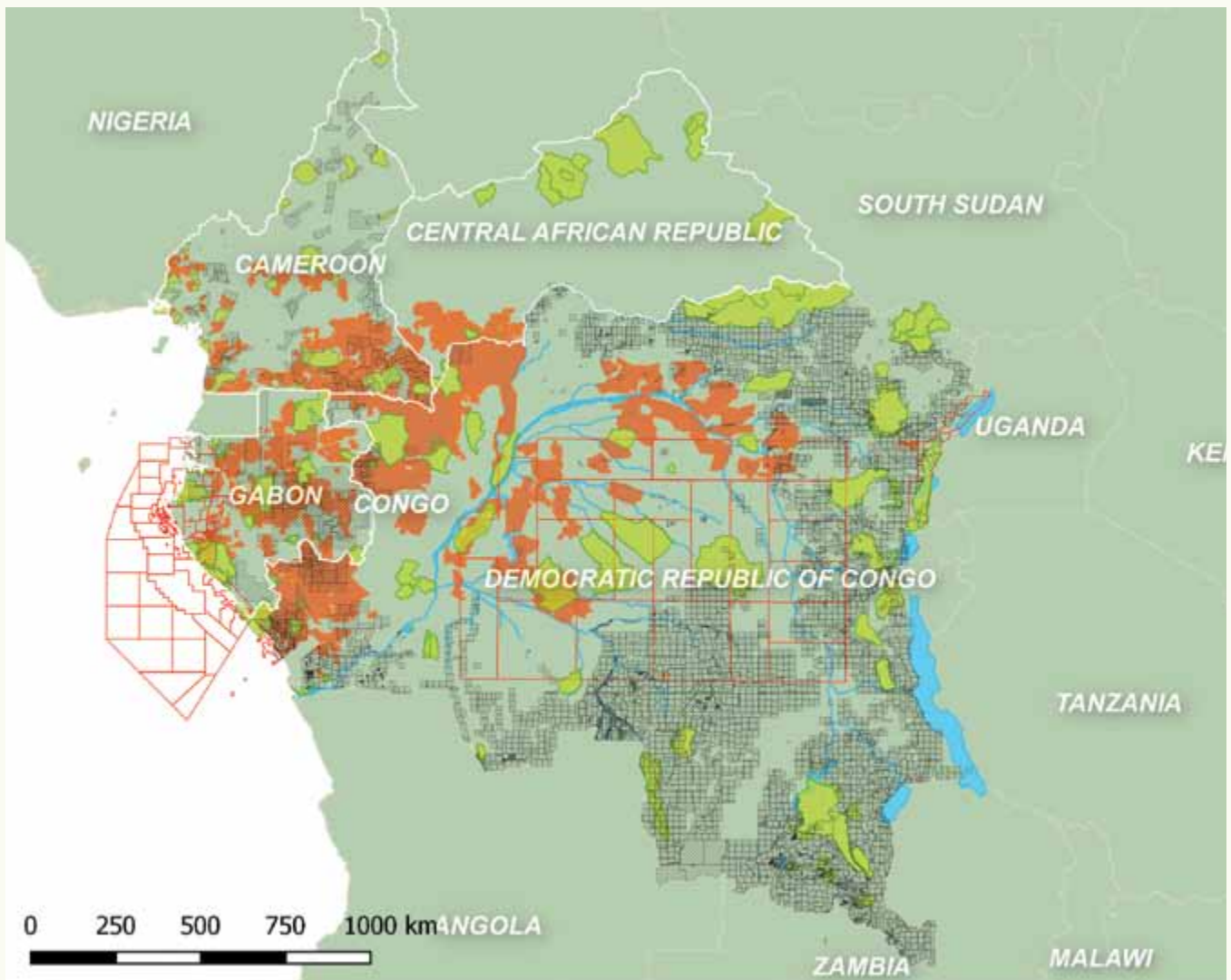
Furthermore, the region has seen a proliferation of externally-imposed 'one size fits all' community forest policies which are ill-adapted to the customary systems and needs of forest dwelling peoples, although some attempts have been made to address this issue in DRC⁷. Heavy and costly bureaucratic procedures have made community forests out of the reach of most people, which can lead to capture of control of supposedly community-run forests by powerful elites, often in conjunction with exploitative third party arrangements.

