



SECURING LANDS, SUSTAINING LIVES

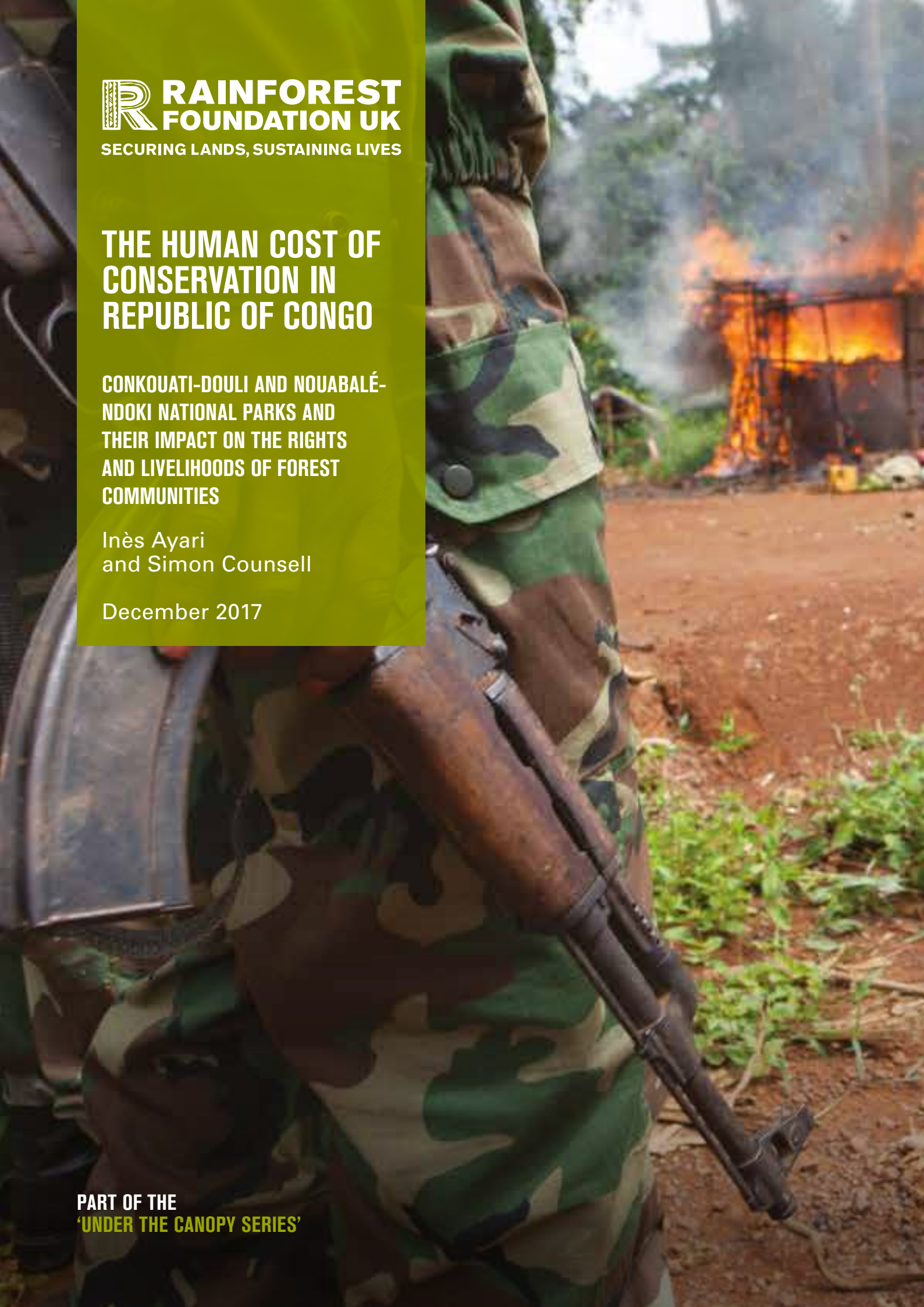
## THE HUMAN COST OF CONSERVATION IN REPUBLIC OF CONGO

CONKOUATI-DOULI AND NOUABALÉ-  
NDOKI NATIONAL PARKS AND  
THEIR IMPACT ON THE RIGHTS  
AND LIVELIHOODS OF FOREST  
COMMUNITIES

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## Tikva Grassroots Empowerment Fund

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## LIST OF ACRONYMS

<b>ACFAP</b>	Agence Congolaise de la Faune et des Aires Protégées, Republic of Congo
<b>AGEDUREN</b>	Association de Gestion Durable des Ressources Naturelles
<b>AFD</b>	Agence Française de Développement
<b>CAR</b>	Central African Republic
<b>CARPE</b>	Central African Regional Programme for the Environment
<b>CAWHFI</b>	Central Africa World Heritage Forest Initiative (Congo Basin)
<b>CDC</b>	Caisse de Développement Communautaire
<b>CDNP</b>	Conkouati-Douli National Park
<b>CEESP</b>	Commission on Environmental, Economic and Social Policy (IUCN)
<b>CIB</b>	Congolaise Industrielle du Bois (Olam Group)
<b>COFIBOIS</b>	Compagnie Forestière et Industrielle des Bois
<b>COGEREN</b>	Comité de Gestion des Ressources Naturelles de Konkouati
<b>COMIFAC</b>	Central African Forest Commission
<b>CSO</b>	Civil society Organisation
<b>DLH</b>	Dalhoff Larsen and Horneman
<b>ECOFAC</b>	EU sponsor Programme for Conservation and Rational Utilization of Forest Ecosystems in Central Africa
<b>ELM</b>	Elemental Minerals Limited (Sintoukola Potash)
<b>EU</b>	European Union
<b>FAO</b>	Food and Agriculture Organisation
<b>FFEM</b>	Fonds Français pour l'Environnement Mondial (French Global Environment Facility)
<b>FLEGT</b>	Forest Law Enforcement, Governance and Trade
<b>FPIC</b>	Free, Prior, and Informed Consent
<b>FPP</b>	Forest Peoples' Programme
<b>FSC</b>	Forest Stewardship Council
<b>FTNS</b>	Fondation pour le Tri-National de la Sangha (The Sangha Tri-National Foundation)
<b>GEF</b>	Global Environment Facility
<b>GIZ</b>	Deutsche Gesellschaft für Internationale Zusammenarbeit (German Organisation for International Cooperation)
<b>IUCN</b>	International Union for Conservation of Nature

<b>M&amp;P</b>	Maurel and Prom
<b>MEFDD</b>	Ministère de l'économie forestière, du développement durable, et de l'environnement
<b>MFT</b>	Man-Fan-Tai (SICOFOR)
<b>MNP</b>	Mayumba National Park (Gabon)
<b>NGO</b>	Non-governmental Organisation
<b>NNNP</b>	Nouabalé-Ndoki National Park
<b>NP</b>	National Park
<b>NTFP</b>	Non-timber forest products
<b> OCDH</b>	Observatoire Congolais des Droits de l'Homme
<b>OFAC</b>	Observatoire des Forêts d'Afrique Centrale
<b>PA</b>	Protected Area
<b>PACO</b>	Programme Aires Protégées Afrique Centrale et Occidentale
<b>PMU</b>	Park Management Unit
<b>PPP</b>	Public Private Partnership
<b>PROGEPP</b>	Projet de Gestion de la Périphérie du Parc National de Nouabalé-Ndoki
<b>RAPAC</b>	Réseau des Aires Protégées d'Afrique Centrale
<b>REDD</b>	Reducing Emissions from Deforestation and forest Degradation
<b>RFUK</b>	Rainforest Foundation United Kingdom
<b>SDC</b>	Série de développement communautaire
<b>SGS</b>	Société Générale de Surveillance
<b>TNS</b>	Tri National Sangha
<b>TRIDOM</b>	Trinational Dja Odzala Minkébé
<b>UFA</b>	Unité forestière d'aménagement (Forest Management Unit)
<b>UNESCO</b>	United Nations Education, Science and Culture Organisation
<b>USAID</b>	United States Agency for International Development
<b>USFWS</b>	United States Fish and Wildlife Service
<b>WCS</b>	Wildlife Conservation Society
<b>WHS</b>	World Heritage Site







# EXECUTIVE SUMMARY

This report is based on investigations in Republic of Congo by our local civil society partners, mainly within six forest communities living in or on the periphery of Conkouati-Douli National Park (CDNP) and Nouabalé-Ndoki National Park (NNNP). Both of these protected areas have largely been shaped by the intervention of the US-based Wildlife Conservation Society (WCS). The aim of our investigations was to understand the impact of the protected areas on those communities and the evolution of the relationships between them.

If not conceived in a participatory manner, protected areas can dramatically affect communities' livelihoods and infringe upon their most basic rights; and may not even enhance biodiversity protection<sup>1</sup>. Although the Congolese legal framework offers some consideration of forest communities' land and resources rights, this report highlights outstanding issues which need be addressed in order to avoid further infringements of forest peoples' rights and foster an inclusive approach to conservation in the country.



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<sup>1</sup> See RFUK, 2016

The main findings of the report are as follows:

- Both protected areas have outdated management plans and inappropriate zoning, failing to include communities or to understand their land use dynamics. Local inhabitants generally aren't aware of the laws related to protected areas. When they are aware, there is confusion about which laws apply to them (such as in relation to the prohibition of species to be hunted) and about the geographical areas within which any laws may apply. Physical demarcation of park boundaries is neglected, which adds to the confusion.
- Conservation-related restrictions prevent communities from accessing their traditional lands and resources, hampering villagers' subsistence activities – such as hunting and gathering – and affecting their social identities. Difficulties encountered by communities to readjust their livelihoods to the imposed restrictions are often overlooked or ignored by conservation programmes. Livelihoods are further compromised by wildlife-human conflict, which is amplified by conservation programmes and often disregarded by the authorities. No defensive measures can be taken by farmers – often women – who suffer material damage and sometimes face physical danger due to the presence of elephants in proximity to their fields. They have to carry the costs of protecting their cultivated lands and crops; and they often have no other choice than relocating or giving up on gathering and farming activities.
- Economic displacement is a significant and detrimental issue, especially as it is almost never accompanied by adequate reparation of the damage and losses endured by local people. Despite some local employment related to anti-poaching monitoring and/or ecotourism and some housing improvements for certain villages (mostly in NNNP), the lack of economic benefits accruing to communities from conservation areas is stark. Existing benefit-sharing plans are often inefficient, leaky and non-transparent. Overall, flows of funding into the two national parks fail to compensate communities for the loss of livelihoods and rights. Such compensation could be done, for example, through the enhancement of basic infrastructure (schools, hospitals and decent transportation networks). The few attempts at 'economic alternative' measures have failed, particularly bushmeat substitution programmes, which neglect the cultural importance of wild game to forest communities and have not proven to decently and adequately provide dwellers with culturally-appropriate and affordable meat substitutes.
- 'Consultation' processes – however poor – did take place in the initial phases of the two national parks' establishment, but were undertaken with only a limited number of concerned communities and often involved only a certain segment of each of them. Although inaugural steps in CDNP's creation seemed promisingly inclusive, the measures did not last. The intervention of WCS in the process undermined rather than enhanced a challenging but ongoing participatory process.
- Indigenous hunter-gatherers appear to have suffered the biggest impacts related to conservation programmes taking place on their customary lands. They find themselves not only discriminated against by their Bantu neighbours and authorities, but they also carry the biggest burden of conservation-related restrictions and limitations.
- Conservation actors tend to favour agreements with the private sector – including logging and mining interests – over constructive and strong partnerships with communities. This strategic approach to generate technical and financial support for protected areas' management and anti-poaching monitoring activities tends to increase communities' land tenure insecurity, as well as their sense of grievance towards park managers.

- One of the most significant and detrimental consequences of imposed conservation models in the areas investigated are the tensions between communities and park management authorities – ultimately embodied by eco-guards – leading sometimes to serious conflicts. In some reported cases, these tensions have resulted in fatalities among villagers. Such conflicts are often the direct consequence of recurring abuses of power, intimidating and harassing behaviour (including physical violence), application of arbitrary sanctions, and unfair treatment of forest dwellers by eco-guards. This seriously problematic situation is exacerbated by a lack of access to justice for communities, as well as the impunity from which eco-guards often seem to benefit.

The present report also stresses the current state of the Congolese legal framework, which is often incomplete and/or unenforced. Urgent measures need to be taken to ensure participatory management is developed and that it includes communities in projects affecting them. Legal loopholes need to be addressed, and the laws and rights of communities must be made clear and available to them. Based on the numerous observations and findings of this report, we propose a number of recommendations. These include the integration of indigenous peoples' and local communities' rights to lands, livelihoods, participation and free, prior and informed consent (FPIC) into protected areas planning and management. In order for this to become a reality, a number of practical steps need to be taken:

- The principles of participation and the obligation to satisfy local populations' needs within the frame of protected areas management does exist in Congolese law (Law No. 37-2008 on Wildlife and Protected Areas). It is crucial to build the conditions and define terms under which local communities and indigenous peoples are to be fully involved in the elaboration and implementation of protected area's management plans. It is of utmost importance that this is done through a participatory approach and by including obligations in terms of stakeholders' involvement in mapping and planning. In that sense, conservation organisations also need to make proactive efforts to ensure effective representation of local people in decision-making processes and strengthen partnerships with them. This entails that communities have access to adequate information about all current or future conservation measures, as well as information about park zoning and eco-guards' scope of intervention.
- Ensuring the effectiveness and accessibility of mechanisms aimed at making individual and collective customary land recognition easier, as foreseen by law (Decrees No. 2006-255 and No. 2006-256 and Law No. 10 2004).
- Ensuring the recognition of land rights prior to the creation of protected areas and the enactment of legislation to guarantee redress and compensation in cases of restricted rights to customary land and usage rights, such as for damage caused by wildlife to community assets, including in buffer zones.
- The national land use plan – the elaboration of which is currently ongoing – needs to help prevent land allocations for different uses from overlapping; something that is all the more important with regards to customary lands.
- Negotiations and agreements between conservation organisations and industrial interests need to include local communities from the outset; land use planning processes should be undertaken only with their full consent and in total transparency.
- Communities' livelihoods are at stake and often threatened when protected areas are established without consideration for local populations' rights, traditions and socio-economic dynamics. While this issue is common to most protected areas across the country (including the two under investigation in this report), it could be addressed by taking several steps, such as: making benefit-sharing schemes mandatory and effective, as per law; extending such schemes to peripheral zones and conservation areas under public-private partnerships; and designing culturally-appropriate development alternatives that promote and respect traditional knowledge and dynamics.

- The Congolese legal framework lacks a clear and adequate definition of usage rights in protected areas and their buffer zones, and this needs to be addressed with full participation and consent of local and indigenous communities. These usage rights then need to be respected by external stakeholders.
- The specific needs of indigenous communities have to be taken into consideration in conservation initiatives and measures. Indigenous communities' rights lag far behind despite the existence of Law No. 5-2011 on the Promotion and Protection of Rights of Indigenous Populations, which is considered as pioneering in the region but is not yet enforced. Measures need to be taken to ensure that indigenous peoples are consulted (via application of FPIC) prior to any project on their lands, including for conservation purposes, and that they are involved in land and resource management, according to the law. Conservation organisations and donors need to ensure indigenous people benefit equally from employment opportunities or alternative subsistence schemes and to consider them as equal stakeholders in discussions.
- There is an urgent need for the country to respect its obligations with regards to international human rights standards, including in the context of nature conservation policies and programmes. This goes along with improving access to justice for communities and providing remedy for previous violations. Eco-guards should be held accountable for their repressive behaviour, and should be subject to effective sanctions. The government of Republic of Congo would gain from collaborating with national and local human rights organisations – including indigenous peoples' organisations – in the interest of both forest communities and conservation objectives. Conservation NGOs should proactively ensure that their projects do not undermine local rights, by integrating human rights in their plans, fostering participatory approaches, and giving more credit to (and promoting) local peoples' traditional knowledge and governance schemes. Special attention must be placed on indigenous peoples' special needs and situations, to avoid further discrimination and violations affecting them in particular.

Institutional and private donors also have a role to play in a more proactive approach to this situation, such as through monitoring conservation projects' compliance with relevant laws and human rights standards. Donors can provide more specific support to both governments and conservation bodies for better application of human rights standards in conservation. They could also provide more support for community-based conservation programmes and make sure local communities benefit adequately from conservation initiatives. Above all, this requires a better understanding of customary land tenure, livelihoods and social dynamics.





# 1. INTRODUCTION

**“ THE LIFESTYLE OF AN AVERAGE CONSERVATIONIST LIVING IN AN INDUSTRIAL COUNTRY PLACES A FAR HEAVIER BURDEN ON THE NATURAL ENVIRONMENT THAN MOST ACTIONS OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES. NEVERTHELESS, WHEN THE LATTER ACT IN A NON-SUSTAINABLE WAY, CONSERVATIONISTS CRY BLUE MURDER ”<sup>2</sup>**

Ellen Desmet, Indigenous Rights Entwined with Nature Conservation

This report builds on the work of the Rainforest Foundation UK (RFUK) on conservation-related issues and echoes the findings of its 2016 report, *Protected areas in the Congo Basin: Failing both People and Biodiversity?*<sup>3</sup>. It stresses again that, if not well thought-out, protected areas can dramatically affect communities’ livelihoods and infringe upon their most basic rights.

The information in this report is partly based on data collected in Republic of Congo through a survey method which focussed on the individual and collective rights of forest and indigenous peoples in the particular context of protected areas’ management. The objective was to assess how and to what extent protected areas (PAs) respect or abuse forest peoples’ rights, whether there are any trends or biases, such as relating to gender and/or ethnicity, and how people perceive the impact of PAs on their lives. The report compiles the results of the investigations in the two protected areas as well as findings from additional desk-based research, under the following categories: land rights and associated aspects, impact on livelihoods, participation and consultation, basic human rights including civil and political rights, and indigenous peoples’ rights as a cross-cutting theme.

Investigative missions were undertaken by local partner NGOs in Republic of Congo in December 2015 and January 2016. Investigators spoke to forest communities living in or on the periphery of Conkouati-Douli National Park (CDNP), in Kouilou Department, and Nouabalé-Ndoki National Park, in Likouala Department<sup>4</sup>.

This mission allowed RFUK to obtain information from the communities of Koutou, Ngoumbi and Tandou-Ngouma in CDNP; and Bomassa, Bon Coin and Kabo in the periphery of NNNP. In CDNP, the field research involved group interviews with Bantu women and men, women-only focus groups, as well as individual interviews. In villages peripheral to NNNP, interviews were carried out with groups of Bantu men and women, and groups of Bambenzele and Bangombé indigenous men and women. Interviewees were aged between 15 and 65 years. The research team also interviewed park wardens, a local IUCN representative, and the “*Project for Ecosystem Management in the Nouabalé-Ndoki Periphery Area*” (PROGEPP) coordinator.

**Table 1.** IUCN protected area categories

IUCN Category	Description
Ia	Strict Nature Reserve
Ib	Wilderness Area
II	National Park
III	Natural Monument or Feature
IV	Habitat/Species Management Area
V	Protected Landscape/Seascape
VI	Protected Area with sustainable use of natural resources

<sup>2</sup> Ellen Desmet, 2011, p. 49

<sup>3</sup> RFUK, 2016<sup>9</sup>

<sup>4</sup> Due to limited resources, it was only possible to cover a sample of settlements in both areas, and this did not cover the village of Makao, 40 kilometres east of NNNP. Makao, as with Bomassa, is considered by WCS as an example of best practice with regard to park-community relation management, so only one of these was selected for the sample.



## BOX 1: NOTE ON THE PROCESS FOR FREE, PRIOR AND INFORMED CONSENT (FPIC) UNDERTAKEN BY RFUK IN THE CONTEXT OF THIS FIELD RESEARCH

It was important for RFUK and its partners to ensure communities engaged in the project were aware of and understood the objectives of the study, how it could eventually help serve their interests and meet their needs, and, therefore, the reasons why specific questions were going to be asked.

Although this process was de facto applied informally with chiefs and elites of the villages before the very first meetings with each of the six communities, the field team replicated the process during each meeting with villagers. They introduced themselves and their respective organisations, presented the mission's objectives and the suggested methods to be followed. Consent was obtained before each step of the fieldwork. Furthermore, communities gave their authorisation for the publication of data obtained during the exchanges. Communities were told how the data would be used and what they could realistically expect from this work, intending not to raise expectations too high about immediate visible outcomes.

The field team had an exchange with the communities about potential risks related to their participation in such work and discussed the principles of anonymity and confidentiality. Most of the investigation team members spoke Lingala and/or Kituba as their mother tongue, which made exchanges with the local peoples easier. Local translators were used for other ethnic languages. Sufficient time was allocated to the communities so that they could share and clarify further information without feeling any pressure and according to their availability.

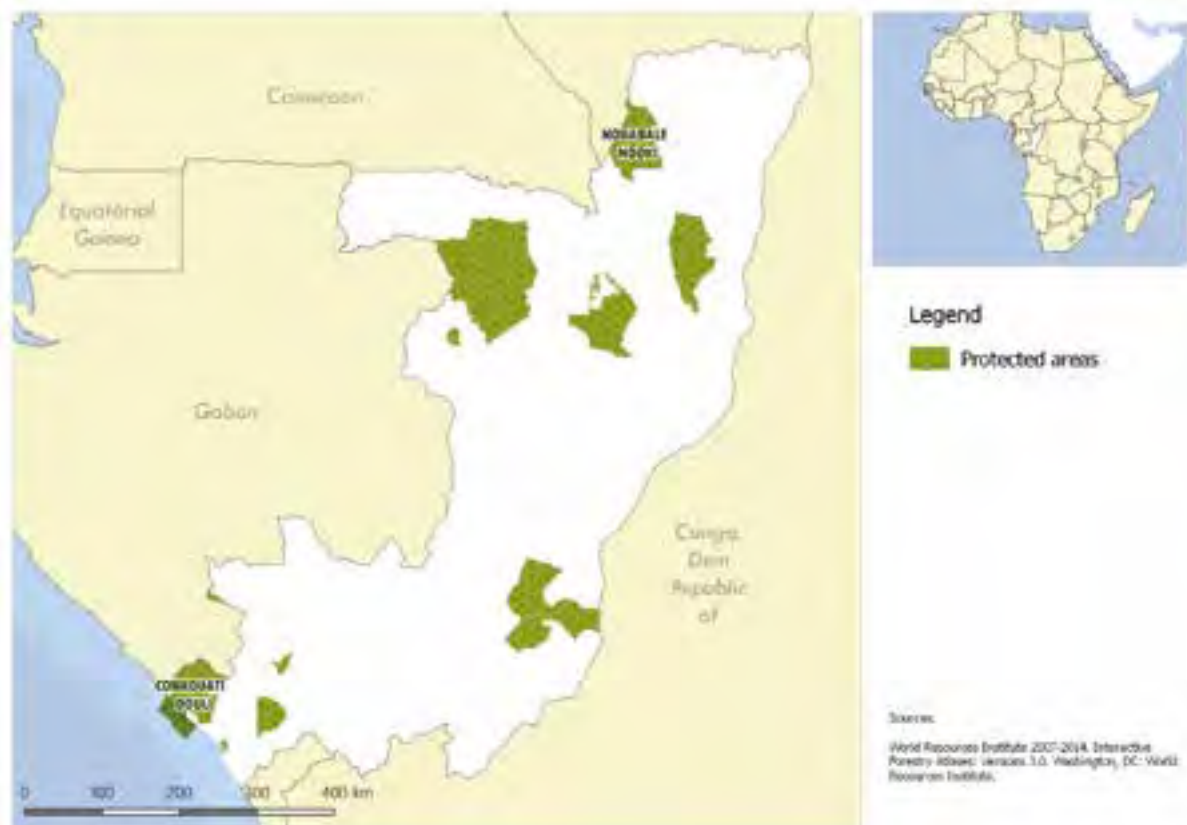


Figure 1. Protected areas in Republic of Congo





## **2. LEGAL AND INSTITUTIONAL CONTEXT OF PROTECTED AREAS IN REPUBLIC OF CONGO**

**“ THE RECOGNITION OF RIGHTS IS OFTEN MITIGATED OR UNDONE BY OTHER LEGAL PROVISIONS. SUCH HALF-HEARTED OR EMPTY RECOGNITIONS RAISE FALSE EXPECTATIONS AMONG THE SUPPOSED RIGHTS-HOLDERS. MOREOVER, THEY MAY BE USED AS WINDOW-DRESSING BY THE STATE, INVOKED INCORRECTLY TO DEMONSTRATE COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS LAW, FOR INSTANCE ”<sup>5</sup>**

Ellen Desmet, Indigenous Rights Entwined with Nature Conservation

In Republic of Congo, forest covers about 22.5 million hectares (65 per cent of the country's area) and plays a major ecological and socio-economic role. The national network of protected areas consists of 17 entities that cover a surface area of 4.5 million hectares (13 per cent of the country)<sup>6</sup>. Several legal provisions set the frame for fauna and protected areas' governance in Republic of Congo with the general principles being enshrined in Law No. 37-2008 on Wildlife and Protected Areas<sup>7</sup>. In principle, this law supersedes the former conservation law (Law No. 48/83<sup>8</sup>) and its bylaws, but still lacks implementation instruments. Even though it does not directly address protected area management, the Forest Code (based on Law No. 16-2000 and Law No. 14-2009)<sup>9</sup> applies a few rules to the State Permanent Forest Domain, including nature conservation. Usually, each protected area is established by decree following the completion of an environmental impact assessment and the design of a management plan<sup>10</sup>.