In addition to these weaknesses, the possibility of successful community forestry is further hindered by incompleteness or incoherence in the legal framework, and serious capacity gaps in local, provincial and local forest administrations.




⁷ AFD 2013; and IEG 2013 : XV

Map 2 – Allocation of logging concessions, oil and petrochemical permits, mining permits and protected areas in the Congo Basin.



Source: World Resources Institute, RFUK/MappingForRights

-  Mining
-  Protected Areas
-  Logging Concessions
-  Oil and Petrochemicals

OPPORTUNITIES: TOWARDS MORE SUSTAINABLE AND EQUITABLE COMMUNITY BASED FOREST MANAGEMENT IN THE CONGO BASIN.

Lessons learned from around the world

The research suggests that traditional tenure and forest governance systems in the Congo Basin have remained generally stable, resilient and adaptable, even if they are now threatened by much greater pressure on forest lands from extractive industries. A necessary starting point in the search for sustainable forest tenure arrangements is therefore a better understanding of the existing customary tenure systems. The research conducted for this study suggests that these need to be recognised as a legal basis for forest management in their own right. Relative to Latin America and to a lesser extent in Asia, these systems are poorly documented, but new participatory mapping techniques (such as www.MappingForRights.org) are starting to fill this knowledge gap.

Examples from around the world show that with the right legal and policy environment, community based forest management can work and may indeed be preferable in the long term to large-scale forest concession allocations, both in terms of reducing poverty and protecting forest areas and biodiversity. The evidence from Latin America and Asia strongly suggests that the best outcomes emerge where these models are grounded in widely recognised, legally-enforced and secure rights which allow communities themselves to establish and enforce rules governing the access and use of forests.

The issue of representativity (ensuring legitimate representation of a given community or similar entity by those who have the mandate to represent them) is also of crucial importance. Community forest policy is often based on the 'myth of community'⁸ - the idea that such communities are homogenous and harmonious groups of people sharing common interests and working towards a similar agenda. In reality, communities in most countries are divided along social, ethnic, age and gender lines with each group having distinct needs, rights and opportunities, which may or may not necessarily conflict with each and which need to be negotiated and taken into account.

Community forest policy must be sensitive to those often excluded from decision-making processes such as indigenous people, women and youths, and be based on Free, Prior and Informed Consent, (FPIC).