The new Republic of Congo forest policy for the period 2014-2025 acknowledges the overall absence of development and management plans

for protected areas across the country<sup>11</sup>. To date, laws and policies on PAs lack any framework for harmonising management plans across the country, since they do not lay out a standardised process for the development of such plans. Consequently, management plans, where they exist, vary a lot across protected areas. That said, there is some common practice in terms of geographical zoning, such as the identification of “integrally protected zones” and “eco-development zones” for communities to enjoy their usage rights and activities (agriculture, conventional livestock or small game farming, fishing, agroforestry, apiculture, traditional hunting, gathering non-timber forest products, etc.). However, management plans are often outdated, as they are typically designed for periods of only five years. More critical is the fact that most of the existing PA management plans in Republic of Congo have not been approved yet by ministerial decree. Therefore, management plans do not have the force of law even if they were validated by the relevant stakeholders<sup>12</sup>.

<sup>5</sup> Desmet, 2011, p. 647

<sup>6</sup> See Republic of Congo - FAO, 2014; and MEFDD brochure: [http://www.mefdd.cg/fileadmin/medias/PDF/depliants/depliant\\_acfap.pdf](http://www.mefdd.cg/fileadmin/medias/PDF/depliants/depliant_acfap.pdf)

<sup>7</sup> *Loi n°37-2008 du 28 Novembre 2008 sur la faune et les aires protégées*

<sup>8</sup> *Loi n°48/83 du 21 avril 1983 définissant les Conditions de la Conservation et de l'Exploitation de la Faune Sauvage*

<sup>9</sup> *Loi n°16-2000 du 20 novembre 2000 portant Code Forestier & Loi n° 14-2009 modifiant certaines dispositions de la Loi n°16-2000*; the Forest Code is also strengthened by other subsequent legal provisions such as *Décret 2002 – 437 du 31 décembre 2002*, which sets the conditions for the management and use of forests and ministerial orders on national guidelines for sustainable management of forest concessions, the establishment of forest management units or exploitations; and sets the

terms of (de-)commissioning of forests. There are also zones dedicated to conservation in forest management units; and each logging company is in theory required to establish an anti-poaching unit. See articles 5, 9, 10 and 11 of *Arrêté n° 5053* determining guidelines for sustainable management of forest concessions.

<sup>10</sup> In Congolese protected areas' law, it seems that the expressions “plan d'aménagement” (elsewhere commonly understood as a more technical document) and “plan de gestion” (main general and strategic orientations, as defined by IUCN) are used interchangeably. However, the expression “plan d'aménagement” has more occurrences in the Congolese law.

<sup>11</sup> Republic of Congo - FAO, 2014

<sup>12</sup> IDL/EU-REDD/EFI, 2015, p. 39

**Table 2.** Congolese legal instruments on conservation and community land rights

Year	Name
1983	Law No. 48/83 defining the conditions of conservation and exploitation of wildlife
1986	Decree No. 1986-970 on compensation schemes in cases of fruit tree and farmland destruction due to public utility activities
1991	Order No. 3282 of 1991 on the absolute protection of elephants
1993	Decree No. 93-727 establishing Nouabale-Ndoki National Park
1999	Decree No. 99-136 establishing Conkouati-Douli National Park
2000	Law No. 16-2000 (Forest Code)
2000	Law No. 17-2000 on the land ownership regime
2002	Decree No. 2002-437 determining forest management and conditions of use
2004	Law No. 10-2004 defining general principles applicable to either private- or State-owned lands
2006	Decrees No. 2006-255 and No. 2006-256 creating ad hoc bodies to recognise customary rights
2007	Order No. 5053 of 2007 determining guidelines for sustainable management of forest concessions
2008	Law No. 25-2008 on the agricultural and land regime
2008	Law No. 37-2008 on Wildlife and Protected Areas
2009	Law No. 14-2009 amending some provisions of Law No 16-2000
2009	Decree No. 2009-237 Sintoukola exploration license in Kouilou department
2011	Law No. 5-2011 on the Promotion and Protection of Rights of Indigenous Populations
2011	Order No. 6075 of 2011 determining integrally and partially protected fauna species
2012	Decree No. 2012-396 amending and completing some provisions of Decree No. 93-727 establishing Nouabale-Ndoki National Park
2012	Law No. 34-2012 establishing the National Agency for Fauna and Protected Areas
2013	Decree No. 2013-178 for approving statuses of National Agency for Fauna and Protected Areas
2014	Decree No. 2014-185 renewing license for liquid hydrocarbons exploration license ('La Noubi')
2014	Law No. 43-2014 for the orientation of land use planning

The Law on Wildlife and Protected Areas establishes the principle for local populations to be involved in the elaboration and implementation of management plans. However, terms and conditions under which communities' involvement should fall are yet to be defined by decree as laid down in Article 20 of the law. Neither of the two protected areas under scrutiny in this report have an updated and enforced version of their management plan.

Protected areas' management falls under the authority of the Ministry of Forest Economy, Sustainable Development and Environment (MEFDD). The national agency for fauna and protected areas, ACFAP, was established in 2012<sup>13</sup> in order to strengthen the operational management of protected areas and anti-poaching activities.

<sup>13</sup> *Loi n°34-2012 du 31 octobre 2012 portant création de l'agence congolaise de la faune et des aires protégées*



Among other aspects falling under ACFAP's responsibility is *"to contribute to sustainable development and well-being of populations living in and at the periphery of protected areas"*<sup>14</sup>. ACFAP's budget<sup>15</sup> for 2016, reportedly XAF590 million (US\$1.05 million) was meant to be dedicated to staff training and purchase of vehicles and boats for monitoring purposes<sup>16</sup>.

PAs in Republic of Congo are either managed exclusively under the auspices of the government (MEFDD/ACFAP) or fall under a 'shared governance' model<sup>17</sup> as CDNP does. Although there are no privately managed PAs in Republic of Congo within the meaning of IUCN's definition<sup>18</sup>, a select few developed partnership agreements with the government, resulting in the creation of a dedicated non-profit entity that has overall authority over the park. This is the case for the Odzala Foundation, for example, where the NGO African Parks took over the management of Odzala-Kokoua National Park. The partnership agreement between the government and NNNP is very similar and led to the creation of the Nouabale-Ndoki Foundation, devolving management responsibility to WCS<sup>19</sup> (see section 3.2).

The two PAs addressed in this report are among the most important protected areas in the country. Responsibility for Conkouati-Douli and

Nouabalé-Ndoki National Parks is shared between the Congolese government and the Wildlife Conservation Society (WCS). The Congolese government has developed technical and financial partnerships with various other conservation organisations, notably African Parks, Jane Goodall Foundation and HELP Congo. Funding for this type of protected area is mainly ensured by partners (international/private or institutional funders and conservation organisations) while Congolese public financial contribution rarely exceeds five per cent<sup>20</sup>.

There is an increasing trend towards private-public partnerships in the forest sector in Republic of Congo. The document for national new forest policy 2014-2025 asserts: *"As to the management of production forests and protected areas, the government will promote public-private partnership schemes. The forestry administration will focus on its role of production of standards (including for land management), supervision, control and sanction. Responsibility for land development according to the principles and standards in force will be devolved to concessions' managers, or to private managers of protected areas, which will be sanctioned in case of breach of their legal obligations"*<sup>21</sup>.

<sup>14</sup> See Décret n°2013-178 du 10 mai 2013 portant approbation des statuts de l'agence congolaise de la faune et des aires protégées.

<sup>15</sup> According to Decree No. 2013-178, 70% of revenue from visitor permits in PAs, as well as 70% of revenue from hunting licenses, is dedicated to financing the ACFAP, complemented by State subsidies and forest fund allocations.

<sup>16</sup> Gassia, 2016

<sup>17</sup> OFAC/COMIFAC/RAPAC, 2015, p. 101

<sup>18</sup> See Borrini-Feyerabend et al, 2013

<sup>19</sup> [http://wscsongoblog.org/wp-content/uploads/2017/05/WCS-Congo-Fact-Sheet-The-Nouabale-Ndoki-Foundation-A-New-Model-for-Park-Management\\_compressed-1.pdf](http://wscsongoblog.org/wp-content/uploads/2017/05/WCS-Congo-Fact-Sheet-The-Nouabale-Ndoki-Foundation-A-New-Model-for-Park-Management_compressed-1.pdf)

<sup>20</sup> OFAC/COMIFAC/RAPAC, 2015, p. 101. According to written correspondence with WCS: "The government of Congo allocates \$1.05m/year for 17 protected areas covering 4.5m hectares. That is \$0.23/ha hardly enough to cover any actual management cost let alone compensation to communities for any economic displacement."

<sup>21</sup> Republic of Congo - FAO, 2014, p.25

However, in practice, there has long been tension between the government and conservation NGOs over the respective responsibilities for managing PAs, and a formal definition of reporting lines for eco-guards is absent under Congolese law. A press article dating from March 2016 reported that ACFAP was willing to improve conditions for eco-guards, notably by recruiting them within the public service. ACFAP's director has indeed expressed dissatisfaction with the fact that eco-guards are often under private NGO/sector management, whereas he considers their role as being under the auspices of the state<sup>22</sup>.

In general terms, the takeover of recruitments by the public service is ostensibly an opportunity for the ministry to renew its staff with a view to more "sustainable management of forests"<sup>23</sup>. In practice, though, this probably has more to do with the reassertion of patron-client structures around the resource and fund centres which protected areas represent.

For communities, it is unclear under whose authority eco-guards fall: conservation NGOs, forest administration, ACFAP, etc. In addition to this lack of clarity around managerial responsibility, there is also a tendency for various parties to attribute blame to the others when eco-guards are involved in a harmful situation.

In sum, two types of partnership with the private sector coexist and are becoming a trend in central African countries: partnerships for the management of PAs, and partnerships with extractive (logging and mining) industries in buffer zones of PAs. The latter is encouraged by international donors "for wildlife conservation and sustainable livelihood activities"<sup>24</sup>. In its strategic approach to wildlife conservation in Africa, the European Union sees Public Private Partnerships (PPP) as a promising way to strengthen PA management. It is striking that large actors of resource depletion are seen as potential partners in conservation efforts, while liaising with communities to work together on conservation issues is perceived as more challenging, including "because forest peoples are highly individualistic in their approach to natural resource use"<sup>25</sup>. Although there is a recognition that "insecurity of land tenure further complicates the situation and contributes to situations of 'open access' to resources resulting in overexploitation [by outsiders]"<sup>26</sup>, developing both types of PPP including working together with mining and logging companies located in the Sangha Trinational (which comprises Nouabalé-Ndoki) and Gamba-Mayumba-Conkouati landscapes are considered a priority by the EU<sup>27</sup>.



<sup>22</sup> Gassia, 2016

<sup>23</sup> Term enunciated in Republic of Congo's new Forest Policy. See Republic of Congo - FAO, 2014, p. 21

<sup>24</sup> European Commission, 2016, p. 205

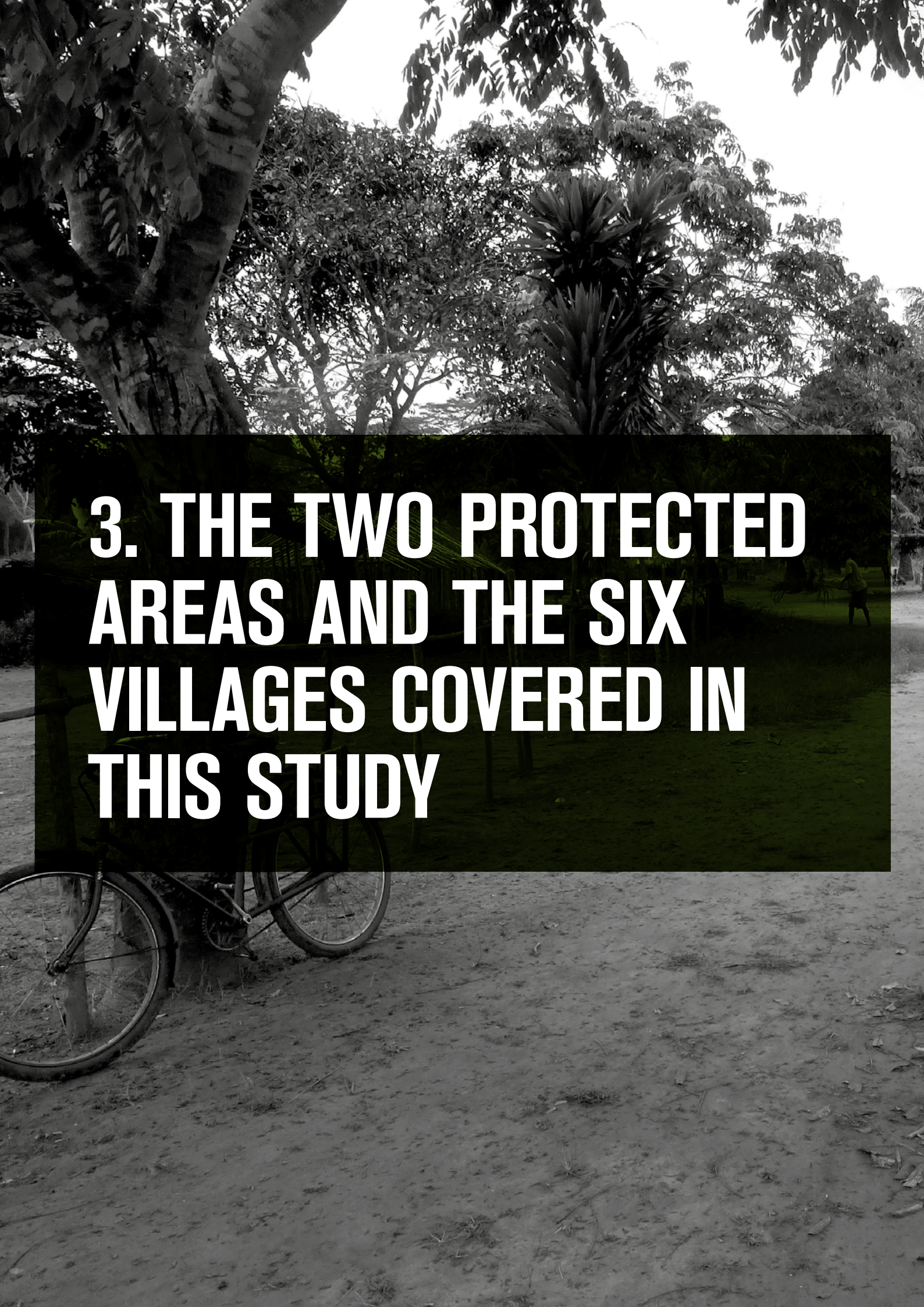
<sup>25</sup> Ibid.

<sup>26</sup> Ibid, p. 204

<sup>27</sup> Ibid, p. 205





A black and white photograph of a rural landscape. In the foreground, a bicycle is parked on a dirt path. The background is filled with various trees, including a large tree on the left and a palm tree in the center. A person is visible in the distance on the right. A large black rectangular box is overlaid on the center of the image, containing white text.

# **3. THE TWO PROTECTED AREAS AND THE SIX VILLAGES COVERED IN THIS STUDY**

## 3.1 CONKOUATI-DOULI NATIONAL PARK (CDNP)

CDNP is an IUCN Category II national park which was created by presidential decree in 1999, although it was part of an active area for conservation referred to as Conkouati Faunal Reserve since 1980. It is one of the most ecologically diverse places in Republic of Congo and the only protected area in the country that includes coastal, marine and terrestrial ecosystems. It covers an area of 504,950 hectares in Kouilou department, overlapping Nzambi and Madingo-Kayes districts<sup>28</sup> in southern Republic of Congo and extending from the ocean to the Mayombé Mountains.

Approximately 7,000 people live in about 28 villages<sup>29</sup> in and around the protected area, along two roads connecting the region with the city of Pointe-Noire. Half of Conkouati's population lives in the coastal villages of Nzambi district, while the other half is settled in the forest villages of Madingo-Kayes district. Coastal people are mainly Vili, a Bantu group of fishers and traders that settled there centuries ago, whereas people from villages along the forest road are from various forest ethnic origins (such as the Yombe) and also include indigenous communities like the Babongo<sup>30</sup>. Most indigenous communities in the region consider themselves to be 'affiliated' with a particular Bantu group. Conkouati's area comprises ancestral village sites, sacred sites and historical cemeteries. This is of significant importance to communities living in the park.

In Conkouati-Douli's villages, social facilities are either absent, remote, costly or of poor quality. Public services such as education, healthcare, sanitation and water supply<sup>31</sup> are rudimentary and exposure to diseases is a serious challenge in the region. Accommodation and living conditions are very basic. Villages often do not have access to electricity, except for a few families who possess power generators. Infrastructure is poor, and this is

a burden for villagers who wish to travel to Pointe-Noire, as crossing the Noubi River is difficult. Lack of decent infrastructure also prevents communities from selling their harvests in other localities and from bringing basic products to their villages.

Overall, population density in Conkouati is low. The authors of a publication assessing natural resource co-management mechanisms stated that "*local population needs in terms of animal proteins can be covered without compromising the future of fauna resources*"<sup>32</sup>, stressing that pressure on resources is linked more with high demand in bushmeat from urban areas.

The protected area is managed by ACFAP, under the authority of MEFFD, in partnership with WCS (see section 2), with a warden appointed by the government.

CDNP and its surroundings also host oil concessions (along the Atlantic coast)<sup>33</sup>, logging operations and mining permits; some of these border the protected area, while others overlap it. According to WCS's website, the conservation NGO has had an agreement with Sintoukola Potash company of the Australian group Elemental Minerals Limited (ELM)<sup>34</sup> since 2011 in order "*to minimize environmental impact and provide financial support for law enforcement from private sector*"<sup>35</sup> (see also section 4.2). WCS's webpage on Conkouati-Douli also mentions an agreement with the oil operator Maurel & Prom (M&P) dating from 2008<sup>36</sup> (under which the salaries' payment of 10 eco-guards was foreseen<sup>37</sup>). M&P holds the Noubi oil license, which was renewed for the second time in 2014<sup>38</sup>.

<sup>28</sup> Republic of Congo is divided into 12 departments, each of which is subdivided into districts ("sous-préfectures").

<sup>29</sup> Figures vary between sources.

<sup>30</sup> See WCS, 2017a.

<sup>31</sup> The three investigated villages in CDNP have access to nearby water sources, but because of some maintenance problems and other issues, potable water is not always ensured. CDNP has reportedly contributed to the provision of drinkable water, notably in Ngoumbi.

<sup>32</sup> Méral et al, 2008, p. 144

<sup>33</sup> See <http://www.mappingforrights.org/>

<sup>34</sup> Sintoukola Potash S.A. was awarded mineral exploration permit through Presidential Decree in 2009 for a period of 3 years (renewable twice) and a mining license for the Kola deposit per Presidential Decree in 2013. CDNP covers approximately 55% (790 km<sup>2</sup>) of the Sintoukola permit area (1,436.5 km<sup>2</sup>) according to a consultancy report mandated by the company.

<sup>35</sup> WCS, 2017a

<sup>36</sup> While WCS' website mentions 2008, according to written correspondence with WCS the protocol was signed with M&P in 2011. The correspondence also mentions that M&P agreed to provide two million FCFA per month to fund protection activities in the Noubi concession which is located in the eco-development zone of the CDNP. It also confirms the existence of a similar agreement with Sintoukola, though in both cases it asserts that agreements have expired and that new agreements have not been signed. Though WCS states that "private companies have nothing to do with park funding", it asserts however that Sintoukola Potash continues to provide funding directly to the CDNP's park warden to support conservation activities in the national park. Sintoukola Potash has presumably had regular consultation meetings in recent years with all stakeholders in the national park, including local communities and WCS.

<sup>37</sup> UICN/PACO, 2012, p. 65

<sup>38</sup> See *Décret n° 2014 - 185 du 30 avril 2014 portant renouvellement du permis de recherche d'hydrocarbures liquides dit 'permis La Noubi'*

According to WCS, current and previous major donors to CDNP include, among others: United States Fish and Wildlife Service (USFWS), United States Agency for International Development (USAID)/Central Africa Regional Program for the Environment (CARPE), United Nations Educational, Scientific and Cultural Organisation (UNESCO) / French Fund for Global Environment (FFEM) and other private funds. The park is part of the CARPE Gamba-Mayumba-Conkouati Landscape which is comprised of four PAs in Gabon and Republic of Congo. Conkouati-Douli NP is contiguous to the Mayumba National Park (MNP) in Gabon, together forming the Mayumba-Conkouati landscape.

External funding amounts to 85 per cent of the protected area's budget, while the remaining 15 per cent is divided between governmental contributions, ecotourism revenues and private funding. Monitoring activities represent the largest expenditure<sup>39</sup>.

The early stages of development of CDNP appear to have included some measure of discussion and agreement with local authorities and communities.

In 1996, while the area was still referred to as a wildlife reserve, a co-management charter for Conkouati was negotiated and agreed between public authorities and local communities, laying the groundwork for CDNP. With the support of IUCN, and under the umbrella of a Global Environment Facility (GEF) programme covering the period 1994-1999, the charter was made concrete through the creation of the *Comité de Gestion des Ressources Naturelles de Conkouati* (COGEREN)<sup>40</sup>. This agreement was obtained after various negotiations and despite initial worries and reluctance of certain parts of the population<sup>41</sup>. It was signed by the chief of Nzambi village (on behalf of local communities), the "sous-préfet chef" of Nzambi District, and the former Ministry of Forestry Economy; it was then validated via an official ceremony based on both traditional rituals and formal administrative procedures. COGEREN was created with the aim of ensuring the implementation of subsequent agreements related to the park's management, and comprised representatives from all stakeholders, including from the villages of Tandou-Ngouma and Ngoumbi.