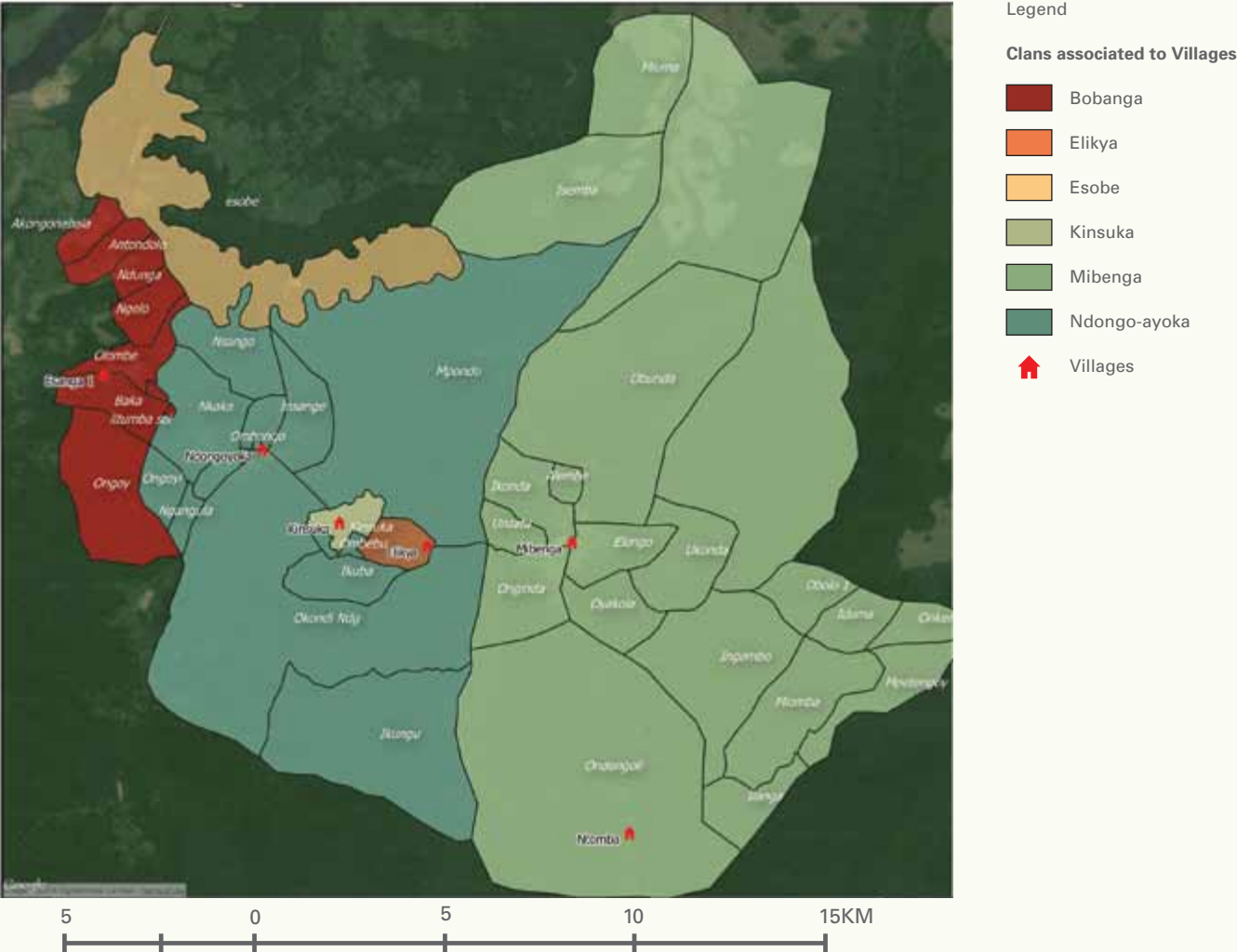
Critically, communities must be permitted to decide how they want the forest to be used and managed – rather than being subjected to pre-designed and externally imposed models focussed on financial and/or conservation objectives.

THE EVIDENCE FROM LATIN AMERICA AND ASIA STRONGLY SUGGESTS THAT THE BEST OUTCOMES EMERGE WHERE COMMUNITY FORESTS ARE GROUNDED IN WIDELY RECOGNISED, LEGALLY-ENFORCED AND SECURE RIGHTS WHICH ALLOW COMMUNITIES THEMSELVES TO ESTABLISH RULES GOVERNING THE ACCESS AND USE OF FORESTS.

⁸ Article 22 of the DRC Forest Code states that a community can, based on its request, obtain a forest concession title for a section or the totality of the protected forest regularly used by virtue of its custom. However, the issue of legal responsibility in the supporting decree also holds significant risks of elite capture. The system prescribed is based on one or more "customarily assigned representative(s)" of the community (as

legal entities) but falls short of specifying how they will be appointed or how their link to the forest should be proven. This is important because unless members of a community can themselves define such a process, political authority may be given to unrepresentative persons. This issue of legal responsibility may be particularly problematic for locally marginalised groups such as indigenous people.

Map of customary tenure in an area of Bandundu Province, western DRC.



Source: Gashe, RFUK/MappingForRights

The maps shows clearly defined forest areas attached to different Bantu clans. These could form the basis of community forests or other tenure arrangements in the region.