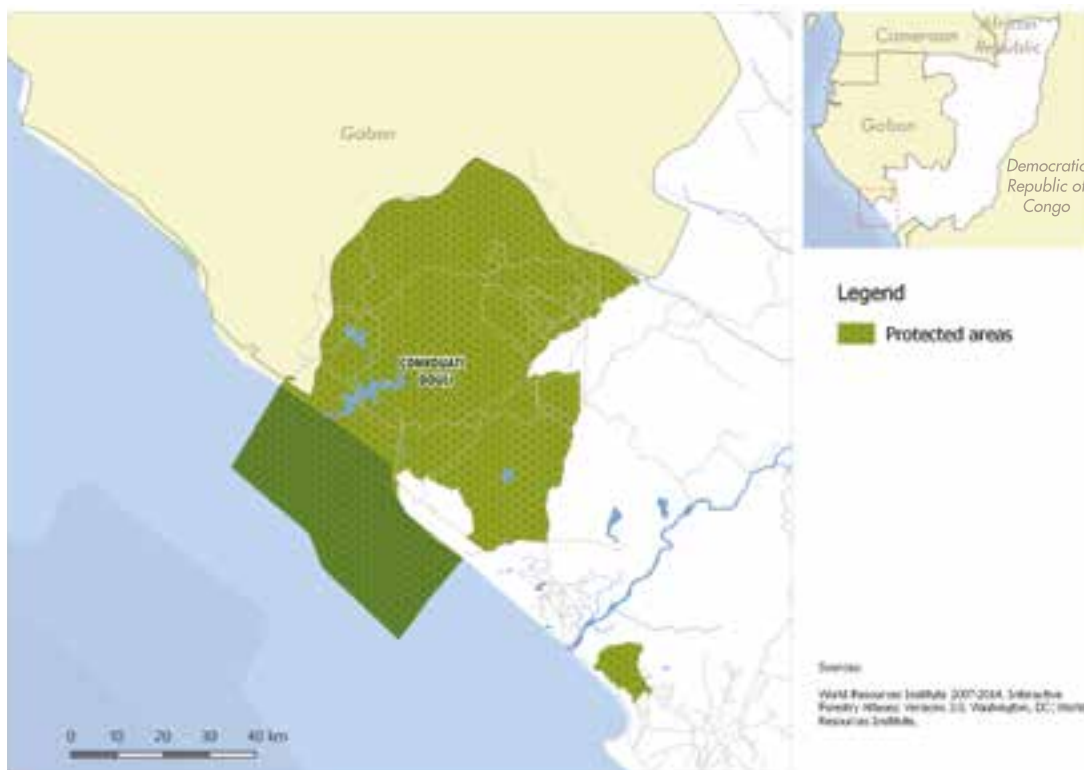


Figure 2. Conkouati-Douli National Park

<sup>39</sup> IUCN/PACO, 2012

<sup>40</sup> See IUCN-PACO, 2012; and Chatelain et al, 2004.

<sup>41</sup> Lineage chiefs (as controllers of lineage territories), notably, were initially reluctant as they perceived the project as just another obstacle

to land and resource access. As the negotiations proceeded, they rallied around the GEF-IUCN project as it was made clear at that time it would encompass customary practice rather than go against it. See also: Méral et al, 2008.

The zoning of the protected area was designed with the same approach and was then included in the management plan developed by IUCN; however, it also had to accommodate the interests of extractive industry permits active in the area. In August 1999, the establishment decree for Conkouati-Douli National Park<sup>42</sup> was issued in the aftermath of a meeting in Pointe-Noire. This involved the participation of national, regional and local authorities (including representatives of village communities), as well as conservation NGOs<sup>43</sup>. At that time, the management plan and the decree were seen by stakeholders as being the beginning of a consensual approach.

In the wake of the above developments, in the early 2000s, COGEREN negotiated the application of management agreements regarding three specific species<sup>44</sup>. This agreement involved both authorities and local communities and was supported by IUCN. However, during the same period, two new stakeholders appeared in the discussions: the very first of CDNP's wardens and a WCS consultant<sup>45</sup>. Despite being the outcome of long-term efforts involving communities, WCS expressed strong reservations about these agreed species management schemes. They requested further data analysis, arguing that in their current form the agreements were based on insufficient knowledge of the resources at stake. As a result, these agreements have never been recognised by the park's management.

The historical background relating to COGEREN was documented in an independent 2004 paper by the Commission on Environmental, Economic and Social Policy of IUCN (CEESP), which highlighted the obstacles and the *"unfortunate regression towards an authoritative and repressive management system engendered by new actors who have not recognized the legitimacy of the co-management structures in place"*<sup>46</sup>. The authors deplored that the relatively young co-management structure was being slowed down by issues created *"not by Conkouati dwellers, not by the State, not by logging or oil companies,*

*nor even by anti-conservationists, but by a nature protection NGO."*<sup>47</sup> COGEREN was disregarded by WCS and the park management as merely a structure to help implement decisions made by themselves, rather than as a platform for collaboration with communities, which was the initial mission originally supported by GEF and IUCN and approved by authorities.

As a result of these developments, the co-management structure lost legitimacy in the eyes of some of the local populations.

According to the above-mentioned report by CEESP, the initially designed and agreed management plan (1999) was not entirely followed by WCS/CDNP's management, especially with regard to development activities that were much anticipated by local communities. Instead, there was a heavy emphasis given to monitoring and anti-poaching activities, along with a related system of sanctions. This turn of events was the prelude to a more tense relationship between local communities and the park. The weakening of COGEREN was also the result of internal power struggles and manipulations, but the new management structure of the PA did not help to resolve the situation. Although signed for approval by public authority representatives, the co-management institution also lacked legal formalisation (such as via ministerial order) to cement its position and commitments, as well as to protect it from various risks – be they functional or due to external forces<sup>48</sup>.

CDNP's creation Decree (Article 12) states that a ministerial order has to approve the park's management plan (*"plan d'aménagement"*) and internal regulations. To date, it is quite unclear which management plan concretely applies in Conkouati-Douli. As far as is known, the original IUCN-COGEREN management plan from 1999 was never legally backed. It was meant to be valid for five years but has no approved updated version exists<sup>49</sup>. A new management plan was apparently drafted for the period 2011-2015<sup>50</sup> but not made official. According to this latest draft, CDNP is

<sup>42</sup> *Decret de classement n° 99 – 136 Bis du 14 aout 1999 portant sur la creation du Parc National de Conkouati-Douli*, signed by the President of the Republic and the Minister of Water and Forests.

<sup>43</sup> Notably HELP, which is now coordinating a specific primate-related touristic programme inside CDNP.

<sup>44</sup> Manatee, raffia and sea turtles.

<sup>45</sup> The government and WCS having at that time (2000) discussed an agreement for the latter to provide technical support to the national park's management. The latest known agreement was signed in 2008 for a period of five years.

<sup>46</sup> Chatelain et al, 2004, p. 8.

<sup>47</sup> Ibid, p. 44.

<sup>48</sup> See Méral et al, 2008, p. 143-159

<sup>49</sup> See OFAC/COMIFAC/RAPAC, 2015, p. 101

<sup>50</sup> IUCN-PACO, 2012, p. 66; other documentation also mentions a *"plan d'aménagement"* covering the period 2009-2013: see IDL/EU-REDD/EFI, 2015 p. 39

delineated in a way that includes one integrally protected zone and one eco-development zone<sup>51</sup> in which the villages are located and usage rights may in theory be exercised. The buffer zone, as defined in the creation decree, remains: it covers up to five kilometres around the south-eastern boundaries of the protected area in which “according to the decree” no concession permits are allowed.

The 2011-2015’s draft replaced an initial complicated zoning system which comprised ten zones with different statuses and functions including ‘multiple use’ and ‘temporary protection’ zones. The complexity of the previous zoning was mainly due to the presence in the park of two logging concessions with permits awarded prior to the change in status from Faunal Reserve to National Park in 1999. The park’s establishment decree states that after expiration of their validity,

licences must be reallocated to the national park. COFIBOIS’ permit expired in 2004 while SICOFOR (formerly “MAN-FAN-TAI” -MFT-) still carried out logging activities in that part of the park until 2011.

The integrally protected area was in fact divided in two by a SICOFOR concession. In 2004, WCS urged the government to remove the concession from the area in order to create a continuous integrally protected zone. WCS also reported on MFT’s role in bushmeat trafficking, as well as its illegal activities outside the boundaries of the concession, for which the corporation reportedly never paid a fine. The zone then having been ‘reallocated’ to conservation purposes, communities were omitted from discussions which took place entirely between the logging company, conservation interests and the government.



<sup>51</sup> An ‘eco-development zone’ is an area adjacent to a strictly protected zone, in/around protected areas and allocated to resident communities for them to access resources and sustainably carry out their subsistence activities such as farming, hunting small game, fishing, gathering

firewood and NTFPs, etc. The same zone also accommodates logging and exploration activities (in theory, subject to prior environmental and social studies and associated permits). In the integrally protected area, any sort of resource usage and/or extraction is in theory forbidden.



Figure 3. Koutou, Tandou-Ngouma and Ngoumbi villages

### 3.1.1 VILLAGES IN AND AROUND CONKOUATI-DOULI NATIONAL PARK

#### 3.1.1.1 Koutou

Koutou is located in the Madingo-Kayes district in Kouilou department, straddling the park's south-eastern boundary and the five kilometre buffer strip. It is located equidistant (five to six kilometres) from two lakes, Kobambi and Youbi, the latter being included in the buffer zone. According to local testimony, CDNP's boundaries have reportedly been extended to include the village up to (and possibly encompassing) both lakes.

The community has been settled in the same location since around 1930, except for having moved about 100 metres to get closer to the main road leading to Nkola in Mayombe<sup>52</sup>. Koutou is home to 930 people: 520 men and 410 women<sup>53</sup>, and households are Bantu (mostly Vili, Loumbou, and Yombé). The nearest commercial town is Pointe-Noire, located 97 kilometres away. There are only a couple of customary landowners

(“terriens”, or “fumu toto” in the local language) which traditionally allow villagers the free use of lands for agriculture and housing purposes. However, according to interviewees, no one in the village possesses any officially recognised land title.

Koutou's economy depends on farming, hunting, charcoal making, and fishing from the nearby lake. The village is five kilometres away from the nearest health centre (in Youbi). Schooling conditions are poor: the primary school lacks educational materials and there is only one teacher available for the whole village.

#### 3.1.1.2 Tandou-Ngouma

Tandou-Ngouma is located in Nzambi district in Kouilou department, within the boundaries of CDNP. The village lies between Tchimba Lake - commonly referred to as the Conkouati lagoon - on the N5 road, which connects to Ngoumbi and Sialivakou, and then to Pointe-Noire further south (located at a distance of 173 kilometres from the village). Tandou-Ngouma's community settled in this location in the early 1970s. According to

<sup>52</sup> The French colonial authorities forced villages to resettle along national roads. Even though some communities settled back in their initial locations after independence, civil war and roads closures due to logging companies leaving the area also caused some population movements.

<sup>53</sup> Koutou's population has probably increased with the presence of Sintoukola Potash workers.

testimonies, the community originally comes from Tale Loane, more upstream on the lake, a hamlet that does not exist anymore and from which the coastline was easier to reach by pirogue. Villagers moved in order to get closer to the main road (initially designed by the former colonial power, with the aim of connecting the country with Gabon) and to the new jetty built at this location, enabling people to cross the Conkouati lagoon more easily towards Nzambi.

The village is comprised of 86 households and, according to available data, is home to approximately 295 Bantu people (mainly Vili, Loumbou and Yombé). It is interesting to note that in 2013-2014 the village reportedly counted 386 inhabitants; the population decrease might, in part, be explained by lack of employment opportunities and by food scarcity leading to rural exodus (see section 5). Infrastructure is rather poor: in order to reach the hospital or the secondary school, Tandou-Ngouma's residents need to cross the lagoon by pirogue (which takes about an hour) and walk a few more kilometres to reach their destination in Nzambi. A dispensary is under construction in Tandou-Ngouma but was not yet operational at the time of our field investigation. As for students, the situation has been partially solved with the construction of accommodation facilities (boarding schools) for those students who can stay on site during the week. However, this is likely adding extra financial burden onto families who want to offer their children better schooling conditions.

Two or three families are reportedly engaged in the process for official recognition of their customary rights to land by public authorities. As in other villages, these customary owners allocate spaces to other community members. Moreover, four people from Pointe-Noire were reportedly granted official land titles in Tandou-Ngouma to build villas (possibly driven by the prospect of tourism development in the park). Importantly, Tandou-Ngouma is where Conkouati Douli National Park has its headquarters.

### 3.1.1.3 Ngoumbi

Ngoumbi is also located within Nzambi district in Kouilou department. It is situated within the boundaries of CDNP only a few kilometres from Tandou-Ngouma, but it is more remote from the Conkouati lagoon than its neighbour.

Before settling in that location around 1930, Ngoumbi community was living on the other side of the lagoon. People moved in order to be less isolated and nearer to the new road leading to towns such as Pointe-Noire. The locality is comprised of 27 households and is home to 209 Bantu dwellers (Vili, Loumbou and Bamba): 115 men and 94 women. According to the field research, there are no indigenous groups. One "terrien" is considered as a customary landowner by the community but does not have official recognition by the state.

As for infrastructure and basic amenities, Ngoumbi's situation is similar to its neighbour Tandou-Ngouma. For the procurement of products, Ngoumbi relies on the nearby village Tandou-Ngouma, which is better supplied due to its proximity to the lake through which products arrive from neighbouring Gabon. Livelihood activities include agriculture, gathering and fishing.

A participative map of the village<sup>54</sup> has been achieved in partnership of the Congolese NGO OCDH (*Observatoire Congolais des Droits de l'Homme*), a copy of which is kept by the village. The village has its own church. Some of the community's sacred sites and a cemetery lie on the other side of the lake where the village was formerly located.



<sup>54</sup> See <http://www.mappingforrights.org/>

## 3.2 NOUABALÉ-NDOKI NATIONAL PARK (NNNP)

NNNP is an IUCN Category II national park in northern Republic of Congo. It was established by presidential decree in 1993 (initially gazetted as a reserve in 1991), then amended by decree in 2012 to include the Goulougo triangle<sup>55</sup>. The park covers an area of 423,870 hectares.

NNNP forms part of the Sangha Trinational conservation landscape (known by its French acronym TNS<sup>56</sup>) which includes two other contiguous national parks - Lobéké (Cameroon) and Dzanga-Ndoki Central African Republic (CAR). It has been designated as an “exceptional priority landscape” by IUCN<sup>57</sup> and as a UNESCO World Heritage site in 2012. Sangha Trinational Forest Landscape falls under the umbrella of the CARPE III programme “Central African Forest Ecosystems Conservation” (2013-2018) funded by USAID.

Global funds allocated to the transboundary landscape complex in the current five-year period amount to US\$5,500,000<sup>58</sup>. Under CARPE III, the priority landscape in Republic of Congo encompasses NNNP’s buffer zone and logging concessions (including Kabo) which are designated as foci of programme intervention. Since 2007, NNNP also falls under the EU-UNESCO’s funding scheme of Central Africa World Heritage Forest Initiative (CAWHFI) which comprises several national parks in the Congo Basin and represents €7,930,000 in funding. In December 2015, the European Union announced that it will continue supporting CAWHFI by allocating €5,000,000 over the course of three years<sup>59</sup>.

Current and previous major funders for NNNP include: GEF, USAID-CARPE, USFWS, and the Tri-National Sangha Foundation. The protected area has also received the support of countries such as Germany (GIZ) and France (French Development Agency - AFD and FFEM), notably through the TNS Trust Fund (FTNS). According to a 2011 assessment, approximately 90 per cent of the park’s annual budget is provided by external donors<sup>60</sup>. In 2014, the annual budget amounted to more than US\$2 million and in 2016 reportedly to US\$3 million<sup>61</sup>.

NNNP is managed by MEFDD/ACFAP in partnership with WCS. The first protocol agreement was signed in 2008, and a public-private partnership took shape in 2013 in the form of the Nouabalé-Ndoki Foundation, the aim of which was “to oversee the park with delegated management authority to WCS [providing the latter with] the authority to hire, fire, and manage the eco-guards”<sup>62</sup>. The Foundation is established as a Congolese public entity in order to manage the park and it is comprised of a multi-stakeholder board of directors and a Park Management Unit (PMU), the latter being delegated to WCS<sup>63</sup>. With regards to who actually has responsibility for the eco-guards, WCS have stated that “ecoguards in NNNP work for the Ndoki Foundation and report to the Park Management Unit”<sup>64</sup>. This is correct, but as management of NNNP is delegated by the Ndoki Foundation to WCS, the eco-guards are effectively the responsibility of WCS even if, as WCS point out, they report to the “Chef de Volet Conservation et Biodiversité – who is a seconded government agent and an officer of the police”<sup>65</sup>.

Since the creation of the Foundation, the park management’s priorities remain anti-poaching activities and law enforcement, but also the elaboration of annual budgets and work plans and the preparation of a management plan (which was still an on-going process in early 2016). Development of high standard tourism activity inside the park is also a key focus area for NNNP. The agreement is renewable after a period five years.

The “Project for Ecosystem Management in the Nouabalé-Ndoki Periphery Area” (also known as PROGEPP and “the Buffer Zone Project”) was created in 1999 as a partnership between WCS, the Government of Republic of Congo and the logging company Congolaise Industrielle des Bois (CIB); the latter of these is now part of the agribusiness giant Olam, which is accused of unsustainable sourcing and massive forest clearing for palm oil production, notably in

<sup>55</sup> See Décret n° 2012-396 du 23 avril 2012 modifiant et complétant certaines dispositions du décret n° 93-727 du 31 décembre 1993 portant création du parc national de Nouabalé-Ndoki dans les départements de la Likouala et de la Sangha.

<sup>56</sup> TNS is part of the greater TRIDOM-TNS trans-frontier conservation area (TFCA) which includes among other PAs the Congo-based Odzala National Park and Ntokou-Pikounda National Park.

<sup>57</sup> IUCN, 2014, p. 56

<sup>58</sup> Total funds dedicated to the global CARPE Phase III’s project in Central Africa (12 landscapes in 7 countries) amount to US\$98.99 million for the period 2012-2020.

<sup>59</sup> CAWHFI, 2014; see also: Portail de la Transparence de l’UNESCO, 2017;

and WHC/UNESCO, 2015.

<sup>60</sup> UICN/PACO, 2012

<sup>61</sup> Noted in the job advertisement for the recruitment of NNNP’s director in May 2016: <https://www.sfecologie.org/offre/directeur-du-parc-national-de-nouabale-ndoki-pnnn-republique-du-congo/>

<sup>62</sup> USAID/WCS, 2013, p. 25

<sup>63</sup> See also [http://wccongoblog.org/wp-content/uploads/2017/05/WCS-Congo-Fact-Sheet-The-Nouabale-Ndoki-Foundation-A-New-Model-for-Park-Management\\_compressed-1.pdf](http://wccongoblog.org/wp-content/uploads/2017/05/WCS-Congo-Fact-Sheet-The-Nouabale-Ndoki-Foundation-A-New-Model-for-Park-Management_compressed-1.pdf)

<sup>64</sup> According to WCS response to the draft of this report.

<sup>65</sup> According to WCS response to the draft of this report.



Gabon and Southeast Asia<sup>66</sup>. In its mission statement, PROGEPP aims at increasing protection for 1.3 million hectares of forest lying in forestry concessions. Through this collaborative project, technical and financial support is provided by CIB to strengthen anti-poaching monitoring activities and to “protect [the park] from increased demographic and hunting pressures associated with logging”<sup>67</sup>. PROGEPP is known as the the “largest scale private sector conservation partnership” in the region<sup>68</sup>. CIB manages three logging concessions around NNNP, all of which are FSC certified (see Section 5.10 for more information).

Local communities living in the surroundings of NNNP are Bantus and indigenous peoples such as Bangombe and Mbanzele. Although currently portrayed as being a pristine and uninhabited area (and despite a lack of reliable demographic data for the area), the creation of the park may have

caused the displacement of thousands of forest-dependent people who inhabited or used what is now a ‘no-go’ zone<sup>69</sup>.

At the very least, its creation disregarded nomadic hunters and gatherers’ traditional and economically important transhumance practices, requiring them to spend large periods of time within temporary settlements in the forest<sup>70</sup>.

According to various sources, NNNP has currently no updated version of its management plan, the last draft of which covers the period 2003-2007<sup>71</sup> and is reportedly under revision. Within the last management plan, one of the outlined objectives was to maintain the collaboration between users of adjacent lands (i.e. logging companies), local communities and the contiguous Dzanga-Ndoki and Lobéké protected areas managers<sup>72</sup>.

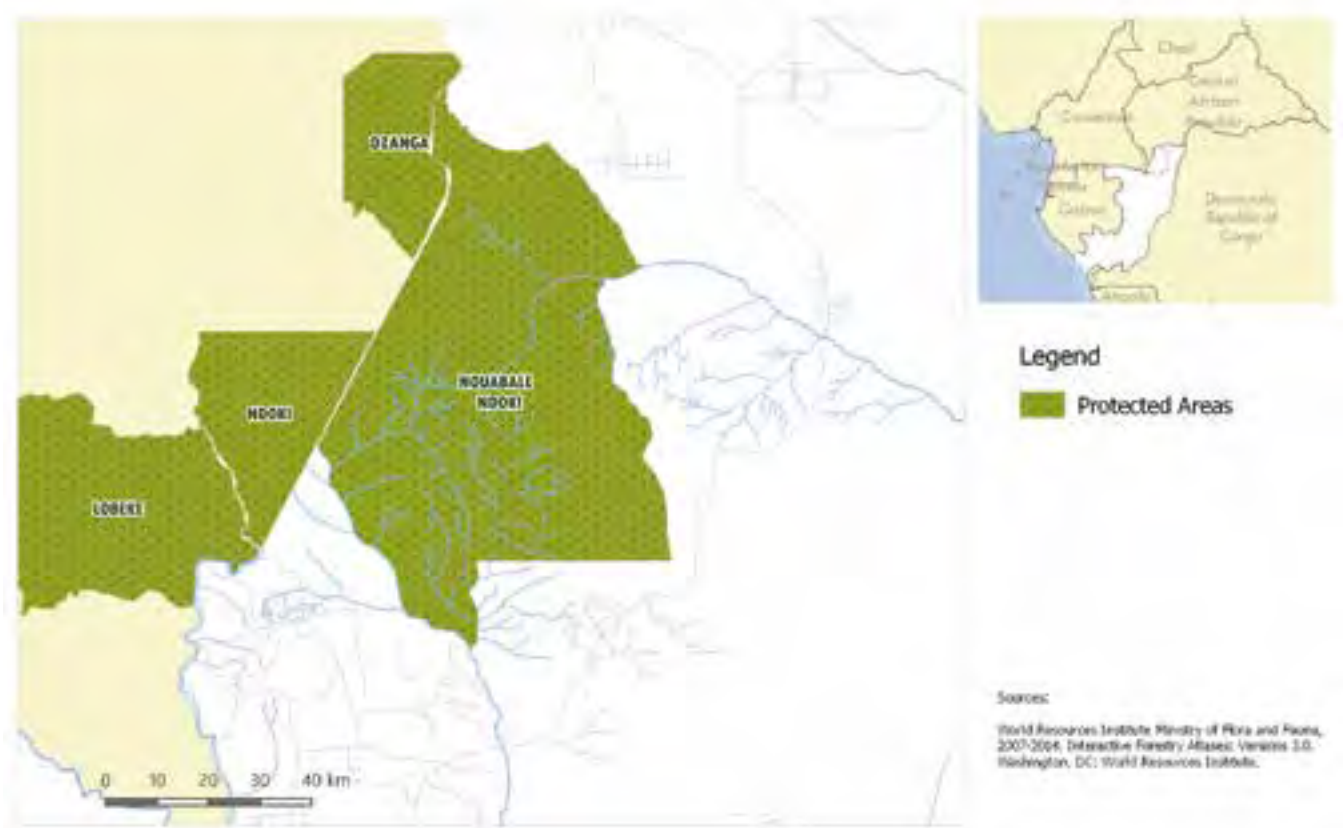


Figure 4. TNS landscape including NNNP (source: MappingForRights)

<sup>66</sup> See Mighty and Brainforest’s report, “Palm Oil’s Black Box - How agribusiness giant Olam’s emergence as a major palm oil trader is putting forests in Southeast Asia and Gabon at risk”, December 2016.

<sup>67</sup> WCS, 2017b

<sup>68</sup> USAID/WCS, 2013, p. 20

<sup>69</sup> Schmidt-Soltau, 2003

<sup>70</sup> Counsell, 2004, p. 43

<sup>71</sup> See OFAC/COMIFAC/RAPAC, 2015

<sup>72</sup> According to written correspondence with WCS: the NNNP management plan was redrafted by an international and national consultant in 2014-15, in a process that involved multiple consultations with all stakeholders, including local communities. This draft was then submitted to a committee of ministry and independent experts in late 2015 for comment, before being officially submitted to the appropriate ministry in February 2016. The ministry presumably provided feedback and comments, and a final version is still being prepared.

## 3.2.1 VILLAGES AT THE PERIPHERY OF NOUABALÉ-NDOKI NATIONAL PARK

### 3.2.1.1 Bomassa

Bomassa is located in the department of Sangha, on the eastern bank of the Sangha River, which separates the village from Lobéké National Park in Cameroon, and is in close proximity to Dzanga-Ndoki in CAR. It is situated approximately 30 kilometres north of Kabo and 140 kilometres from Pokola, a CIB logging town. The community has apparently been settled in that location since the 1920s.

Bomassa lies in NNNP's buffer zone (under the scope of PROGEPP), 22 kilometres from the western border of NNNP, and is considered as an influential "microzone" to the park within the wider TNS landscape<sup>73</sup>. NNNP's headquarters have always been based in Bomassa, and the park has recruited staff among the local population (see section 5.7). It is NNNP's primary management and research settlement<sup>74</sup>.

According to an initial survey, the village is home to approximately 750 people, including 600 Bantu and 150 indigenous people; the latter from Bambenzele and Bangombé ethnic groups. Livelihoods here are traditionally based

around fishing, gathering, hunting and collecting firewood. Those who are employed by the park have benefited from support provided by NNNP to improve their housing conditions and build decent huts. Indigenous communities in Bomassa, however, live in much poorer conditions than their Bantu peers.

Despite the partial housing improvements, Bomassa's community does not enjoy proper health and education services: a dispensary has been built but is not yet operational and qualified personnel are unavailable (although a nurse was reportedly hired recently). There is an ongoing school improvement project, and a teacher has taken office in the village<sup>75</sup>.

### 3.2.1.2 Bon Coin

Bon Coin is a small community of approximately 50 dwellers which is considered as a sort of 'borough' of Bomassa, from which it is approximately three kilometres away. Bon Coin's community has reportedly been settled in this location since the country's independence. Previously, the community lived more downstream along the Sangha River. Bon Coin's people are affiliated with nomadic, indigenous communities (which used to relocate in the event of death of any one of their members).



<sup>73</sup> USAID/WCS, 2013

<sup>74</sup> See Counsell, 2004

<sup>75</sup> In its response to this report, WCS stated that "throughout the document, the researchers also vastly understate the support that the park has provided to education and health in Bomassa and Makao. For example, the park has operated a school in Bomassa village for the last 25 years, paying the salary of the teacher and covering all the costs of the school. There are currently four students in Brazzaville university who spent their entire early years in the Bomassa school, and

so will now have vastly greater opportunities in life thanks to the park. Additionally, when these students first arrived in BZV last year, and were having trouble paying for their accommodation, the NNNP expanded the local benefits system so that they were able to have a portion of their rent paid by the park. There have been similar health benefits for local community members over the years, and we have lost count of the number of people who have been either treated in the Bomassa hospital or evacuated to Pokola hospital when they have been seriously ill - many lives have been saved as a result of Park investment in health care".

### 3.2.1.3 Kabo

Kabo is a town in NNNP's buffer zone - the farthest from the park's borders among the three northern communities researched in this study. The town, longtime centre of CIB's operations in the Kabo concession, is located near the Cameroonian border, 40 kilometres away from the western border of NNNP and 110 kilometres north of Pokola logging town. Together with other logging localities in the PROGEPP zone, Kabo concession has been selected by the CARPE programme as a key intervention area "for mitigating threats to [NNNP's] biodiversity"<sup>76</sup>.

As far as is known, the town has existed since before national independence. The area is home to about 2,000 people (other sources suggest 3,000), including Bantus and Bambenzele indigenous peoples; the latter living in an isolated neighbourhood that is separate from Bantu areas. Kabo's dwellers deplore the poverty in which they live, although they acknowledge some improvements in terms of education and health services, which they attribute to the existence of the CIB settlements. CIB indeed built a dispensary and a school and helped improve housing conditions.

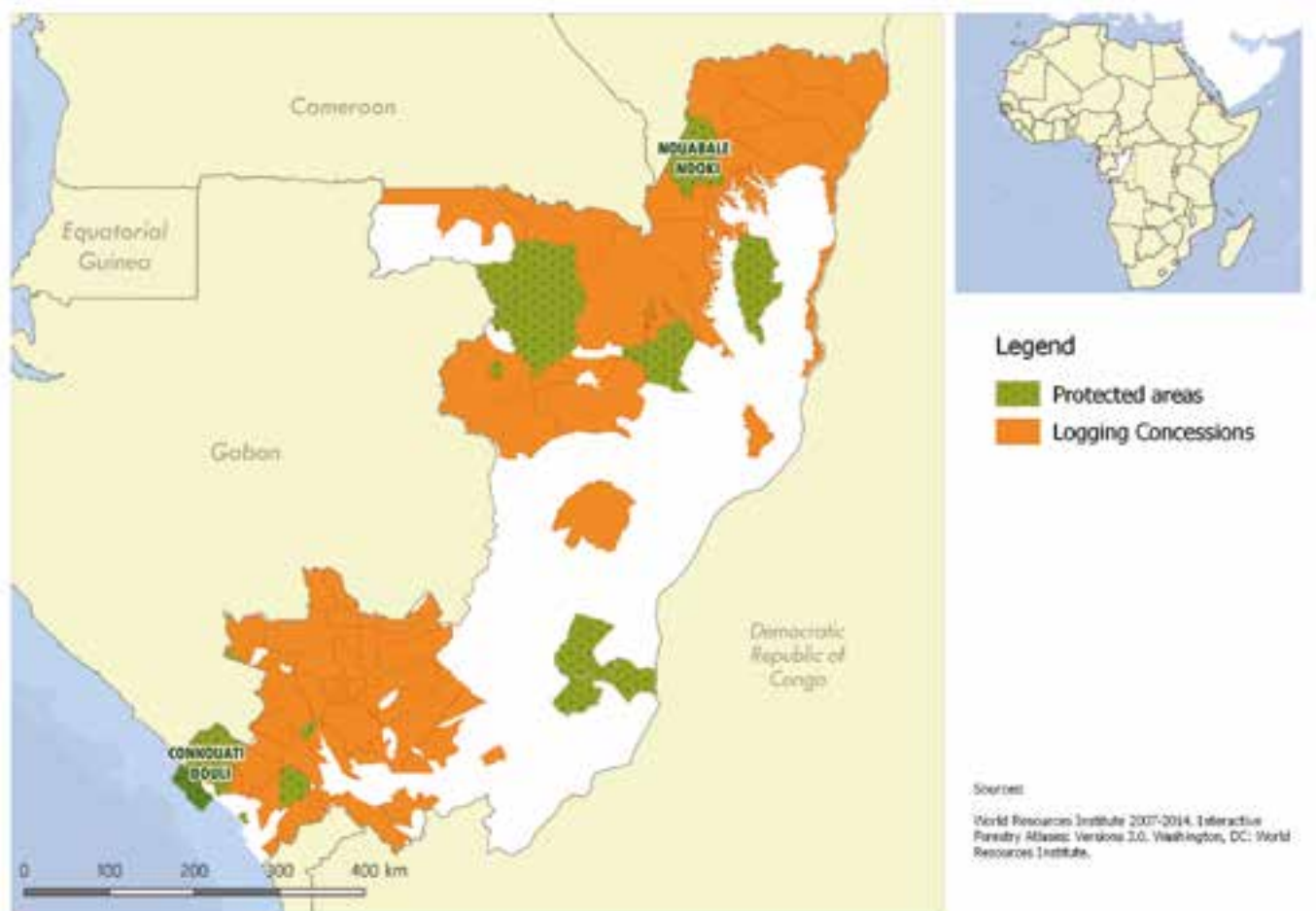


Figure 5. Logging concessions and protected areas in Republic of Congo

<sup>76</sup> USAID/WCS, 2013, p. 17





# 4. LAND RIGHTS AND RELATED ASPECTS

## 4.1 LEGAL CONTEXT FOR LAND RIGHTS AND FORESTRY IN REPUBLIC OF CONGO

The Congolese Constitution guarantees the right to private property for all Congolese citizens, but does not directly address the question of land rights. The latter is addressed in the Law No. 17-2000 on the land ownership regime<sup>77</sup>, which describes the procedure for registration (“immatriculation”), and in law No. 10-2004 on general principles applicable to State-owned land and tenure regimes<sup>78</sup> which recognises individual and/or collective customary land rights. These customary land rights can be translated into registered property titling, based on registration procedures, as defined in legal provisions. For titling, it is usually required that the land is ‘enhanced’ for a certain period of time (usually 30 years)<sup>79</sup> by the applicant (*mise en valeur de la terre*)<sup>80</sup> through farming, plantations or other productive use of the land<sup>81</sup>. The process for obtaining a land title and therefore the right to private property, has to go through acknowledgment and recognition of the customary land rights. The land then needs to be registered (via *procédure d’immatriculation*) in the names of the right holders or their representative in the case of a collective property (see Articles 38 and 39 of the Law No. 10-2004).

Decrees n° 2006-255 and n° 2006-256 foresee ad hoc decentralised bodies at local levels to implement mechanisms for the acknowledgment and recognition of land rights. However, these bodies are slow to become operational, and cadastral mapping of customary landowners is still embryonic. Decentralised bodies do exist at the departmental level; however, most of the communities are not aware of their existence and therefore do not make use of them. According to our local partners, communities of Youbi (see section 6.1 on the shooting incident involving eco-guards) are engaged in the process of securing their lands via the aforementioned mechanism.

Law No. 25-2008 of September 22, 2008 on the agricultural and land regime is designed to further ensure land rights. However, in practice, the claim for land title is often made impossible for

rural and forest populations<sup>82</sup>. This is especially true with regard to indigenous peoples who do not necessarily carry on ‘productive’ work (for example: buildings, farming, plantations) on their lands. Legal provisions do not take into account nomadic habits or the custom of leaving the land untouched for several years. In all cases, evidence and conditions to qualify a sufficient level of “*mise en valeur*” are missing. According to Law No. 25-2008, a decree is supposed to address this loophole, but one has not yet been issued<sup>83</sup>.

Republic of Congo’s Law No. 5-2011 of 25 February on the Promotion and Protection of Rights of Indigenous Populations<sup>84</sup> offers some hope and represents a pioneering approach to the recognition of indigenous peoples’ rights in Africa. The law recognises indigenous peoples’ collective and individual rights to their traditionally owned lands and resources. It also exempts them from going through complex registration processes, thereby facilitating easier access to land. In practice, however, the law remains unenforced, as the necessary legal mechanisms to actually apply the law have yet to be completed. Indigenous communities’ situation with regards to tenure rights is, therefore, still precarious.

Some analyses of the Congolese legal system have pointed at inconsistencies within the law, which make application of the principles of land development (“*mise en valeur*”) and registration impossible in certain cases, particularly for forest populations living on lands referred to as “third category lands”<sup>85</sup>. On such lands, forest communities’ access to ownership, as set forth in other provisions, is contradicted notably by the Forest Code which classifies these “third category lands” as being in the state’s domain. This means that only the state can “own” the land and that parts of the forest are ‘inappropriable’ by the population. Moreover, according to this same analysis, the conditions of appropriation through land occupation (registration through “*mise en valeur*”) are not applicable to the populations living on these “third category lands”, since the

<sup>77</sup> Loi n° 17-2000 du 30 décembre 2000 portant régime de la propriété foncière.

<sup>78</sup> See Articles 6, 9, 31 and 35 of “Loi-cadre n°10-2004 du 26 mars 2004 fixant les principes généraux applicables aux régimes domaniaux et foncier”.

<sup>79</sup> Article 7 of Décret n° 2006-256 du 28 juin 2006 portant institution, attributions, composition et fonctionnement d’un organe ad hoc de Constatation des droits fonciers coutumiers.

<sup>80</sup> See Loi n° 25-2008 du 22 septembre 2008 portant régime agro-foncier

<sup>81</sup> Article 7 of Décret n° 2006-255 du 28 juin 2006 portant institution, attributions, composition et fonctionnement d’un organe ad hoc de Reconnaissance des droits fonciers coutumiers

<sup>82</sup> Internal Rainforest Foundation UK / CED study, “Les droits fonciers des populations des zones forestières au Congo : Analyse critique du cadre légal et coutumier, suggestions et recommandations pour leur promotion” by Pierre-Etienne Kenfack.

<sup>83</sup> For further insights, see ClientEarth, 2014; RFUK/OCDH, 2006; and RFUK, 2009

<sup>84</sup> Loi n°5-2011 du 25 février 2011 portant promotion et protection des populations autochtones

<sup>85</sup> According to Article 10 of Law No. 25-2008, third category lands are lands allocated to specific activities dedicated to forestry or mining and managed in compliance with applicable regulations.

legislation prevents resources from being used in any other way than as defined in the land classification objectives<sup>86</sup>.

Furthermore, to date, Republic of Congo still lacks an effective national land use plan to define the use of various national spaces and domains, including forests<sup>87</sup>. The recognition of customary lands is, therefore, made even more complex, as governmental allocations and designations for different land uses often overlap, and the distribution between the different state domains isn't always clear - not to mention the permanent rivalry between various public entities, each one having its own interest in natural resources management. Nevertheless, and despite being slow, the process of developing a national land use plan is currently on track. Consultations at the departmental level were initiated at the end of 2016.

The absence of legal provisions for the recognition of customary land rights prior to the creation of protected areas or logging concessions makes access to land even more difficult; and even if all the 'pre-conditions' happen to be met, the actual process for making customary land officially recognised and registered represents an administrative challenge and financial burden for applicants.

Most forested territory is state-owned and is covered by the Forest Code — embodied in Law No. 16-2000 and Law No. 14-2009 and based on the "principles of sustainable, participatory forest management". Such territory is divided into permanent or non-permanent forest estates. The non-permanent forest estates consist of protected, unclassified forests (public property). Permanent forest estate, on the other hand, includes natural conservation (protected areas) and production forests (i.e. plots allocated for industrial logging concessions). It is divided into forest management or exploitation units (UFAs or UFEs)<sup>88</sup>, each of which is supposed to have its own management plan.

According to law, management plans of logging concessions must take into account both nature conservation and local populations' concerns.

Communities' rights to use and manage resources must be defined and spaces dedicated (*"Séries de Développement Communautaire"* or SDC) to carry out their forest-related and agricultural activities<sup>89</sup>. Thus, the conditions and scope for the exercise of these usage rights (such as hunting, fishing, farming, grazing animals and gathering timber for domestic use and NTFPs) are determined by the authors of the management plans - in other words, by logging companies. In practice, SDCs in forestry concessions are more common in the north<sup>90</sup> than in the south of the country; their efficacy is also questionable<sup>91</sup>.

As for protected areas, usage rights are enshrined in the Law on Wildlife and Protected Areas, although they are not precisely defined. Article 10 of the Law provides for the establishment act of each protected area to define permitted traditional usage rights. The Law mentions the need for demarcation of a buffer zone around protected areas as well as spaces to allow communities to carry out socio-economic activities. It also provides for communities' participation<sup>92</sup> in the protected areas' management — notably through the design, delivery and implementation of management plans<sup>93</sup> (see the example of COGEREN in Conkouati-Douli, which actually preceded this law but had been a model for participatory management before falling into disuse; discussed in section 3.1).

Nevertheless, terms and conditions of such participation are yet to be defined by decree.

Through its involvement in initiatives such as Forest Law Enforcement, Governance and Trade (FLEGT) and Reducing Emissions from Deforestation and Forest Degradation (REDD+), the country has embarked on a revision of its forest policies. Amending the Forest Code is an ongoing process and during the last three years, civil society has raised multiple concerns. These included inappropriate definitions of objectives (notably in terms of forest classification and management) and lack of solid safeguards related to forest conversion and deforestation – and civil society also called for more inclusive and

<sup>86</sup> Kenfack, (n.d.).

<sup>87</sup> *Loi n°43-2014 du 10 octobre 2014 d'orientation pour l'aménagement et le développement du territoire*; this law does set the frame for the elaboration of a national land use policy based on sustainable development objectives and providing the country with a balanced spatial organisation, however the national land use plan (PNAT - *Plan National d'Affectation des Terres*) was not yet adopted as of the writing of this report.

<sup>88</sup> *"Unités Forestières d'Aménagement"* or *"Unités Forestières d'Exploitation"*

<sup>89</sup> Article 24 of Decree No. 2002-437 ; Arrêté n°5053 définissant les directives d'aménagement durable des concessions forestières

<sup>90</sup> In 2015, the World Bank agreed (as part of its Congo 'Forest and Economic Diversification Project') to support the planting of crops such as banana and cocoa by CIB, supposedly to enhance community development within their concessions and encourage agroforestry practices, but also providing an opportunity for the Olam group to diversify its revenues after some misadventures related to FSC certifications (see on this topic: FSC Watch, 2015).

<sup>91</sup> See IDL/EU-REDD/EFI, 2015, p. 36, 82, 129

<sup>92</sup> Section 3, Articles 19-23

<sup>93</sup> Article 20

participatory forest management processes, more efficient conflict resolution tools, and greater application of sanctions for violations<sup>94</sup>. The new policies are expected to focus on, among other aspects: land use planning, promotion of community forests and privately managed protected areas, systematic organisation of protected areas' management plans, and a stronger involvement of local and indigenous communities in conservation schemes<sup>95</sup>.

In conclusion, although Congolese law might seem relatively protective towards local and indigenous communities' land and usage rights, in practice the enjoyment of these rights remains very limited. This pattern is emblematic of nature conservation more generally. Furthermore, clear provisions are lacking with regard to redress and compensation in the case of restrictions on customary land ownership and usage rights for forest communities<sup>96</sup>.



## BOX 2. REPORTED EXTENSION OF THE CDNP BOUNDARIES NEAR KOUTOU

As the result of an enlargement of the park around 2001, which brought the park boundaries to the edge of Koutou's farmlands, the village used to be located at the limit of CDNP, straddling the park's south-eastern boundary and the buffer "strip" (section 3.1). According to interviewees, a road used to separate the village from the protected area, but several testimonies allege that Koutou's residents are currently suffering diminished access to their lands and resources due to another more recent expansion of the protected area which allegedly extends up to 15 kilometres beyond Koutou and would encompass the nearby lakes Kobambi and Youbi. The community perceives this as a new threat to them and their lands. Koutou's residents are wary of potential future (economic) displacements or evictions. According to testimonies, these changes occurred without local consultation. Interviewees have expressed their disapproval and have stressed that cohabitation with the protected area had never been harmonious. In IUCN-PACO 2012's assessment report on protected areas in Central Africa, a reference was made to the fact that CDNP's management believed that an enlargement of the park was needed in order to fulfil its conservation objectives in line with the creation of the Mayumba-Conkouati transboundary landscape<sup>97</sup>.

<sup>94</sup> See Forest Legality Initiative, 2014

<sup>95</sup> See Republic of Congo - FAO, 2014

<sup>96</sup> Ibid, p. 19

<sup>97</sup> According to WCS's response to this report, "Koutou is located inside the CDNP, and has been since the park's creation". It did not, however, comment further on the reported extension, neither did it provide more information to help understand why local communities expressed serious concerns about the situation.



## 4.2 THE IMPACT OF CDNP AND NNP ON CUSTOMARY LAND RIGHTS

In Republic of Congo, customary landowners are usually individuals or families who descend from the village founders. Communities are, therefore, organised by lineage links. Landowners are called “*terriens*” and they are the ones who allocate land and control access to it. In the six communities we investigated, a few customary landowners (mostly Bantu) allocate plots – usually at no charge – to the rest of the community and/or family members for housing and agricultural purposes. Thus, access to land and resources is made through acquisition of usufruct, agreed with the relevant *terrien*. Outsiders would have to pay the relevant *terrien* in order to carry out any activity on the land.

In recent decades, as a result of colonial and post-colonial influence, indigenous peoples have tended to adopt a more sedentary lifestyle, and some of them abandoned their nomadic activities. Local ‘pygmy’ groups, as they are often referred to,<sup>98</sup> also have arrangements with *terriens* to settle on certain lands or portions of the village designated by Bantus - without indigenous peoples having a say over the location (prevailing discrimination against ‘Pygmies’ will be discussed in section 8.1).

Communities often feel a sense of insecurity regarding their land. This comes from their perception that they have little to no rights to argue against the state’s decision to allocate lands to third parties. The surveyed communities are, to a large extent, aware of the precarious status of their land rights and, therefore, their vulnerability to external projects affecting their traditional territories, whether they are corporate-based activities or national nature conservation programmes.

Apart from inconsistencies in the legal framework (as discussed in section 4.1), efforts to register land titles (including cadastral and delimitation mapping) are costly and time and energy consuming, as testified by interviewees. For communities within CDNP’s boundaries, for example, applicants must travel to the city (most likely Pointe-Noire), which is usually a hardship given the lack of infrastructure (notably for crossing the Nounbi River). Moreover, travel and accommodation expenses in town are high, and applicants often cannot afford it. The need to go through this formalisation process arises from the desire to secure their rights to land specifically for inheritance matters. As noted by interviewees,

the burden this whole process represents discourages customary landowners who, therefore, decide not to engage in it.

Traditionally, subsistence resources related to customary land are communal and this is particularly evident from interviews in Koutou. Hunting areas belong to the community without internal access limitations, and the “right” to exploit fields in a traditional way is recognised. Each farmer knows his or her area of work and a social contract exists to avoid land conflicts. Grazing areas are not subject to quotas: livestock graze freely on the available land, serving the needs of the community. Women cultivate plots of land which customarily belong to their husbands or families. According to local testimony, the few women who customarily possess land are usually widows who inherit it from a deceased husband.

Although people generally remain free to choose where to build their houses within the limits of their villages, insecurity is now prevalent regarding their fields and subsistence activity areas. The rules enacted by national parks (and often unimplemented/outdated management plans) put communities’ cultivable lands at risk of damage due to the presence of elephants. Lack of adequate compensation in case of damage to crops increases the feeling of insecurity with regard to livelihoods and land use (section 5.3).

Due to poor land use plans and a lack of visible information made available by the parks, it is difficult for communities to know exact land delimitations. Communities in CDNP in particular have supposedly made several verbal requests – mainly during informal meetings – to extend the area currently allowed for hunting activities and to physically mark the zones where people can carry out their socio-economic activities (eco-development zones). But these requests remain unanswered and unfulfilled by CDNP’s administration<sup>99</sup>.

Populations of some villages, particularly in CDNP, have deplored that different kinds of economic activities, such as seismic testing or storage of building materials, take place on unoccupied pieces of lands (which customarily belong to the community) without any consultation process. A customary landowner from Ngoumbi complained that in addition to not having been

<sup>98</sup> The generic term ‘pygmy’ actually refers to several more or less distinct groups of people, including the Twa of what is now eastern Democratic Republic of Congo (DRC), the Mbuti of the Ituri region, and the Baka of southern Cameroon and northern Congo-Brazzaville. The term is often considered as a pejorative, though many groups self-identified as indigenous groups in the Congo Basin do use the term ‘nous Pygmées’.