RECOMMENDATIONS



1

THERE IS A NEED FOR REFORM OF OVERARCHING NATIONAL LAND AND RESOURCE RIGHTS LAWS TO PERMIT AND FACILITATE THE TRANSFERENCE OF FOREST POSSESSION AND OWNERSHIP RIGHTS FROM THE STATE TO LOCAL COMMUNITIES.

The State monopoly on land as present in all Congo Basin countries, along with outdated and restrictive public/private domain dualism and associated forest classification systems are inadequate to address the reality of long-standing customary forest occupation, use and possession. It effectively precludes large sections of rural forest populations from ever being able to legally manage forests which they have traditionally owned and occupied. We therefore propose the following measures:

- Donors and governments should undertake a comprehensive, public, multi-donor review of the long-term, strategic approach to developing the forest sector in the region, and whether it is achieving social and environmental objectives;
- Scrutinise how current and planned expansion of large-scale land allocations (such as for palm oil plantations) fits with Congo Basin governments' commitments and engagements with international processes concerning the improved conservation and management of forests, especially countries which have signed a FLEGT VPA, or are receiving official development funding related to REDD;
- Galvanise ongoing land reform processes, forest zoning and other initiatives in the region to clarify and secure customary rights. This would align national policy and donor support with international standards and other legal obligations, provide space for self-sustaining development and reduce and mitigate the inevitable conflicts that result from overlapping land claims.
- Set out strategies for ending of the State monopoly on land and the broadening of land classifications beyond the public or private realms to include a new category which enables local communities to assert property or possession rights.



⁹ Please see the full report for country-specific recommendations.

2 COMMUNITY FOREST MODELS NEED TO BE ADAPTED TO MULTIPLE REALITIES, WORLD VIEWS AND NEEDS

Finding a 'one size fits all' community forest model which reflects the diversity of interests in community forests is neither possible nor desirable¹⁰. The challenge is to find methods and processes which will enable indigenous and local people to construct models of forest management that respond to their local institutions and values. However, community forest models should be made compatible with possible future moves towards more secure forms of land tenure. We therefore propose the following measures:

- Legally recognising forest communities' and indigenous peoples' use of land and resources as valid forms of land-use; incorporating into laws dealing with tenure the relevant international standards, treaties and agreements;
- A diversity of models – a range of implementation options should be available to local communities to exercise these rights in a manner that is appropriate to them. The challenge is in maintaining flexibility in the design of community forest models to accommodate different social contexts, world views and needs while maintaining regulatory oversight to avoid abuses;
- Resourcing decentralisation policies to genuinely transfer management responsibilities and developing the institutions needed to administer the differing needs of community forests.



3 THERE IS A NEED TO ENSURE ADEQUATE REPRESENTATIVITY AND NON-DISCRIMINATION IN THE IMPLEMENTATION OF COMMUNITY FORESTRY

It is essential that community forestry models give due consideration to the complexities of community-level representation and the varying models of traditional decision-making in forest communities. Specific attention is also needed in respect of marginalised groups such as indigenous peoples. This approach can have advantages in terms of minimising the potential for corruption, and maximising the effectiveness of decision-making and management mechanisms.



¹⁰ Meizen-Dick and Mwangi, 2008

Abbreviations

AFD	Agence Française de Développement
AWF	African Wildlife Foundation
CAR	Central African Republic
CBFM	Community Based Forest Management
CBNRM	Community Based Natural Resource Management
CED	Centre pour l'environnement et Développement
DFID	(UK) Department for International Development
DRC	Democratic Republic of Congo
EC	European Commission
FAO	Food and Agriculture Organisation (of the United Nations)
FLEGT	Forest Law Enforcement Governance and Trade
FMU	Forest Management Unit
ha	Hectare
ILO	International Labour Organisation
nPFD	Non-Permanent Forest Domain
PA	Protected Area
PFD	Permanent Forest Domain
PSFE	Programme Sectoriel Forêts et Environnement
REDD	Reducing Emissions from Deforestation and Degradation
RFA	Redevance forestière annuelle
VPA	Voluntary Partnership Agreement
WCS	Wildlife Conservation Society
WWF	World Wide Fund for Nature

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