<sup>99</sup> According to written correspondence with WCS, “CDNP staff include an active and experienced socio-economic team and all villages are regularly consulted, and fully aware of all zoning agreements”. Though this could be true in some cases, it didn’t seem to be perceived as such within the villages where our surveys were conducted, as this whole report discusses.

consulted, an industry (most likely Sintoukola Potash<sup>100</sup>) which settled temporarily on the land did not allow communities to take advantage of its amenities. He says: *“they build prefabricated amenities and when they leave the area upon completion of their work, they destroy the camp*

*instead of letting the community benefit from this infrastructure”*. A small occupational rent is usually paid to the *“terrien”* but the community as a whole barely receives any financial reward for it, except through a few hirings as part of temporary workforce.



Figure 6. Sintoukola mining permit

## 4.2.1 SINTOUKOLA POTASH AND CDNP

The exploration permit “Sintoukola” was awarded to Sintoukola Potash S.A. through presidential decree<sup>101</sup>, initially for three years and (in theory) only renewable for a maximum of two periods of two years each. A major part of the Sintoukola permit (including its project-related infrastructure and priority exploration targets) is contained within the eco-development and buffer zones of CDNP “[...] with full authorization from the Minister of Environment and in consultation with the NGO and government representative responsible for managing the CDNP”<sup>102</sup>.

Among the villages addressed in this report, both Ngoumbi and Koutou are located within the limits of the mining permit. While mining and forestry are allowed in eco-development zones, Sintoukola’s license – which in part overlaps with the buffer zone (the five kilometre wide buffer strip which parallels the park on its eastern and south-eastern sides) – is in contradiction with Article 5 of CDNP’s creation decree, which clearly states that no permit of any kind will be authorised in the buffer zone.

<sup>100</sup> Although it wasn’t specified by interviewees, they were probably referring to Sintoukola Potash, which completed two phases of exploration in the area by 2012, including 2D seismic and drilling.

<sup>101</sup> Presidential Decree No. 2009-237 dated August 13, 2009, published in the Congolese Official Gazette No. 35 on September 27, 2009

<sup>102</sup> Report prepared by SRK Consulting for ELM, 2012, p. 45

According to a 2012 technical report by consulting company ELM on the Sintoukola Potash Project, *“The Decree that created CDNP requires the Company, as holder of a valid exploration permit that overlaps with the CDNP, to sign an agreement on cooperation with the CDNP’s managing authority (WCS in partnership with a conservator representing the Congolese government). The agreement must be discussed with local communities before signing and will include details of applicable conditions for operating in the eco-development zone”*<sup>103</sup>. Despite the fact that this cooperation is mentioned by both Sintoukola Potash and WCS (see section 3.1), there is no evidence that such an agreement actually exists<sup>104</sup>.

The same technical report has highlighted the overall *“positive relationships”* developed with authorities and with conservation NGOs, although the authors acknowledge that *“failure to adequately manage biodiversity impacts”* may result in WCS’ withdrawal of support – and hence the importance for Sintoukola Potash to engage with WCS in long-term cooperative relationships<sup>105</sup>. It is worth noting that the report also stressed the challenges in dealing with local and indigenous communities in Conkouati’s area, notably in terms of: managing their expectations (for example, of potential employment and development); addressing marginalisation of some ethnic groups; ensuring that more consistent, regular and accurate information is provided to communities to ensure trust; and implementing a grievance mechanism to answer – even retrospectively – issues raised by communities.

However, to date, practical application of these statements and concrete engagement with communities are barely observable on the ground. The company has installed its base camp in Koutou (see Figure 6). According to our sources, in September 2016 they reinitiated their drilling activities on two sites (Koutou and Yanika) and advertised for personnel recruitment. Indeed, it seems that the production phase which was supposed to start in March 2016 has continuously been postponed and has not started as of the writing of this report. The exploration phase has led to the drilling of 54 wells across 11 villages in CDNP according to our local partners.



*Sintoukola-Potash base camp in Koutou*  
Photo credit: OCDH

Moreover, communities have accused the company of expropriation and other serious incidents such as a gas pollution case<sup>106</sup> (see Box 3).

It has been reported that 10 families from Koutou have seen their lands expropriated due to Sintoukola Potash’s establishment in the area. RFUK’s local partners came into possession of a letter sent by the the mining corporation on the 20th of November 2013 informing community representatives about the company’s plan to establish a base in Koutou. The letter foresees the compensation in early 2014 of the 10 expropriated families, whose customary lands had been (or were in the process of being) recognised via *“mise en valeur”* (see section 4.1).

**“ THEY BUILD PREFABRICATED AMENITIES AND WHEN THEY LEAVE THE AREA UPON COMPLETION OF THEIR WORK, THEY DESTROY THE CAMP INSTEAD OF LETTING THE COMMUNITY BENEFIT FROM THIS INFRASTRUCTURE. ”**

Ngoumbi landowner

<sup>103</sup> Ibid, p. 231

<sup>104</sup> As mentioned earlier in this report (section 3.1), according to written correspondence with WCS, the agreement with Sintoukola has expired and was not renewed, and Sintoukola Potash continues to provide funding directly to the CDNP’s park warden to support conservation activities in the national park.

<sup>105</sup> Ibid, p. 238-239

<sup>106</sup> See also OCDH, 2015, p. 52

A cadastral survey for the Sintoukola project was initiated by the government in June 2012 after identification of the required land for the mining permit by the Ministry of Land Affairs and Public Domain<sup>107</sup> and a request was submitted to the cadastral administration in Brazzaville for land demarcation and definition of its nature and occupancy including customary rights<sup>108</sup>. Interestingly, a report prepared for ELM in 2014 (after Koutou residents received the letter from Sintoukola) stressed not only the need to negotiate compensation with the government, but also to ensure the restoration of livelihoods in order for the Sintoukola project to comply with international standards, avoid delays in the construction phase and ensure the company's social license to operate. However, if they ever happened, the extent to which resettlements and compensation were discussed and agreed with landowners and local authorities were not documented. In the case of Koutou, local testimonies confirmed to our field researchers that the persons affected have yet to be compensated.

There are no reports of recent physical displacements or evictions from the land directly due to the presence of the two protected areas. Most villages in Conkouati-Douli are located within the limits of the park; nevertheless, the reported recent extension of the park boundaries beyond Koutou might cause, at the very least, economic displacements, and interviewees have expressed some concerns in the face of that uncertainty.

Although Sintoukola-related evictions are not directly linked with the existence of the protected area, it shows again how communities are often caught in the middle of several developments taking place on their lands, further weakening their rights and land security. Furthermore, in 2015, *Société Congolaise de Recherches et d'Exploitation* was also awarded a permit for mining exploration ("Noumbi permit"), valid for potash in Kouilou department, thus overlapping CDNP and Sintoukola permit (see Decree n° 2015-102)<sup>109</sup>.

As to NNNP, previous research has suggested that up to 4,000 people may have been displaced at the time of the park's creation more than two decades ago<sup>110</sup>. Zoning of the PA, along with related land access restrictions, has caused economic displacement for communities and the loss of livelihoods.

In most cases where protected areas and extractive industries coincide, communities' lands and resources are rarely more secure as a result. The relationships of the protected areas' management boards with these companies is also questionable, even though partnerships – such as the alliance between NNNP with CIB-Olam (see Section 5.10), and the agreement between CDNP's management and Sintoukola Potash-ELM – are generally portrayed as being beneficial to the communities.



<sup>107</sup> "Ministère des Affaires Foncières et du Domaine Public"

<sup>108</sup> For further details, see SRK Consulting, 2012, p. 231 & 239; and also SRK Consulting, 2014

<sup>109</sup> Décret n° 2015-102 du 13 janvier 2015

<sup>110</sup> Schmidt-Soltau, 2003; Counsell, 2004

### **BOX 3. DAMAGE CAUSED TO COMMUNITIES BY THIRD PARTIES WITHIN BUFFER ZONES: CASE OF GAS EXPLOSION AND POLLUTION DUE TO MINING COMPANY SINTOUKOLA POTASH (ELM) IN CONKOUATI-DOULI**

Sintoukola Potash has been carrying out exploration activities in Kouilou since 2009, aiming at launching production in 2015, though repeatedly postponed over the last couple of years. An article from Ecofin Agency, dated February 2016, mentions the company's announcement to build all its infrastructure and plants by mid-2017, effectively starting production as of 2018 for a period of 25 years. Prospecting activities in eco-development and buffer zones of CDPN reportedly resulted in a gas explosion in 2015. As a result, people from Koutou and other neighbouring villages had to be evacuated and relocated for several weeks in Youbi before they could return to the area. During this period of absence, peoples' houses were vandalised and their crops were eaten and destroyed by animals.

The company has temporarily stopped its exploration activities in the territories concerned. To date, victims have not been compensated. Moreover, some of the young people of the community who had been hired as workers (employment contracts were shown to our field researchers) said that they were still waiting for their wages to be paid. Currently, there is a persistent gas smell around Koutou and Sintoukola villages, and grass tends to be dry up around the drills. The community members deplore the fact that they were never consulted about the company's establishment on their lands. The plant was located according to an authorisation given by the state, however, this is in violation of Article 5 of CDPN's creation decree, which clearly states that no permit of any kind will be authorised in the buffer zone.



## 4.3 LACK OF CLARITY OVER PROTECTED AREAS' BOUNDARIES

According to the Law on Wildlife and Protected Areas (articles 10 and 21 specifically), protected areas are supposed to define – through zoning maps and management plans – the limits and surfaces of zones under special protection measures, zones for alternative activities to be undertaken to the benefit of local populations, and buffer zones. As noted earlier, however, legal tools defining terms and conditions for the design and implementation of management plans are still missing. In practice, protected areas have designated areas where communities are permitted to carry out subsistence activities either inside the park or in the buffer zone (for instance, see sections 3.1 and 3.2).

In the cases of NNNP and CDNP, communities often complain about the lack of physical indications specifying park limits, including buffer and integrally protected zones, making it difficult for communities to comply with the rules concerning access to park resources. Zones allocated for communities' subsistence activities are equally difficult to recognise.

As discussed in earlier sections, according to the CDNP's draft of its updated management plan (2011-2015) validation of which has not been confirmed, the PA has three defined zones:

1. At the centre is an integrally protected zone where access is very limited.
2. The integrally protected zone is connected to eco-development zones where villages are located and local people are allowed to use natural resources for their subsistence. In the same eco-development zones, industrial exploitation and exploration activities are also permitted and have agreements with the government, although the extension of expired permits seems to occur regardless of predefined periods.
3. There is a buffer zone extending five kilometres outside the protected area at its eastern and southern boundaries, delineated until recently by the road bordering the park, but which reportedly extended beyond the road, encompassing Koutou and two lakes.

In practice, these various areas aren't easily identifiable to local inhabitants. CDNP's physical limitations are for the most part made of natural landmarks. Some signs do exist in the southern part of the park, probably as remnants of the area's markings in 2005, which have not been well-maintained since then. Boundaries of the eco-development zones aren't physically marked, and there are no marks for delimitation of the park's marine component<sup>111</sup>. According to statements made during interviews, Koutou's residents did not receive any maps or other documents to guide them. People assert they merely received verbal instructions about delimitations. In relation to the park's enlargement, discussed previously, residents have apparently even been denied access to the area directly behind their village. The same issues have been reported in Tandou-Ngouma where one person noted that the limits of both the strictly protected and the eco-development zones are often indicated only verbally, which is the *"source of several conflicts and leads to resentment among the population"*.



<sup>111</sup> IUCN-PACO, p. 65

Boundaries of NNNP – within which there is no human activity and where no usage right is applicable – are made of natural landmarks, many of them watercourses such as the Ndoki river. Some signs were installed in 1993, and limits were marked in 2005 – as with CDNP – but these have not been maintained over the years<sup>112</sup>. Villages are all located outside the park, in its buffer zone. As mentioned before, the Law on Wildlife and Protected Areas, though lacking enforcement instruments, foresees community development zones including traditional hunting areas<sup>113</sup>. Furthermore, as the buffer zone is home to logging concessions, this gives a good reason to NNNP's management to defer certain social responsibilities to forestry companies, as the latter have an obligation to create community development zones in their concessions based on management and zoning plans (see section 4.1), which include local hunting areas and sacred forests and are pursuant to the Forest Code and related decrees (and as required as part of the social criteria for FSC certifications).

In any case, this framework is not being effectively implemented. USAID/CARPE III's programme description (2013) highlighted the need for supporting the effective implementation of policies promoting community development zones at a national level and to assist local communities in marketing their agricultural products, notably in Bomassa and Kabo. It also stressed the need for revision and implementation of NNNP's management plan in order *"to increase collaboration and coordination of activities between the park and the buffer zone"*<sup>114</sup>. As previously mentioned in this report, revision of NNNP's management plan has yet to be done.



<sup>112</sup> Ibid, p. 84

<sup>113</sup> See Article 62 of Law No. 37-2008

<sup>114</sup> USAID/WCS, 2013, p. 27-31

## BOX 4: HOW ‘PYGMIES’ CAN ‘DISAPPEAR’; WHAT THE ‘LITERATURE’ SAYS, AND DOESN’T SAY, ABOUT THE FORMER INHABITATION OF NNNP

In its response to the draft of this report, on the question of whether NNNP had previously been inhabited, but was subsequently depopulated, WCS told us that:

*“No people were physically displaced by the creation of the NNNP in 1993 – see Curran et al, 2009.”*

The literature reference provided is to a paper published by Bryan Curran and 12 other authors in the journal *Conservation and Society*, entitled ‘Are Central Africa’s Protected Areas Displacing Hundreds of Thousands of Rural Poor?’ The paper was written in response to earlier papers by Kai Schmidt-Soltau and others, which referred to figures of “upwards of 120,000 conservation refugees” having been dispossessed by national governments and conservation agencies in the expansion of protected areas in the Congo Basin<sup>115</sup>. In a 2003 paper, Schmidt-Soltau and Michael Cernea had estimated that around 3,000 people had been displaced from NNNP<sup>116</sup>.

In their 2009 paper, Bryan Curran and the other authors claimed that *“In fact, there are no signs of recent permanent human habitation within the area [of NNNP].”* They then go on to cite evidence from the absence of palm plant kernels that *“there were settlements there about 900 years ago, but that people left for reasons currently unknown”*. But this evidence, whilst indeed suggestive of the absence of palm-cultivating Bantu farmers, disregards the possibility of ‘Pygmies’ having inhabited or used the area, as they would not necessarily have been permanent settlers, nor would they have cultivated palm trees.

Curran et al’s paper goes on to say that *“With the exception of a few villages and camps, a ‘total census’ (Eves & Ruggiero 2000: 433) of the area likely to be affected by the national park and its buffer zone was undertaken, it is unfortunate that such robust studies were not referred to by Schmidt-Soltau”*. But an inspection of the Eves and Ruggiero paper suggests that this not only misrepresents those authors’ work, but also neglects to mention a number of findings in the paper that run counter to what is claimed by Curran et al.

In fact, Eves and Ruggiero nowhere stated that they had conducted a ‘total census’, instead specifying that they had “conducted a socioeconomic study... among villages *surrounding*” NNNP “in 22 villages in the vicinity of the Park’s potential *buffer zone*” (emphases added). The paper does state baldly that “human settlements are found only outside the National Park”, though unusually in what is otherwise a very well referenced paper, no evidence or citations are adduced to support this claim. Elsewhere in the paper, reference is made to “hunting in villages outside the Park” in a way that suggests the existence of hunting in villages *inside* the park. The paper refers to a report dating from 1911 which describes there being “many villages on navigable rivers” around Bomassa, and also notes that in the study villages “regular hunting territories extended 15-30 km”, which would also suggest that some villages at least may have formerly hunted within the Park, even if they were not located within it.

But perhaps the strongest evidence that the park had at least been used by surrounding communities, even those permanently settled outside it, comes in Eves and Ruggiero’s analysis of the diets of the different types of community studied. Two communities (Bomassa and Bon Coin) were described as ‘conservation villages’, the others being either ‘logging villages, or ‘no industry villages’, where neither logging nor conservation activities was present. In these two conservation communities, meat was found to be consumed on average only one day per week, compared with an average of 3.4 days per week in logging villages. Notably, meat consumption was less frequent by around 30% than even the villages where there was neither logging nor conservation, and equivalent to only around 70 grams/day, representing a mere 25% of daily protein requirements. Poorer households consumed considerably less.

<sup>115</sup> Schmidt Soltau 2005, cited in Curran et al 2009.

<sup>116</sup> Cernea and Schmidt-Soltau, 2003



This strongly indicates that the hunting restrictions enforced by the park had significantly reduced the availability of sustenance to local communities – that is to say, reduced their use of forest resources – even if the villages themselves were not located in it. Eves and Ruggiero even note that “traditionally, when hunters agreed that game was scarce, groups would migrate to find better areas”. But they neglect to mention that the malnourished people they surveyed could not migrate to, or even temporarily use, the one obvious place – NNNP – because of the restriction placed on access.

WCS has always stressed that no people were “physically displaced” from NNNP, referring to the removal of permanent inhabitants, but this ignores the impact that the park’s establishment had on halting access for hunting excursions by ‘Pygmies’, including their use and occupation of seasonal hunting camps. The indirect access to food from the park could also have declined in neighbouring Bantu communities, because of their reliance on ‘Pygmies’ for hunting.

The authorship and editorship of the various papers is noteworthy. The main author of the Curran et al 2009 paper, Bryan Curran, and three of the other authors, worked for WCS. Eves and Ruggiero’s research would not, the authors state, have been possible without the “logistical and financial support” provided by WCS (as well as the GEF and USAID). The two editors of the collection of papers in which the Eves and Ruggiero paper was published, John Robinson and Elizabeth Bennett, were, respectively, the Vice President and the Senior Conservation Zoologist of WCS.

Whether intentional or not, the use of literature citations in the case of NNNP’s purported non-inhabitation has created an illusion of academic credibility, rigour and independence, whereas scrutiny of the relevant papers reveals an absence of evidence, rather than evidence of absence.

By its very nature, the limitation of concern to ‘permanent inhabitation’ relegates nomadic or semi-nomadic ‘Pygmy’ inhabitation or use to the inconsequential. Ironically, Eves and Ruggiero concluded in their paper that the kind of regulation and enforcement being practiced in NNNP was “unlikely to succeed”. They recommended that community-based conservation should be investigated, and that indigenous environmental groups needed to be developed to ensure effective monitoring. Seventeen years on, and 24 years after the park’s establishment, these concepts have yet to be given serious consideration.



A photograph of a rural landscape. In the foreground, a dirt road winds through sparse, dry vegetation. In the middle ground, a traditional hut with a thick, thatched roof is visible. The background shows a line of trees under a cloudy sky. A semi-transparent dark green rectangular box is overlaid on the middle ground, containing the text.

# 5. IMPACT ON LIVELIHOODS

## 5.1 RESTRICTED ACCESS TO RESOURCES AND INSUFFICIENCY OF ALTERNATIVE MEASURES

As noted by academic researchers, the way spaces are demarcated within protected areas (core zone, multiple purposes zones, and zones dedicated to community subsistence activities) rarely corresponds to pre-existing community land use dynamics<sup>117</sup>. Protected areas' zoning often encroaches on village lands. Even if communities are provided access to defined areas for hunting or farming, the newly imposed situation is usually accompanied by significant socio-economic and political repositioning within and among communities. This leads villages to a redefinition not only of levels of ownership, but also of their relationship with their ecosystems.

Spaces designed by protected area planners are based on exogenous concepts, disregard local management and land tenure systems and often overlook these impacts. Reduced community spaces, changes in types, locations and exploitation modes of resources, as well as redefinition of dynamics between resource users and in relation to their needs, are aspects usually neglected by conservation actors who often ignore or fail to grasp traditional (tenure) dynamics<sup>118</sup>. NNNP and CDNP are no exception to these trends.

A key impact is that the establishment (and extension) of PAs has considerably reduced spaces in which communities can carry out their subsistence activities. According to interviewed villagers, in most cases the areas left to them are too small or not suitable for certain crops. According to our local partners, given the growing scarcity of species prized by villagers,

even those who hold hunting and weapon carrying licenses must increasingly move towards more remote areas in hopes of finding game. The way eco-development zones are designed does not often take communities' sizes and cultural realities into account.

Conkouati's communities depend on natural resources for fishing<sup>119</sup>, hunting, gathering and subsistence agriculture, the latter being the main occupation of women. By contrast, animal husbandry and grazing does not seem to be a widespread practice in the region, except for raising small livestock for basic needs. The sale of food production contributes somewhat to livelihoods. Nevertheless, poor transport infrastructure makes it difficult for community members to get to nearer towns or markets such as Madingo-Kayes or Pointe-Noire to market their harvests. When the opportunity arises, some villagers migrate to worksites (concessions or construction sites) or urban areas to earn or supplement their incomes. Poverty is widespread and already limited livelihoods are, therefore, quite vulnerable to any new event which might affect them. The combination of these factors contributes to rural depopulation.

On the coastal side of Conkouati-Douli, Tandou-Ngouma's inhabitants report decreases in fish harvests as well as in the production of valuable crops such as yams, maize, peanuts and manioc. Moreover, restrictions imposed by the PA might have a greater effect on villages already disadvantaged by their geographical situation.



<sup>117</sup> To read more on the impact of protected areas in terms of local dynamics, see Binot and Joiris, 2007

<sup>118</sup> Ibid

<sup>119</sup> Fish and shrimps are harvested by men, then traditionally smoked or salted by women.

Tandou-Ngouma and Ngoumbi both depend on the same resources, including fish and prawns, either sold to merchants or used locally. This being said, access to fish resources is weaker in Ngoumbi, which is located further away from the Conkouati lagoon. Tandou-Ngoma sits closer to the nearby port through which regional and international (e.g. from Gabon) products arrive.

Reduced access to economic resources is further exacerbated by human-wildlife conflict (see section 5.3) and by the presence of logging or exploration companies. Despite the fact that there was no community consultation process when CIB was given public authorisation to exploit the land around Kabo in the periphery of NNNP, communities perceive the company's presence on their lands as being more beneficial to them than the national park has ever been (see section 5.5).

Development programmes and/or internationally funded conservation projects support the implementation of alternative activities (with varying degrees of effectiveness) to offset the loss of livelihoods due to restricted access to resources. These programmes tend to focus on substitution of bushmeat with meat from domesticated animals such as goats, cane rats (*sibissi*) or pigs, despite the fact that animal husbandry doesn't form part of communities' habits in these regions. For cultural reasons, some species are not consumed by communities.

Nevertheless, as acknowledged by previous studies, stopping bushmeat hunting is not straightforward, especially in areas where logging concessions are active. Efforts to implement alternatives (including importing frozen meat<sup>120</sup> – see section 5.5) are usually insufficient to ensure food for the local population<sup>121</sup>. Around NNNP, attempts to encourage agriculture had *“failed to be productive or were not embraced by local people”*<sup>122</sup> and have not generated enough income for the households. Moreover, those who suggest alternative livelihood activities often fail to consider issues related to poor infrastructure, which prevent villagers from marketing their produce. WCS activity reports reference outreach meetings held between 2005 and 2008 within Conkouati-Douli's villages, with the aim of briefing hunters and fishermen on

opportunities for diversification of subsistence activities. Since 2005<sup>123</sup>, WCS has been running a programme to support CDNP's communities in the implementation of alternative subsistence activities. WCS has been training people on conventional gardening and agroforestry techniques.

Villagers were also induced to start animal farming, with groups of farmers formed. Probably owing to a lack of long-term vision and genuine participative approach, these “suggested” measures have generally not proved to be adapted to local needs and traditions – nor were they a successful alternative in terms of income generation. A resident from Tandou-Ngoma regrets: *“We are not [livestock] breeders, and we have been offered young goats [as an alternative activity] which are quite unpopular here and very difficult to offload in the nearby town market”*.

Although some of the interviewees around NNNP expressed a certain satisfaction about the opportunity to access defined zones<sup>124</sup> in order to carry on their agriculture or hunting activities, a much larger proportion believes that the existence of the park affects the way they access and use their resources – even if villages such as Bomassa are located about 20 kilometres away from the park border. Indeed, in the protected areas' peripheries, resource and land pressures are important since the opportunity to use a significant part of land is taken away from communities. Therefore, competition over available resources is made even more intense as spaces become smaller.

**“ WE ARE NOT [LIVESTOCK] BREEDERS, AND WE HAVE BEEN OFFERED YOUNG GOATS [AS AN ALTERNATIVE ACTIVITY] WHICH ARE QUITE UNPOPULAR HERE AND VERY DIFFICULT TO OFFLOAD IN THE NEARBY TOWN MARKET.”**

Tandou-Ngoma resident

<sup>120</sup> It should be noted that providing frozen meat is primarily meant to satisfy the needs of logging workers and their families, rather than communities as a whole.

<sup>121</sup> For more information on bushmeat-substitution programmes in the PROGEPP zone, see Poulsen et al, 2007.

<sup>122</sup> Poulsen et al, 2007, p. 154

<sup>123</sup> See WCS activity reports (WCS/CDNP, 2008); and Ndinga-Ngoma, 2013

<sup>124</sup> It is not clear in this case if respondents were referring to areas allocated as part of logging concessions' management plans or designed by NNNP.

## 5.2 RESTRICTIONS ON HUNTING PRACTICES

For local and indigenous communities in forest regions of Republic of Congo, hunting is an essential means of local subsistence, as well as a source of income. According to the Law on Wildlife and Protected Areas, local communities are allowed to practice hunting for their subsistence, within the limits of zones allocated for traditional hunting, using traditional means (Articles 62 to 64).

Villagers for whom hunting is their main livelihood activity can apply through village committees for hunting and weapon carrying licenses. Obtaining these permits is costly, however, and thus communities often do not pursue this option.

Wild animals are listed under three categories: integrally protected species, for which hunting is forbidden (unless specially designated for scientific purposes for example); partially protected species (wildlife harvesting under license); and unprotected species, for which traditional hunting is authorised.

A regulatory text<sup>125</sup> sets the list of integrally and partially protected species. General rules imply that hunting by night, using certain types of firearms, or hunting from a vehicle is forbidden, as is hunting in periods and areas to be defined each year by the Water and Forest Administration<sup>126</sup>. In cases of infringement of one or several of these rules, eco-guards may impose fines (XAF10,000 to XAF5,000,000 maximum) or imprisonment (one month to five years).

On the other hand, as mentioned at the start of this section, Congolese law does recognise the right for rural populations to satisfy their individual and collective needs through traditional hunting, within their territories or in the limits of areas dedicated to traditional hunting. Article 37 of the law on protected areas provides a few indications of which traditional means are forbidden. However, there is much vagueness around the implementation of these provisions, with all sorts of hunted species as well as hunting equipment seized from communities indiscriminately. In addition, the law does not provide a clear regulatory framework applying specifically to peripheral zones. Around Nouablé-Ndoki, PROGEPP's own rules apply to all

users (migrant workers and local and indigenous communities): it forbids the use of unregistered guns, the use of metal snares and the hunting of protected species, and it allows hunting for subsistence purposes only<sup>127</sup>.

A point which was hence frequently raised by communities is the lack of information on specific hunting measures and on protected versus authorised species. In CDNP, interviewed groups highlighted the fact that even when information is available, eco-guards perpetuate confusion: despite the existence of a list of protected species displayed at the entrance of the park, eco-guards intercept communities' hunting products indiscriminately, and even regularly during the open season.

Moreover, surveyed communities expressed their dissatisfaction with regard to the size of the areas allocated to hunting, considered unsuitable for their needs and, as mentioned before, often poorly demarcated. A group of inhabitants from Ngoumbi in CDNP said the area where they are allowed to hunt is so small that it resulted in animals retreating towards more remote areas (which is likely the precise purpose of designating such a small hunting area).

Around NNNP, people also feel unfairly treated when they see outsiders hunting while they themselves are constrained by restrictions. Some interviewees also raised the fact that CIB workers were seen hunting in areas around Kabo where they are not supposed to hunt, to the confusion and resentment of local communities who are regularly repressed for presumed infractions.

Ancestral hunting practices are in danger of disappearing as communities see them restricted. Some interviewees have reported that they are prevented from using their traditional hunting equipment. In recent years, indigenous peoples from Bomassa and Bon Coin have also seen their seasonal, semi-nomadic activities impacted: anti-poaching measures forbid access to the forest at night in the peripheral zone of NNNP<sup>128</sup>. This impedes an ancestral practice which consists of spending long periods of time covering great distances within the forest for gathering, hunting and fishing (section 8.2).

<sup>125</sup> Arrêté 6075 du 9 Avril 2011

<sup>126</sup> According to Article 35 of Law 37-2008 on fauna and protected areas.

<sup>127</sup> See Forest Peoples Programme, 2006

<sup>128</sup> According to written correspondence with WCS, the explanation for this specific measure is that, previously, there were hunting agreements in place between the village of Bomassa and NNNP's warden, which allowed the villagers to hunt certain species all-year-round. In return, the villagers reportedly "accepted" certain restrictions such as not hunting at night.

The presence of eco-guards in the region, along with the setting up of PROGEPP, has been perceived as a direct attack on communities' traditions. In CNDP, as reported to our researchers, eco-guards exceed their powers and overstep the laws, hounding people deep in the forest and seizing their game. Indeed, it is not uncommon for community members to see their game afterwards on market stalls in Pointe-Noire, sold by the park rangers themselves. In the absence of being able to carry on with traditional hunting, communities ask for adequate, alternative livelihood activities for hunters and other groups who are impeded in their daily activities. Interviewees from Koutou noted that back in 1992 authorities actually requested that hunters contribute to the effort of slowing the advance of large mammals. While their skills were used to serve the public interest at that time, hunters complain that their current needs are, in turn, not taken into account.

Overhunting occurs due to various external pressures, including a high demand for bushmeat in urban areas and poachers having better

access to previously remote forests (due to new infrastructure linked to the logging industry), among other factors.

Moreover, weak land tenure and lack of recognition of customary lands rights make it difficult for local populations to control outsiders' access to their lands. While traditional subsistence hunting has never represented a threat to biodiversity, some interviewees (indigenous as well as Bantu) explicitly recognise having no other choice than breaking the rules given the sometimes unfair restrictions they face. Therefore, to provide for their families – but also in defiance of what they perceive as unfair – some turn to illegal activities like poaching. In this sense, the protected areas arrangements may paradoxically have helped turn former 'sustainable' subsistence hunters into agents of unsustainable poachers for regional, national and even international bushmeat markets.



## 5.3 FARMER-WILDLIFE CONFLICT AND ABSENCE OF REPARATION

Traditional agriculture in Republic of Congo is mainly for subsistence purposes although some crops are used to generate revenues. Food crops are usually grown by women. Livelihoods in surveyed communities are very limited. Moreover, means of subsistence are relatively vulnerable to external factors and lack resilience to adverse impacts. Human-wildlife conflict can be very detrimental to households, and all the more when exacerbated by species protection policies related to the PA.

The six surveyed communities have faced destruction of their farmlands and plantations by elephants. When it happens even once, it is often synonymous with loss of livelihoods. Protection measures for elephants offer the animals wider areas to freely wander; thus, they get closer to crop fields which can extend many kilometres away from the villages, in or at the periphery of parks. Survey respondents report that banana, pineapple, maize, manioc (a major staple food for the communities), peanuts and sugarcane fields are often trampled by elephants. They say agriculture is gradually being abandoned due to the risk of destruction by animals. As a result, community members tend to move their farms to smaller spaces contiguous to the villages.

Even gathering NTFPs in the forest has become less attractive, not only because of the imposed restrictions<sup>129</sup>, but also due to the potential risk to farmers of animal attacks while harvesting. In some cases, the presence of elephants around villages and fields can have tragic consequences. In 2009, a woman was killed by an elephant while harvesting NTFPs in the permitted zone. The matter was referred to court but remained unresolved, though relatives did obtain financial and practical support from the park for burial costs.

According to a 2005 WCS report<sup>130</sup>, one of CDNP's managers has visited plantations between 2005 and 2008 to acknowledge destruction by elephants that affected activities and livelihoods – mainly of women. WCS advised farmers to avoid putting their crop fields on paths that elephants were using for their annual passages. The report states that support has been provided to groups of women, to assist them in planting in savannah

areas closer to villages. However, these 'halfway' solutions were not perceived as appropriate by the communities and haven't proved to be successful.

A 2013 article<sup>131</sup> also refers to assessment reports addressed to the government from WCS on a yearly basis to call for compensation. According to this article, compensations were awarded in 2009 for farmlands damaged in 2006, 2007 and 2008. However, 2009 was the year for presidential elections and so it is likely that these transactions were an opportunistic move. The article even reported that most of the people who were compensated that year didn't actually own or exploit any plantations, while those who should have been compensated supposedly weren't. OCDH have also reported that in 2012, while a first instalment was paid to compensate a few farmers in Nzambi (on the other side of Konkouati Lagoon) for damage to their manioc fields, the amounts due were never disbursed – nor were farmers in other locations (such as Tandou-Ngouma and Ngoumbi) compensated at all, which caused some tension with the local government officer in charge of agriculture<sup>132</sup>.

**“ I HAVE MYSELF PRODUCED MANY REPORTS [ABOUT CROP FIELDS' DESTRUCTION] AND PROVIDED THE MINISTRY OF AGRICULTURE, WATER AND FORESTS AS WELL AS KONKOUATI PARK'S ADMINISTRATION WITH COPIES. DESPITE THESE PROCESSES, NOTHING WAS UNDERTAKEN IN ORDER TO FIND A SOLUTION. ”**

Ngoumbi resident

<sup>129</sup> According to law, use and exploitation of NTFPs in protected areas must be specified through rules of procedures and a tax applies on exploited products (see Articles 82 and 83 of Law 37-2008).

<sup>130</sup> WCS/CDNP, 2008

<sup>131</sup> Ndinga-Ngoma, 2013

<sup>132</sup> OCDH, 2013



During group discussions organised by RFUK, community members from Conkouati reported that they have repeatedly asked the public authorities to find solutions. Farmers are rarely, if ever, compensated for the destruction of their crop fields, even if procedures are initiated by the public authorities. Koutou's inhabitants, for instance, have written to the 'sous-préfecture' of Madingo-Kayes (subdivision of Kouilou department) to express their concerns. Some farmers and a fisherman from Koutou have requested 'battues'<sup>133</sup> to be organised by the authorities in order to keep elephant herds away from their livelihood areas. They believe that if only one elephant was killed, this would move away the rest of the herd for at least a period of two years and secure plantations and people. Desperate to solve the problem by any means and feeling unfairly treated, some forest dwellers even threatened to get rid of the "guilty" elephants. This example illustrates how inflexible park-community relationships can easily degenerate into a 'lose-lose' situation.

A representative of Ngoumbi said:

*"I have myself produced many reports [about crop fields' destruction] and provided the Ministry of Agriculture, Water and Forests as well as Conkouati Park's administration with copies. Despite these processes, nothing was undertaken in order to find a solution. As soon as [authorities] hear of an elephant having been killed somewhere, they deploy immediately, but they are not that fast when it is about acknowledging and repairing damage caused by elephants [on the farmlands]."*

It is complex for communities to follow up with complaint processes: firstly, they usually do not hold copies of deposited files and depend on the administration's goodwill; secondly, if processed, the complaints go through endless layers of administration. For example, the process often entails a damage assessment made by the park and/or the agriculture department, followed by sign-offs by the 'sous-préfecture', the 'préfecture', the Ministry of forest economy and finally the Ministry of finance – all of this before a potential financial compensation can happen.

Around NNNP, Kabo's residents see human-wildlife conflict as one of the main causes of poverty as it results in the abandonment of agriculture. According to the testimony of the IUCN site manager in Kabo<sup>134</sup>, a delegation from MEFDD visited some farms in 2014 to assess damage caused by the presence of elephants. Financial amounts had then been defined for each victim according to the level of damage, but up to now those affected remain uncompensated. Communities had exchanges with NNNP's administration with the same requests as their peers in the south of the country, suggesting culling a certain number of elephants.



*Figure 7. Local man with disability in front of an earth barricade, built to prevent elephants' access to farmlands, Conkouati (Photo: OCDH).*

<sup>133</sup> "Battue" is a French term which refers to a collective operation organised by public authorities to regulate (by using hunting techniques) the development of supposedly harmful species which put in danger the environment or surrounding populations (mostly known in Europe as concerning wolves and wild boars). Article 2 of a 1991 ministerial order on absolute protection for elephants (*Arrêté n° 3282 du 18 novembre*

*1991 portant protection absolue de l'éléphant*) foresees an exception for "battues" to be authorized "when there is a feeling of necessity", but without defining or qualifying the meaning of 'necessity'.

<sup>134</sup> The IUCN site manager is based in Kabo and coordinates IUCN activities related to the Sangha Transboundary Landscape (TNS).

In Bomassa, people also complain about plantations being ravaged every year and, therefore, their difficulty in maintaining a field for several years<sup>135</sup>. However, according to the IUCN site manager, a small proportion of Bomassa's people disapprove of the culling option as they tend to see elephants as beneficial to their development. Indeed, in line with information collected in the field, recruitments for conservation needs and income generated through eco-tourism related activities have benefited Bomassa. This contrasts with the situation in Kabo and may explain a greater acceptance of elephant protection measures by (part of) Bomassa's population. This also illustrates the differences in local perceptions of conservation policies, depending on how such policies impact peoples' lives and territories.

Silence appears to be the most common response on the part of authorities, as highlighted frequently by survey respondents. When authorities (government agencies, police and park administration) visit the communities to officially acknowledge the damages, this only occasionally leads to an investigation and to the completion of official reports, but it is almost never followed up with any effective reparation or compensation. Republic of Congo's legislation lacks adequate provisions and mechanisms for redress in the event of damage caused by wild animals on local communities' crops and farmlands<sup>136</sup>. Although a 1986 presidential decree defines compensation schemes in case of fruit tree and farmland destruction due to public utility activities<sup>137</sup>, no formal policy is foreseen in the particular case of human-wildlife conflict in the context of protected areas and/or due to legally protected species. This outdated law is, however, the only prevailing legislation in case of damage to crop fields. For example, the scale of compensation for manioc is XAF37<sup>138</sup> per crop cutting (or "bouture"). This provision remains unrevised despite successive devaluation of the XAF and cost of living increases. Some discussions began in 2007 aimed at scaling up compensation schemes, but this has not led to concrete changes so far.

This also raises the question as to which actor should provide compensation to the victims in case of damage to farmlands and plantations.

In the mining sector, for example, it is generally understood that the liable corporation must pay, but in the case of protected areas no practice has been developed yet.

NNNP's warden has indeed confirmed that public authorities did not foresee a proper reparation procedure in such cases. PROGEPP's coordinator mentioned that the buffer zone project has funds dedicated to deal with these problems, but they are insignificant relative to the recurrence and scope of the damages. NNNP and CDNP's wardens, as well as PROGEPP's coordinator, have all highlighted during interviews the very sensitive nature of this subject in protected areas' policies in Republic of Congo.

Meanwhile, local affected people try to solve the problem with limited means and techniques, such as the planting of pepper plants to repel elephants (according to NNNP's warden, the pepper plants experience was initiated by the park in 2015 to relieve communities but didn't achieve the desired outcome); or through building earth barricades around their fields in order to discourage the big mammals from entering the plots.



*A local woman explains how the community's crops are routinely devastated by wildlife.*

<sup>135</sup> See also Massanga, 2011

<sup>136</sup> Republic of Congo - FAO, 2014, p. 19

<sup>137</sup> Décret n° 86/970 du 27/9/86 fixant les indemnités dues en cas de destructions d'arbres à fruits et de dommage aux cultures

<sup>138</sup> Around US\$0.06. (All currency conversions in this study are offered for the reader's reference and are current as of August 2017.)

## 5.4 INCREASED PRESSURE ON FISH STOCKS DUE TO RESTRICTIONS AND FARMER-WILDLIFE CONFLICT

Fish is another important source of animal protein for communities in Republic of Congo, and fishing in inland waters also brings some income. This is especially true in the case of Conkouati-Douli where fishing is a common activity in the coastal part of the park as well as in inland waters. However, the desertion of agriculture due to human-wildlife conflict, combined with the restrictions imposed on hunting activities, appears to have led many hunters and farmers to convert to fishing for their subsistence. This has resulted in higher pressure on fish stocks and a risk of resource depletion.

A community member complained:

*“We survive, we don’t live. Look around you: this is a village which lost half of its population in two years. Tandou-Ngouma is now [almost] only inhabited by fishermen. The conversion*

*of hunters into fishermen endangers the fish resources; even the fry are caught with a net. Because they do not possess pirogues, some people capture shrimps and fishes along the shoreline. But we were just informed that this too will be very soon forbidden since it damages the mangrove and hinders species reproduction”.*

Indeed, it seems that restrictions on certain fishing activities in the mangrove forests further impact communities’ livelihoods<sup>139</sup>. Our researchers witnessed the precarious situation of community members returning from fishing with almost no catch. In turn, progressive depletion of fish stocks is making villagers shift away from fishing and this vicious circle is resulting in an exodus of people confronted with the lack of viable livelihood opportunities and increasing poverty (see also section 5.8).

**“ WE SURVIVE, WE DON’T LIVE. LOOK AROUND YOU: THIS IS A VILLAGE WHICH LOST HALF OF ITS POPULATION IN TWO YEARS. TANDOU-NGOUMA IS NOW [ALMOST] ONLY INHABITED BY FISHERMEN. THE CONVERSION OF HUNTERS INTO FISHERMEN ENDANGERS THE FISH RESOURCES. ”**

CDNP community member



<sup>139</sup> Conkouati’s lagoon is home to two species of crabs: the crab living in the mangrove where restrictions apply is the one traditionally harvested by communities.

## 5.5 FOOD INSECURITY AND INCREASING RELIANCE ON EXTERNAL FOOD STUFFS

Increasing difficulties to carry on farming due to human-wildlife conflict, restricted access to the forest, and prohibition or regulations on hunting activities all deprive communities of their livelihoods and staple foods, resulting in a lack of variety in people's diets. Moreover, people have increasingly gone from being self-sufficient to import-dependent. Food such as manioc, plantain and maize is purchased from other villages and towns or from neighbouring countries such as Cameroon or CAR. However, villages are located some distance from one another and are, therefore, not easy to reach, especially in the north of the country. And when goods do get to the villages, they are often sold at much higher prices. This in turn impacts the local economy.

In CDNP, food products are brought to communities through local traders. Villagers have to buy manioc in town, whereas they used to grow this traditional staple food on their own lands. Furthermore, people in the area now increasingly consume rice and bread brought from Pointe-Noire<sup>140</sup>, which has considerably changed their traditional food habits. An interviewee from Tandou-Ngouma complained:

*"As forest dwellers, do we have to live with rice as staple food? Not to mention you need to be able to afford it".*

Similarly, in NNNP's peripheral zone the logging company CIB provides the communities with food imported from CAR and Cameroon, as well as from Likouala and other nearby departments, though this is often at a price that only employees of the company and the park can afford. According to interviewees from Kabo, CIB organises a public sale of manioc at the end of each month on staff salary payment day. Based on collected information, a barrow of manioc is sold for XAF5,000 (approximately US\$9), which represents a high expense for many community members. Kabo's inhabitants who are either unemployed or receive low income are, therefore, also trapped in a system where they are forced to buy manioc from external sources at higher price and lower quality, as they cannot produce their own anymore due to crop damage by wildlife.

CIB also provides frozen imported meat to their employees via company sponsored 'économats' (grocery stores) but the price is acknowledged as several times the price of illegal bushmeat in the market<sup>141</sup>. As mentioned by the IUCN site manager in Kabo, CIB engages in these activities in order to comply with social obligations as part of PROGEPP (see following sections) which supported the company in acquiring and maintaining its FSC certifications<sup>142</sup>. He stressed that where the national park fails at enhancing communities' standards of living, CIB compensates them for it. Interestingly, this perception is quite widespread among Kabo dwellers: they blame the national park for depriving them for their subsistence needs and feel uncertain about their future, and if CIB were to leave the region, they believe that their situation would be more precarious<sup>143</sup>. This is an illustration of the complexity of issues at stake: although logging companies are progressively depriving communities of valuable timber found on their customary lands – and damaging other forest resources – these companies are perceived as more favourable in the eyes of villagers than protected areas, the latter often only associated with restricted access to resources.

The IUCN site manager believes that Kabo is much more neglected by the national park than Bomassa (and Makao) as far as social and development projects are concerned. Although Kabo is not located close to the park, it is encompassed by PROGEPP<sup>144</sup> and, to that extent, should also benefit from the existence of the PA. He stressed the need for longer-term and more sustainable solutions to people's concerns. Kabo dwellers report:

*"There is no support for us to meet our needs. They make laws about fauna while the population suffers from hunger because of human-wildlife conflict; we cannot practise agriculture anymore, all the food comes from Likouala".*

In other words, communities are trapped between the park's restrictions and their reliance on CIB.

<sup>140</sup> See also Ndinga-Ngoma, 2013

<sup>141</sup> USAID/WCS, 2013, p.33

<sup>142</sup> See also Olam, 2015

<sup>143</sup> It should be noted that in 2010, CIB closed down the sawmill in Kabo town and relocated their workers to other camps, which had since then reduced the size of the town as well as CIB-related employment opportunities.

<sup>144</sup> In their written response to a draft of this report, WCS emphasised that "NNNP has no formal ties nor obligations to the Kabo community in its reglement interieurs" (which do, however, include Bomassa and Makao).

NNNP also implemented *'économats'* to provide people from Bomassa and Bon Coin with food supplies. Lately, however, villagers have complained about no longer being able to access that food. It seems that food procurement via that channel became a sort of 'privilege', only accessible to those inhabitants employed by NNNP.

Restrictions of all kinds, combined with farmlands' vulnerability to elephants and power abuse from eco-guards (see section 6.1), deprive communities of an important source of animal protein, traditional staple food and variety of diet. Dependency on food imports is thus increasing without communities being genuinely and effectively supported in remaining self-sufficient through the development of viable alternatives.

**“ THERE IS NO SUPPORT FOR US TO MEET OUR NEEDS. THEY MAKE LAWS ABOUT FAUNA WHILE THE POPULATION SUFFERS FROM HUNGER BECAUSE OF HUMAN-WILDLIFE CONFLICT; WE CANNOT PRACTISE AGRICULTURE ANYMORE, ALL THE FOOD COMES FROM LIKOUALA. ”**

Kabo resident



## 5.6 LACK OF EFFECTIVE BENEFIT-SHARING PLANS RELATED TO ECOTOURISM, FAILURES OF COMPENSATORY FUNDS

In terms of benefit-sharing and local development related to protected areas, Congolese law states that local populations should benefit from income generated by activities carried out within national parks, according to terms and conditions to be defined by ministerial decree<sup>145</sup>. To date, however, no such decree has been issued, and the matter has not been addressed by any of the various decrees establishing the national parks. In the absence of legal texts to define them, existing benefit-sharing mechanisms are either referred to in PA management plans or developed as a project component. They are financed by the conservation projects' core funding and, to a lesser extent, by the revenues generated via ecotourism.

Overall, it is evident that annual revenues from ecotourism are not yet significant and will afford very little community development if this is only funded through a proportion of such fees. According to a 2015 report on the situation of Central African Protected Areas by Observatoire des Forêts d'Afrique Centrale (OFAC), a total of 174 entrance fees were paid in NNNP, whereas CDNP counted 361 paying visitors (most visitors are expatriates living or staying in Pointe-Noire). The expatriate entrance fee for NNNP is higher: XAF20,000 (US\$36) per person; compared to a cost of XAF15,000 (US\$27) for CDNP, which includes a 'community fee'<sup>146</sup>.

In both protected areas, allocated funds are administered by mixed management committees including park and village representatives, who are theoretically elected by their community peers, as well as local authorities. The process requires that micro-projects are presented by village representatives then selected and validated during general assemblies before the funds are allocated to village committees for project implementation. In general, whereas financed projects in CDNP aim to implement remunerative activities for the communities, projects in NNNP's area tend to be more related to healthcare and education.

Besides community development activities financed by international donors, a community development mechanism called "*Caisse de Développement Communautaire*" (CDC) was implemented in 2011 in CDNP, based on ecotourism revenues<sup>147</sup>. CDC aims to support and fund income generating activities for the communities. CDC's managing body is composed of representatives from the park, COGEREN (see section 3.1), members and chiefs of villages, landowners, and local authorities ('*sous-préfecture*'). CDC's funding is based on 'community fees' included in the park entrance fees. According to the mechanism, each budget for a community project is funded to the amount of XAF500,000 (US\$890). According to available documentation, some village committees have received the fund twice in a year as a sort of reward for their good management practice, whereas villages that experienced 'issues' are excluded from the mechanism for a whole year<sup>148</sup>. Under this approach, CDCs appear to be used as an 'incentive and sanction' system to ensure community adherence to the park's rules, as much as they are a genuine benefit-sharing mechanism.

According to WCS's website, tourism-related revenues finance approximately 7.5%<sup>149</sup> of annual CDNP management costs and have quadrupled since the park launched touristic activities in 2008<sup>150</sup>. As with many other protected areas in Central Africa, there is a lack of available details on the proportion of these revenues directly dedicated to communities. It is unlikely that the roughly 30 villages within CDNP equally benefit from the CDC mechanism and ecotourism occurs very unevenly across the area<sup>151</sup>. To date, mainly coastal villages of the Nzambi district are benefiting from the CDC whereas ecotourism is barely (if at all) developed in most forest villages in the north-eastern part of the park (on the Mayombe axis).

<sup>145</sup> Articles 20, 22 and 23 of Law 37-2008

<sup>146</sup> Doumenge et al, 2015, p. 104. Entrance fees might have increased since then.

<sup>147</sup> Furthermore, ongoing discussions and/or existing agreements between national parks and corporations (Sintoukola Potash and M&P) are considered by conservation stakeholders as prospects for further savings (resulting for example from partial coverage of eco-guards related-costs) which in turn could be spent on alternative livelihood activities for the communities or park's management.

<sup>148</sup> IDL/EU-REDD/EFI, 2015, p. 41

<sup>149</sup> WCS, 2017a

<sup>150</sup> Doumenge et al, 2015

<sup>151</sup> Ibid

Moreover, community development activities in the non-coastal part of the national park seem to experience more difficulty, especially because the situation between the local populations and the PA's management has always been tenuous in that area<sup>152</sup>. Overall, surveyed communities in CDNP perceive tourism as being rather insignificant, although the park has taken some steps in recent years to improve tourism-related revenues, such as increasing the 'community fee' and building more tourist huts to welcome visitors.

According to our field investigations, the amount dedicated in 2015 (and probably also in 2014) was XAF500,000 (US\$890) per project/community<sup>153</sup>, from which 5% to 10% is taken by the district to cover administrative expenses. The remaining money is supposedly allocated to the community to invest in remunerative activities of their choice. However, the three communities in CDNP have expressed concerns about the amounts derived – which do not allow them to undertake any sustainable revenue generating activities – as well as about the opacity of fund management. They have reported that in some cases, the revenue was only directed to village chiefs and their relatives. Indeed, a couple of years ago, the Ngoumbi village chief was reportedly rejected from his own community after he took advantage of the allocated fund for personal gain. (It is worth noting that such issues were a sensitive topic to address with interviewees since it implicates their own leaders). More recently, however, according to local inhabitants, Ngoumbi has received XAF900,000 (approximately US\$1,600) and at the time of our field research was in the process of building a bungalow for visitors.

In Koutou, allocated funds helped implement a field of manioc in order to remedy the loss of this crop caused by elephants. Overall, though, the funds were considered to be inadequate in relation to the size of Koutou's population (930 inhabitants). On top of being insufficient, interviewees have reported funds are often paid in irregular tranches<sup>154</sup>.

**“ THE PARK'S ADMINISTRATION SHOULD WORK ON DEVELOPING WIN-WIN PARTNERSHIPS, OTHERWISE RELATIONSHIPS WITH THE COMMUNITY WILL ALWAYS BE CONFLICTUAL. ”**

Ngoumbi community leader

In the village of Tandou-Ngouma, the community initially planned to dedicate the allocated funds to the establishment of a community pharmacy, but instead money was invested in the purchase and sale of manioc flour, oil, phone recharge cards and some pharmaceutical products. As disclosed by our interviewees, however, stocks ended up being poorly managed and the community could not manage to oversee these activities.

Apart from projects based on tourism revenues and according to available documentation, CDNP also uses external funding to support communities in developing livelihood activities such as poultry farming, agriculture and market gardening. Part of the budget is also meant to reinforce and reinvigorate COGEREN as a framework for cooperation<sup>155</sup> (see section 3.1 for historical background about COGEREN). With regards to how livelihood support is provided to communities, there is a lack of consistency and commitment from conservation actors in CDNP (see also section 5.1).

One of Ngoumbi's community leaders emphasises that the park's administration *“...should work on developing win-win partnerships, otherwise relationships with the community will always be conflictual”*. This interlocutor doubts that the micro-projects financed by the park... *“will ever compensate what [communities] lost and still keep on losing”*. According to OCDH, there have not been many observable alternative activities in Conkouati-Douli which are viable and remunerative<sup>156</sup>.

<sup>152</sup> The IDL/EU-REDD/EFI study however mentions, without naming them, three villages within the Madingo Kayes district which are now included in the CDC.

<sup>153</sup> The definition of 'recipient' (e.g. individual versus group) is not always made clear; however, the projects should benefit the community as a whole.

<sup>154</sup> Reportedly, only 280.000 XAF were paid on a foreseen total of 480.000 XAF.

<sup>155</sup> IDL/EU-REDD/EFI, 2015, p. 42

<sup>156</sup> OCDH, 2013

In the case of NNNP, a benefit-sharing mechanism based on ecotourism has been put in place by the park's management (WCS and MEFDD)<sup>157</sup>, although it was not included in the last management plan (which is supposedly under revision). A proportion (potentially half) of each park admission fee<sup>158</sup> is dedicated to the villages' development funds which, notably, only focus on Bomassa and Makao<sup>159</sup>, the closest villages to NNNP. Figures vary across sources, however: a 2015 EU-REDD study on benefit-sharing mechanisms in Republic of Congo reports that the fund amounts to roughly XAF2 million to XAF5 million (US\$3,570 to US\$8,925) per village per year. However this seems to contradict information on figures for visitors and charges available elsewhere, illustrating just how hard it is to pin down accurate financial figures related to tourism revenues and how they are distributed.

NNNP's warden couldn't provide our research team with any document stating whether funds have effectively been allocated in 2015 and their exact amount. However, he stressed the park's involvement in supporting basic infrastructure projects, such as the construction of a school and health centre and the hiring of a permanent nurse in Bomassa. Our field team (which used the dispensary as their accommodation for the duration of the mission) can testify to the building's existence; however, it is not fully equipped and, therefore, not yet operational. Bomassa's dwellers do still need to travel to the logging town of Kabo for their healthcare, though NNNP's warden assured our researchers that transportation to Kabo's dispensary is provided by the park.

The community development fund based on ecotourism revenues is managed by a committee that includes eight representatives of both NNNP and Bomassa and Makao villages. It seems that this funding mechanism suffers from governance issues including: lack of adequate village representation, proposed projects sometimes placing individual interests above community interests, top-down initiatives taken by the park (rather than community-initiated projects) and unsustainability of some initiatives.

In summary, our field research found that villages within CDNP or in NNNP's surroundings seem to experience many issues relating to partial failures of these mechanisms, including:

- Villagers complain about a lack of transparency with regard to internal fund management, which often ends up in the hands of a few instead of meeting the community needs collectively;
- Community representatives aren't systematically involved;
- Projects are often unsuitable and are sometimes defined individually rather than collectively, or else they are initially conceived by park agencies rather than initiated by communities themselves;
- Funds allocated to the community as a whole are generally seen to be insufficient, which does not allow communities to cover their basic needs and/or to invest in long-term, remunerative activities.

These issues are an indication of the lack of support (or even neglect) from park managers when it comes to following up on benefit-sharing mechanisms that help communities to support themselves. The situation has recently been acknowledged within USAID/CARPE III's related literature: *"Conflict between communities can occur when the project benefits are not felt by all members. This is often an issue with benefit-sharing between communities or community members"*<sup>160</sup>.

Concrete evidence on how this is addressed by conservation actors is not yet visible.

<sup>157</sup> *Décision N.0145/MEFE/DGEF/PNNN portant création, organisation et fonctionnement de fonds d'appui au développement des villages de Bomassa et de Makao riverains au parc national de Nouabalé-Ndoki* (Oct. 2006)

<sup>158</sup> However, NNNP's warden, who was interviewed by our team, mentioned that 25% of generated revenues are allocated to the communities for their own development projects; see also:

IDL/EU-REDD/EFI, 2015, p. 43

<sup>159</sup> When interviewed, IUCN's Kabo site manager stressed that, unfortunately, very few neighbouring villages around NNNP are included in the mechanism.

<sup>160</sup> USAID/WCS, 2013, p. 34



## 5.7 EMPLOYMENT OPPORTUNITIES IN THE NATIONAL PARKS

Overall, there is little local hiring by CDNP and NNNP, except for the village of Bomassa<sup>161</sup>. A high proportion of Bomassa (the village counts an estimated 750 inhabitants) have been hired by NNNP as guides, employees or eco-guards (probably also in large part for maintenance and caretaking tasks, including on a temporary basis). According to a conversation held with NNNP's warden, 70-80 per cent of Bomassa's heads of households are presumably being employed by the PA. According to WCS's blog<sup>162</sup>, NNNP's headquarters employ 150 people in total, but this figure does not indicate the proportion of staff hired specifically from the village.

Whatever the exact proportion of people hired, these recruitments have helped a certain number of Bomassa's inhabitants to enhance their livelihoods and standards of living. Park employees have been supported in the improvement of their living conditions, and they can afford buying food stuffs brought in and sold by the park administration.

NNNP's warden asserted during the individual interview carried out with him that:

*"Communities represent the central pillar of our management model. We employ them in all our activities, both Bantu and indigenous peoples".*

A few indigenous people were indeed hired by the park including one woman as eco-guard and one man as team leader. Employment of a few people from Bon Coin was confirmed during a group discussion. Despite the fact that, on paper, conservation agents stress the need to prioritise recruitment of marginalised communities "...and ensure that their treatment and remuneration are commensurate with the tremendous contribution they can make to [WCS's] conservation mission"<sup>163</sup>, in practice, steps in that direction appear to be very embryonic. It also appears that work opportunities benefit mainly men. The warden from NNNP attempted to explain the low proportion of recruited women by highlighting the physical challenges related to the type of available jobs.

Kabo, the logging town and formerly the primary source of employment for the concession, has not benefited from NNNP's recruitment programme.

As for CDNP, just a few young people from Tandou-Ngouma<sup>164</sup> and Ngoumbi were hired by the park either as eco-guards or as employees at headquarters. Ngoumbi's interviewees told our field researchers that a few members of the community, especially hunters who are prevented from carrying on their activities, are sometimes called upon as park tour guides. They nevertheless deplored the overall lack of tourists and the poor design and management of reception facilities. Koutou barely benefited from recruitment opportunities, as tourism is less developed in that part of the peripheral area. Researchers were told that no more than six youth from Koutou had paid jobs.



<sup>161</sup> Note that the village of Makao, which is the second closest village to NNNP and is part of the park's benefit-sharing plan (as is Bomassa), is the second biggest park employee base after Bomassa.

<sup>162</sup> See WCS-Congo blog "Bomassa Life": [http://wcscongoblog.org/portfolio\\_page/bomassa-life/](http://wcscongoblog.org/portfolio_page/bomassa-life/)

<sup>163</sup> USAID/WCS, 2013, p. 36

<sup>164</sup> According to testimonies there were a dozen people, including three women.

## 5.8 RURAL EXODUS OF YOUNG PEOPLES

While rural exodus is not a new trend in the Congo Basin, the various conservation-related impacts discussed in previous sections – mainly direct or indirect hindrances to agriculture, hunting and fishing, as well as the lack of employment – exacerbate this phenomenon. Group interviews within communities in Conkouati confirmed this trend. Although there is a lack of official data on the matter, it is clear that the inability of forest dwellers to carry out subsistence activities contributes to a progressive depopulation of most of the villages under scrutiny.

During a group discussion in Ngoumbi, young people showed their aversion to the park administration and public authorities. At first, wary of the genuine intention of our local field researchers, they admitted they would have “chased [them] away” if it had turned out they were from government or park personnel.

The group of young men described their project of building a countryside bar as a means of generating small revenue during New Year’s holidays, which would allow them to finance their relocation to town:

*“We are futureless, with no qualifications and [Conkouati] Park does not hire many agents; we are forced to embrace illegal activities. What else can we do?”<sup>165</sup>*

Former hunters who turned to fishing now also consider moving to the city to make a living, as fish stocks are being depleted (see section 5.4). Throughout our research, people expressed disillusionment about the progressive desertion of their villages.



<sup>165</sup> Interview from December 2015

## 5.9 IMPACTS ON WOMEN

In rural areas, women are typically responsible for the day-to-day and intensive work related to agriculture. Women grow staple crops such as manioc and maize and also bring in regular revenues for households through the sale of processed harvest products (manioc, raffia, and small game). Thus, communities' economies depend to a considerable extent on women's traditional activities; meanwhile, men usually specialise in hunting and fishing, occasionally gaining income from external work opportunities. In terms of food, families' daily needs rest on women's shoulders. Therefore, limited access to income-generating opportunities – especially for female-headed households – makes women more vulnerable to encroachments on their subsistence activities by conservation-related restrictions. Indeed, as previously illustrated, they are the first impacted by damage to crops by invasive wildlife.

Women in Bomassa told our surveyors that while they used to display and sell their harvested NTFPs in front of their houses to passers-by, they have less and less to offer because of restrictions on some species and the danger represented by possible encounters with elephants.

Ngoumbi's women expressed their concern about going to their fields. In some cases, they say they are accompanied in their activities by a dog, but its presence might make nearby elephants agitated and, therefore, dangerous. They tend to abandon their work in the fields and try to make a living through gathering activities. Nevertheless, Ngoumbi's women say:

*“Gathering yields very little because we do it in a rush for fear of attacks from elephants or buffalos. We sometimes rely on smoked meat or fish, but it's difficult to find in large quantities. Starvation is now prevailing in the village and we don't know what to do to cope with the situation”.*

In Koutou, women reported that harvest of gnetum and marantaceae leaves<sup>166</sup> is confiscated in some cases or is subject to a taxation, the amount of which seems arbitrarily determined by the eco-guards and has to be paid at the eco-guard station (which, to outsiders, would appear to be simple extortion). Community members say they never get a receipt acknowledging the

payment of this tax and when they can't pay, the harvest is simply seized. Both plants are important NTFPs for the communities, which collect them both for consumption and for their commercial value.

**“ STARVATION IS NOW PREVAILING IN THE VILLAGE AND WE DON'T KNOW WHAT TO DO TO COPE WITH THE SITUATION. ”**

Ngoumbi woman



<sup>166</sup> Gnetum is a plant consumed as a vegetable in local communities' meals. Marantaceae leaves are used for wrapping and other technical purposes such as for the production process of manioc bread.

## 5.10 THE CASE OF PROGEPP: THE NNNP BUFFER ZONE PROJECT

As described previously, PROGEPP (“Project for Ecosystem Management in the Nouabalé-Ndoki Periphery Area” or “The Buffer Zone Project”) is a partnership between MEFDD, WCS and logging company CIB. PROGEPP benefits or has benefited from various external financial supporters, previously including GTZ (formerly called GIZ)<sup>167</sup>. The buffer zone now falls under NNNP’s management following the designation of the entire landscape as a World Heritage Site.

In its response to the draft of this report WCS stated that “PROGEPP and the Park are two separate entities, with two separate – but related – objectives”, and that “PROGEPP was established to ensure sustainable wildlife management in the buffer zone of the Park. It was not set up to manage the Park so it should not be evaluated as such”, and that finally, “PROGEPP is managed under its own agreement with the Congolese government and is separate from the park”. However, this overlooks the fact that PROGEPP was precisely initiated to protect NNNP from increased demographic and hunting pressures associated with logging, and that within that particular aim WCS is an active partner in both NNNP and PROGEPP. According to Poulsen (2009), “WCS is responsible for implementation of most project activities with the exception of law enforcement. [...] In practice, WCS has historically played a large role in law enforcement by offering logistical support and technical assistance for the planning of law enforcement missions, management and discipline of ecoguards, and monitoring of law enforcement results. In addition to project implementation, WCS raises approximately three quarters of the funding for project activities through international donors”<sup>168</sup>.

Under former CARPE funding, PROGEPP helped CIB acquire FSC certifications for three logging concessions including Kabo. Kabo and Pokola’s certifications were curiously reinstated in 2015 after “temporary suspension”<sup>169</sup>. Indeed, these FSC certifications issued by the accreditation company SGS (*Société Générale de Surveillance*) have previously been subject to controversy, including in 2009 the closure of Kabo concession due to growing economic losses. This resulted in the dismissal of more than 700 workers, who

were most likely abandoned there and had no other choice but to feed themselves by hunting and/or clearing the forest for farming (CIB’s concession in Kabo has now reopened and reinstalled a workers’ settlement). In 2010, when the company was sold by Danish owners DLH to the agribusiness group Olam, it should have led to a new certification assessment following FSC’s scheme requirements, but instead the certification was just passed on to the new owner. In 2011, CIB itself was forced to acknowledge its unsustainable reliance on just a few prime timber species<sup>170</sup>.

PROGEPP aims to protect Nouabalé-Ndoki National Park and its peripheral areas “from increased demographic and hunting pressures associated with logging”<sup>171</sup> by enforcing the country’s hunting laws. Indeed, logging is known as a main driver for increased illegal poaching. According to WCS, “PROGEPP’s goal is not to reduce hunting to zero. Rather, the idea is to establish management systems that assure sustainable harvest of legally hunted species so that indigenous people have access to wild meat now and in the future”<sup>172</sup>.

To reach these objectives, the idea is to achieve “community microzoning of concessions into no-hunting, open hunting and local-hunting only zones”<sup>173</sup>. In forest units such as Kabo and Pokola, for example, hunting is supposed to be limited to local residents – and only undertaken to respond to local nutritional needs and ensure community support. PROGEPP is supposed to involve the participation of local communities, notably in wildlife management and within the framework of CARPE III, the need to refocus “greater efforts on livelihoods [through new approaches to local income generation] and alternative proteins [to hunting and bushmeat]” has been emphasised.

Kabo is located in the influence zone of NNNP, although at a greater distance from the park than other villages addressed in this report. Interviewed inhabitants say they initially approved the Buffer Zone Project, however, they don’t feel involved in any decisions regarding protected areas. Our research team could not verify directly with WCS any efforts to include communities in the process.

<sup>167</sup> Republic of Congo - FAO, 2014, p. 16 See also: <http://49tmko49h46b4e0czy3rlqaye1b.wpengine.netdna-cdn.com/wp-content/uploads/2014/01/Resume-Management-Plan-Pokola.pdf>

<sup>168</sup> Poulsen, 2009, p. 16

<sup>169</sup> Olam, 2015

<sup>170</sup> FSC Watch, 2011

<sup>171</sup> For example, CIB’s main logging town Pokola attracted many people in search of employment which caused the settlement to grow from a few hundred in the 1970s to well over 10,000 currently.

<sup>172</sup> WCS, 2017b

<sup>173</sup> USAID/WCS, 2013, p. 32

Communities believe their usage rights are not respected and feel unfairly treated by the conservation policy, as they reported being persecuted and repressed by the eco-guards. Moreover, they think that CIB workers are given preferential treatment, as it seems that they don't suffer the same severe hunting controls that the rest of the local population does. Interviewees from Kabo perceive the buffer zone to be further cause of livelihood deprivation, impoverishment and rights infringement, as emphasised earlier in this report. While the collaborative approach is supposed to ensure that local people are provided with food and social services, the cost of alternative imported foodstuff is often prohibitive and basic health and education services are not operational everywhere.

PROGEPP covers an area of 1.3 million hectares which makes it more sensitive to a variety of threats. Our research team has interviewed PROGEPP's current coordinator, who was, at the time, in his second year of duty. Despite the above-mentioned declarations of intent, he admitted that the fight against poaching was the project's priority since bushmeat is highly consumed in the region, especially in urban areas. However, he acknowledged that – as has been observed elsewhere in Central Africa – the biggest threat comes from large-scale poachers from DRC and Cameroon rather than from local communities. According to the coordinator, anti-poaching activities cover two zones and six checkpoints, employing 22 eco-guards. Teams are divided in fixed and mobile patrols and sometimes undertake their monitoring activities along the rivers. Hunting is closed from the 1st of November until the 31st of April and hunting some specific species for self-consumption needs is (in theory) authorised. Hunting is monitored in collaboration with CIB in their logging concessions. PROGEPP's coordinator asserts that the project includes an outreach and sensitisation component which, in practice, consists of training the villagers about usage rights and restrictions.

PROGEPP's coordinator recognised that abuses of office happen quite often during patrols and monitoring activities (see section 6.1). He acknowledged frequent wrongful seizures of

game; the fact that eco-guards do not disclose their identity before searches and seizures (they do not always wear their identification badges); and the fact that they often wear civilian clothing on duty, which is confusing for community members. He also stressed that eco-guards should avoid inappropriate behaviour at all times, even in the case of actual infringement of hunting law by the individuals intercepted, but that many have poor dialogue skills and do not have a good understanding of the law. Despite good intentions on paper, local communities are often scapegoated for wrongdoings which are beyond their reasonable control<sup>174</sup>. The issue of abuses by eco-guards in PROGEPP's influence zone was highlighted as far back as 2005 in a situation report issued by OCDH which disclosed several serious cases<sup>175</sup>.

It is notable that these fundamental problems of approach and implementation have still not been resolved, despite the programme now being in its 17th year. PROGEPP was the first of its kind in Central Africa and is often cited as an example of good practice in various documentations by conservationists, scholars and donors.

On paper, the rationale behind the model might be appealing: every stakeholder contributes and benefits from conservation efforts in the buffer zone, including local communities for whom livelihoods are guaranteed. The EU's strategic approach to wildlife conservation in Central Africa asserts: *"Conservation actions in logging concessions are most successful when communities are integrated early into the land use planning process and when the access rights of indigenous people to land and resources are recognised and guaranteed"*<sup>176</sup>. However, as previously explained, the reality is bleaker in several respects: CIB's FSC certification was not synonymous with genuine corporate social responsibility, funding has not been continuous<sup>177</sup> and community members do not all benefit equally from food provision organised by PROGEPP – neither have they seen viable alternative measures being implemented. Furthermore, villagers suffer intimidation and violence perpetrated by eco-guards in the buffer zone.

<sup>174</sup> This is not to even mention the arrangements in which local (most likely indigenous) hunters are being "recruited" by suspicious networks to fuel commercial trade in (protected) species. According to Counsell (2004, p. 37) *"The threat of arbitrary prosecution for hunting (even if the hunting has been carried out on behalf, and with the encouragement of, others) can be used as means of extortion, or of demanding labour or other favours"*

<sup>175</sup> OCDH, 2005

<sup>176</sup> European Commission, 2016, p. 242

<sup>177</sup> See PROGEPP, 2006a





# **6. BASIC HUMAN RIGHTS INCLUDING CIVIL AND POLITICAL RIGHTS**



## 6.1 TENSIONS BETWEEN COMMUNITIES AND ECO-GUARDS

A perception of insecurity prevails amongst communities due to the inappropriate behaviour of the protected areas' guards. Villagers frequently complain about intimidating and insulting behaviour of park rangers who still too often exceed their powers. Moreover, park agents' knowledge of the regulatory framework they are meant to enforce is very debatable. Surveyed populations report being unfairly arrested by eco-guards, and their hunting game is often wrongfully seized.

In Conkouati-Douli National Park, Koutou seems to suffer the most from eco-guards' extensive surveillance and harassment in comparison with other surveyed villages. A checkpoint is located in Youbi, very close to Koutou, which means villagers from these two locations are the first to be targeted by eco-guards' close monitoring. By contrast, the checkpoint is relatively far away from the part of the PA where Tandou-Ngouma is located (despite Tandou-Ngouma being home to CDNP headquarters), which reduces pressure on villagers there. Moreover, while some of Tandou-Ngouma's inhabitants were recruited as eco-guards, Koutou did not benefit from hiring by the park. This being said, it doesn't drastically change the story as incidents related to eco-guards' behaviour were reported in all villages.

Incidents were reported where rangers confiscated hunted products not necessarily categorised as protected species, such as small wild game collected outside the limits of the protected area. Near Koutou, game is reportedly seized on the road outside the park (see section 4.2 about a recent extension which now creates confusion in Koutou). Sometimes, as was the case for three Bantus from Conkouati, villagers are arrested for having presumably hunted protected species, although they claim that they are not made aware of the rules forbidding the hunting of specific species. In the case of the three men from Conkouati, they were sent to the police station but eventually released after paying a fine. In Tandou-Ngouma, agents confiscate charcoal from community members who sell it to earn a little money.

Patrols are conducted within the villages in order to monitor villagers' meat consumption. Near Nouabalé-Ndoki National Park, Kabo's inhabitants have reported that eco-guards (most

likely PROGEPP guards, in the case of Kabo) often enter peoples' homes and rummage through cooking pots searching for presumed illegally hunted meat or looking for hunting weapons under mattresses. Interviewees suspect this to be part of a scheme by eco-guards for selling the seized products. In fact, villagers reported seeing their seized game displayed afterwards in market stalls. It is now well known that some eco-guards (some being former poachers themselves), as well as civil and military authorities, have built a complicit relationship with large-scale poachers in the region.

When hired, park agents are usually not introduced to the communities. Opportunities to interact with them are quite rare in circumstances other than controls and repression. In the words of NNNP's warden, relationships with communities are universally good *"except when there is intrusion in the protected areas and/or killing of protected species"*. This assertion illustrates the huge gap that still exists between the authorities' understanding of the situation and that of the communities. The same warden also mentions that eco-guards have been recently trained, with the aim of decreasing violent behaviour towards populations. Pressure on wildlife (game) exerted by communities has also decreased, says the warden, and communities tend to comply with the rule that harvested bushmeat may only be used for self-consumption. He highlighted the fact that external hunters from surrounding large towns are held liable for pressurising the resources. Nonetheless, the urgent need for training eco-guards on these issues is acknowledged, in order to avoid more outbursts of violence towards local villagers. It is worth noting that CARPE III's programme description mentions that *"eco-guard training will include an explicit module on respect for human rights and the humane and fair treatment of forest people, even those apprehended for violating hunting regulations"*<sup>178</sup> and that subsistence hunters (or low-level hunting) rule violations will not be targeted as part of monitoring efforts.

Nevertheless, the reality on the ground is different. Conflicts related to anti-poaching activities by eco-guards are quite common, and violence is often exercised against communities with apparent impunity. Ignoring rights violations

<sup>178</sup> USAID/WCS, 2013, p. 36



as well as communities' legitimate demand for more information on zone limitations and applicable rules, the government often justifies repressive actions with the argument that eco-guards act in self-defence and that populations merely pretend not to know the law. Instead, as noted by local NGOs, patrols are increasingly militarised and eco-guards carry war weapons and military equipment.

Despite the various declarations of intent from conservation stakeholders, there is still a glaring lack of genuine progress on the issue of eco-guards' abusive behaviours and impunity.

Indeed, several cases of violent conflicts including one causing death were recorded by our researchers (see Box 5).

As mentioned earlier in this report, there is a lack of clarity around the legal status of eco-guards in Republic of Congo, and as WCS themselves have stated, this loophole needs to be "rectified" and it is "important that the formal reporting lines and legal responsibilities for ecoguards be defined under Congolese law"<sup>179</sup>.



*Eco-guards burning down a suspected illegal camp in Republic of Congo, 2012. Photo credit: Mike Goldwater*

<sup>179</sup> According to WCS' response to the draft of this report.

## **BOX 5: VIOLENCE PERPETRATED BY ECO-GUARDS**

### **CDNP – Koutou and Youbi villages: violent conflict with park rangers fatal to villagers**

In 2009, in one of several reports by communities, a young resident from Koutou was on his way to Pointe-Noire (presumably on his way to visit his wife at the hospital) while carrying smoked gazelle meat. He was intercepted at the rangers' station in Youbi. After a heated discussion, the meat was seized and the villager was beaten, causing him serious injuries and preventing him from continuing on his journey. In the aftermath of this case, a delegation of inhabitants from Youbi, Koutou and Sintoukola went to protest at the park's checkpoint denouncing arrests and violence perpetrated against members of their communities. The station's chief ordered eco-guards to fire on the protestors. Versions slightly differ on whether warning shots were fired first, if eco-guards simply aimed at the feet of people standing at the front of the crowd, or if they fired into the crowd indiscriminately. In any case, (stray) bullets led to the death of three villagers (one from Koutou and two from Youbi) and the serious wounding of two others from Koutou. Several other villagers suffered minor wounds in the attack.

There was no police report of the incident (at least not immediately), and infuriated communities exercised what they considered to be 'justice' by burning down the eco-guards' station. The victims' bodies were transported to Pointe-Noire's morgue; two were buried in the same town and one in Koutou at government expense. Those wounded were initially provided with care by the government, but were neglected quite soon afterwards, which reinforced the feeling of abandonment.

Our researchers were told that some of the incriminated eco-guards (allegedly five of them) were arrested by Madingo-Kayes police and held in custody for 72 hours then set free. Although some sources have reported that eco-guards were suspended from duty as an administrative measure, most of them have been reportedly seen working at other stations in the park. Following this deadly and destructive conflict, the eco-guard station was closed for about a year, after which it re-opened during a visit by the Minister for Forest Economy. Some of the accused eco-guards apparently returned to their previous posts.

The families of the victims apparently filed a complaint and an investigation was opened. But they lost heart as nothing was being done, despite their numerous trips to the judicial services. No formal trial has been held. Administrative authorities have organised meetings with the claimants (notably during the Minister's visit when the eco-guard station re-opened) and reportedly issued reports, but no copies were provided to victims or their relatives. Until now the case remains unresolved, and the victims' relatives - as well as the entire concerned community - feel abandoned by authorities.

### **Other reported cases of violence during anti-poaching patrols**

In December 2015, a community member from Kabo (situated around NNNP) was wounded by an eco-guard. During a routine check, the eco-guard deliberately opened fire on the community member, causing him injuries. The eco-guard justified his action by the villager's reluctance to obey. He was, however, immediately removed from his post.

A man from Youbi, located four kilometres away from Koutou, was intercepted by eco-guards during their patrol in the forest. The eco-guards confiscated the game and fired on the hunter, who played dead until the eco-guards abandoned him in the forest and left the area without informing the community. A group of villagers later found the man alive but hardly able to move.

In Tandou-Ngouma, three people were caught in the forest by eco-guards while in possession of hunted game. They refused to surrender their game, and eco-guards abused them (reportedly with slaps, punches and kicks). The villagers had to seek treatment for their wounds at their own expense. When researchers tried to verify this information with the park authorities, the park warden said he hadn't heard about the case, as he had only recently been appointed. The community members haven't reported these facts to the police or any official authority, as they thought they couldn't offer enough evidence and could not identify the eco-guard accurately. The hunters also feared retaliation from the park authorities.

## 6.2 COMMUNITY LACK OF ACCESS TO JUSTICE

Although access to justice is enshrined in the Congolese constitution<sup>180</sup>, it is clear from various cases reported in this field investigation that communities' enjoyment of this right is very limited, if it exists at all. This problem is not unique to conflicts with conservation authorities. It is also exacerbated by geographical circumstances, as villages are located tens (if not hundreds) of kilometres away from cities where administrative offices and courts are located. It is complicated and costly for communities to initiate or follow up with a legal action. Moreover, the lack of knowledge and information about their rights and relevant administrative, judicial and legal procedures – not to mention the language barrier – further impede access to justice for local communities<sup>181</sup>. When they are able to file complaints with regards to violence by eco-guards, the cases usually remain unresolved and/or hearings are constantly postponed.

As respondents highlighted during our investigations, justice and police services are considered by communities as serving the interests of the national park rather than that of communities. As such, they believe that these public services are unable – or unwilling – to protect their rights. This is another reason why they rarely go to court or file complaints.



<sup>180</sup> As to indigenous people in particular, Law 5-2011 protects their right to access justice (Article 10) but, as mentioned, this law hasn't been enforced to date.

<sup>181</sup> See Client Earth, 2014b



The background image shows the interior of a traditional structure, possibly a house or a workshop. The walls are made of mud and are heavily cracked. The roof is made of thatched material, likely dried grass or straw, supported by a network of wooden poles. The floor is dirt. The lighting is natural, coming from the side, creating strong shadows and highlights on the walls and floor. A large, dark green rectangular overlay is positioned in the center of the image, containing the text.

# 7. PARTICIPATION AND CONSULTATION

## 7.1 NATIONAL CONTEXT FOR LOCAL COMMUNITIES AND INDIGENOUS PEOPLES' PARTICIPATION IN CONSERVATION AND FORESTRY

Congolese law does not clearly foresee local communities' involvement in decisions related to land use. Some legal provisions do make reference to it, but without suggesting ways to implement it. For instance, Law No. 10-2004, which recognises individual and collective land rights, stipulates that the provisions governing the forestry regime must involve participatory and joint management of forest ecosystems (Article 20). Participation of local populations is to an extent recognised through public hearing procedures and definitions of usage rights created prior to forest classification – notably in Article 15 of the Forest Code – but this doesn't provide space for real decision-making power. Moreover, the Law on the Promotion and Protection of Rights of Indigenous Populations<sup>182</sup> highlights the necessity to involve forest communities more effectively in resource management, notably through the obligation of obtaining free, prior and informed consent before undertaking any project impacting them, their resources and lands<sup>183</sup>.

Local communities do not participate in decision-making processes with regard to logging permits allocations. Despite the fact that project specifications ("cahiers des charges") of such permits are required to contain elements relating to local socio-economic development, they are often negotiated solely between forest administration and concessionaires<sup>184</sup>. As to the development of concession management plans, although the Forest Code contains no provision about participation of local populations, Decree No. 2002-437<sup>185</sup> (Article 25) provides for consultation with communities' representatives prior to the submission of the management plan for approval by the government. However, the extent to which populations are directly involved in the elaboration and implementation of the management plan remains unclear.

As for spaces allocated to communities for their livelihood activities within logging concessions (the so-called "*series de développement communautaire*" or SDCs), these are defined within the concessions' management plans, but as mentioned above there is no clear legal basis for the participatory engagement of communities in the management plans. Multi-stakeholder management committees including community

members and NGOs are nevertheless foreseen to ensure follow-up on the SDCs (according to Article 20 of Ministerial Order 5053 on sustainable management of forest concessions)<sup>186</sup>. In practice, some notionally participatory mechanisms, including local development funds (financed with fees paid by concession holders), have been put in place in some forest concessions, especially in the northern part of the country.

As for protected areas, the principle of participation is enshrined within the Law on Wildlife and Protected Areas which gives a precise definition of "participatory management of renewable resources" (Article 5). The law provides an obligation to satisfy local populations' needs and requires that an environmental impact assessment be made prior to the decision to commission or decommission a protected area. (Article 8) Theoretically, the latter aspect implies local and indigenous communities' participation, since an environmental impact assessment requires a public hearing which calls for participation in decision-making, but it has not been possible to locate any evidence of such participation.

The same law also provides for involvement of local communities in the protected areas' management (Articles 20 and 22), notably through participation in the design and implementation of management plans – the specific terms of which are pursuant to ministerial decrees. The law also mentions organising neighbouring communities and territorial authorities into natural resources monitoring committees, for which working principles are meant to be defined by ministerial decrees. Each legal act relating to the creation of a protected area is also supposed to define the terms of participation<sup>187</sup>, though this principle often fails to materialise in reality (see section 4.1).

Overall, and despite the above-mentioned provisions, there is a notable lack of regulatory tools defining terms and conditions of participation of local and indigenous communities (as well as civil society in general) in forest resource management, including the process of sharing information with stakeholders<sup>188</sup>. It is worth emphasising the overall poor level of information and knowledge in the hands of communities regarding their own land and usage rights.

<sup>182</sup> Law No. 5-2011

<sup>183</sup> See Client Earth, 2014a

<sup>184</sup> ACTED, 2012, p. 18

<sup>185</sup> Decree defining conditions for forest management and use.

<sup>186</sup> Arrêté no. 5053/MEF/CAB du 19 juin 2007 définissant les directives nationales d'aménagement durable des concessions forestières

<sup>187</sup> See Client Earth, 2014a

<sup>188</sup> Republic of Congo - FAO, 2014

## 7.2 INFORMATION OR CONSULTATION?

Generally speaking, respondents in the six surveyed villages believe they have been merely informed and not effectively consulted about the creation of the protected areas. They claim that they have no real power to influence decisions. They also stressed their lack of knowledge about possible impacts and consequences of the creation of such areas and, therefore, their difficulty in advancing arguments to oppose or reform them. When asked if they were aware of their right to information and participation, community members did not consistently appear to understand the legal basis for this – though they were conscious of the fact that they should be consulted as a matter of principle with regards to decisions on projects concerning them.

According to a 1992 report by GEF<sup>190</sup>, local populations (particularly Bomassa, Bon Coin and Makao around what was known then as Noubalé-Ndoki Reserve) have been involved in planning the reserve since its inception. According to this report, several public consultations were reportedly held between the government, teams involved in GEF programmes and both ‘Pygmy’ and Bantu communities. These meetings raised local populations’ expectations of their own involvement, both in terms of defining the limits for the core and buffer zone areas and in terms of determining acceptable salaries for local employment.

According to testimonies collected by our researchers, some of Bomassa’s women did indeed recall meetings conducted when NNNP was first created. Very few women who were present at the creation of the park and still currently live in Bomassa remember having been consulted, or at least having attended meetings. From what was shared, and as far as people remember, the procedure first consisted of conservation actors meeting with traditional authorities for “information” and “consent”. During the second phase, traditional authorities met with the community (or a part of it) in order to gain their acceptance. There has also been a reference to a “direct consultation group” in which the village chief and one or two women were reportedly involved.

Eventually, a larger meeting was organised involving project stakeholders and community members (men and women) for final approval.

Bomassa’s residents attest to the existence of a written report of this consultation process. However, it couldn’t be accessed by field researchers since, at the time of our field investigation (January 2016), the village chief who keeps the file was in jail in Ouessou as a result of a serious conflict within the community. It seems that all details about these meetings, information and consultation sessions are almost exclusively known and kept by the village chief. This fact raises the question of how far inclusive and effective the above-mentioned consultation processes ultimately were.

Different observations were made by other groups interviewed in Bomassa, some of whom consider the consultation process to have been inadequate as the community was uninformed about consequences and could not really influence decisions. The same has been said about consultations (or absence/inadequacy thereof) for subsequent measures, such as the one forbidding access to the forest at night. Moreover, given the succession of various kinds of meetings over time, communities remarked of their progressive difficulty in keeping track of which meeting related to which topic.

In Kabo, women reported that the village chief was often involved in some training or information sessions organised by various NGOs, public authorities and logging companies, but there was barely any feedback provided to the community. Women might also have been involved at one point. The interviewees couldn’t recall if a written report of the consultation process had been issued. As to conservation measures and areas related to PROGEPP, *“there is evidence that previous establishment of conservation areas within CIB concessions including Kabo, and the establishment of new rules restricting community rights in these areas, did not involve adequate consultation with indigenous communities who were already using these places”*<sup>191</sup>.

As to participatory management, NNNP’s co-management system envisions that each community is represented by one of its members within the management board and that she/he attends board meetings.

<sup>190</sup> World Bank/GEF, 1992

<sup>191</sup> Forest Peoples Programme, 2006, p. 9

In that context, communities supposedly decide the type of project they want to achieve through the village development fund. According to the park's warden, dedicated staff are in charge of liaising with communities about their socio-economic concerns. The actual frequency and objectives of these outreach sessions need to be further assessed. As discussed in the earlier chapter on benefit-sharing, communities have raised concerns that their suggestions or recommendations are not properly taken into account. In some cases, they also question the legitimacy of their representing bodies, especially when only close circles of village leaders are involved and do not deliver proper feedback to the rest of the community. As for women, they are usually barely involved in these types of processes.

As discussed in section 3.1, in the early stages of CDNP's establishment, some measure of consultation and participation offered promise for a truly inclusive conservation project in Conkouati. However, the participatory approach embodied in COGEREN was aborted before it could flourish. It should be noted that the process didn't include peripheral villages such as Koutou at that time. When CDNP was first established, the consultation process took place in the areas which were already included in the reserve before its extension and its re-classification as a national park.

According to our local partners, only villages located on the Yanika - Tandou Ngouma axis were "formally consulted" during CDNP's creation, though these consultations fell short of FPIC principles. In villages located on the Tchiessa - Nkola axis (including Koutou), which were not part of the area initially earmarked for conservation<sup>192</sup>, villagers were simply informed and were handed a done deal. Although Koutou wasn't initially part of the protected area, its farms have always been adjacent to it. The people of Koutou perceive the protected area as having been unilaterally imposed on them, especially when the area was first extended (then again more recently). According to interviewees, they learned in 1999 very suddenly about the establishment of the national park extending the boundaries of the initial reserve (placing Koutou at the frontier between the park and its buffer zone).

Despite participatory elements in early stages of CDNP's establishment, some interviewees

in Ngoumbi and Tandou-Ngouma perceive that consultations were not very inclusive and overall almost exclusively involved village's elites. Women in Ngoumbi recall that the local elites, represented by a village committee including village elders and customary landowners ("*terriens*"), took part in sessions related to the establishment of the protected area, with assistance from the local NGO AGEDUREN and the information was then passed on to the rest of the community. Back when Conkouati was simply identified as a reserve under IUCN management (before 1999) community members recall having been trained by IUCN on environmental issues and protected species. Ngoumbi's inhabitants and chief attest to having been somewhat 'sensitised' jointly by conservation organisations and government agencies about aspects relating to the protected area.

Overall, communities perceive the park as having been imposed to them, since they were not invited to give their opinion, nor were they effectively considered as stakeholders in the decision-making processes concerning the establishment, the development plan or the environmental impact assessment related to the protected area. The very few Tandou-Ngouma residents who attended consultation meetings (which mostly involved local leaders) expressed concerns about access restrictions during these meetings, but they were only offered evasive answers about supposedly planned mitigation measures.

As discussed in earlier sections, WCS Republic of Congo's activity reports attest to community meetings in Conkouati-Douli which seem to have occurred in different phases between 2005 and 2008 (corresponding to FFEM funding period), with the stated objective of "*maintaining a permanent dialogue with local communities, public institutions, NGOs and local associations*"<sup>193</sup>. This programme was mainly aimed to introduce education and outreach activities and ensuring a continuous presence in the villages during the different project phases, including discussion with chiefs of villages and video screenings with heads of households.

According to these reports, meetings over the four-year period included sessions on farmer-wildlife conflicts, sacred sites and zoning. Outreach sessions about diversification of subsistence activities had taken place in

<sup>192</sup> This axis is now what separates the five-kilometer buffer zone from the protected area.

<sup>193</sup> See WCS/CDNP, 2008



Tandou-Ngouma and Ngoumbi, among other villages. Activities also seem to have included interactive sessions aimed at increasing knowledge of the national park (its surface area, ecosystems, species, limits of eco-development and integrally protected zones, etc.). WCS Congo also mentions the distribution among the villages (in 2007 and 2008) of copies of the 1999 decree establishing CDNP, of the Law 48/83 on fauna and protected areas and of park zoning maps. While WCS's activity reports acknowledged that people complained about the complex jargon in this documentation, it simultaneously criticised the tendency of communities to hide behind a lack of knowledge and understanding of legal provisions. These 2005-2008 reports also briefly mention (without elaboration) the importance of participatory mapping, especially for the purpose of the designing a management plan (which is lacking to date).

There is nothing in these reports, however, that suggest a willingness to include people in decision-making – for example, in relation to the choice of alternative subsistence activities – or to genuinely consult them on aspects related to the protected areas' policies. Although efforts have obviously been put into these series of meetings, they rather look like an attempt by CDNP to placate local peoples' concerns while ultimately promoting its own conservation agenda. It is also unclear to what extent some of the discussed projects were implemented and whether these outreach sessions have continued to be held on a regular basis since 2008.

Women (both Bantu and indigenous) tend to be disregarded in consultation processes. Although they sometimes attend community meetings and in some cases share their opinion, Ngoumbi's women have stressed that their opinions are not often taken into account. Sometimes, as in the case reported by Koutou's women, only the village leader's wife takes part in meetings related to the protected area (and when these meetings happen, they are often unplanned and occur ad hoc with members of the village committee's bureau, a few landowners and the elders).

In general terms, as highlighted during the interviews in Koutou, communities are keen on receiving information on existing or forthcoming

development policies and projects affecting them. They also want to be more aware of legislation which might impact their lives and about their rights. Furthermore, communities sometimes deplore the absence of feedback after various NGOs and/or other public or private delegations come to their communities. They are keen on receiving reports and further insights on projects' outcomes. It is worth mentioning that a few community members in Ngoumbi are aware of the ongoing revision of the Forest Code as well as of the REDD+ process<sup>194</sup>, since they were involved in training sessions organised by the local organisations AGEDUREN and Association Nature et Développement.

Overall, properly organised information sessions about any of the protected areas' development projects affecting local lands and livelihoods appear to have been quite infrequent. Villagers often obtain information through informal conversations, for example with relatives who are employed by the park, or through other personal connections. They are not sufficiently empowered to understand concepts such as environmental assessment plans and development plans; thus, respondents couldn't always precisely tell if they were actually consulted on these aspects.

All communities we encountered during this research have asked for more concrete information about the scope and remit of eco-guards, including the geographical extent of their authority and their exact responsibilities when carrying out their duties. They also expressed a desire to be better informed about daily quotas for collecting unprotected species. Villagers criticise the fact that they only find out about potential new anti-poaching measures on the spot when they are arrested by eco-guards. Generally, communities lack access to precise and understandable information about hunting periods and zones, legal hunting techniques and species classifications (integrally protected, partially protected and non-protected).

In all cases, and despite some degree of information and consultation (or more often '*sensitization*'), consent of the communities was never sought on conservation projects and related measures affecting them.

<sup>194</sup> The Congolese government has, since 2008, been developing its strategy to reduce emissions from deforestation and forest degradation (REDD), although it remains unclear whether this poses an opportunity or threat to the land and resource rights of local communities. As part of

its various international commitments, notably the Voluntary Partnership Agreement (VPA) with the EU under the FLEGT initiative, Congo has been in the process of reforming its Forest Code since 2000.





# 8. INDIGENOUS PEOPLES' RIGHTS

## 8.1 INDIGENOUS PEOPLES' RIGHTS: STILL LANGUISHING

In the villages within the frame of this study, indigenous communities were mostly found in the area surrounding NNNP, although there are also indigenous peoples living in southern Republic of Congo, including in Conkouati.

As described in earlier sections, Law No. 5-2011 on the Promotion and Protection of Rights of Indigenous Populations recognises indigenous peoples' collective and individual rights to their traditionally owned lands and resources (Article 31). Indigenous people have facilitated access to land property exempting them from going through all steps of registration processes including the requirement for *"mise en valeur"* (see section 4.1). Nevertheless, the law still lacks the necessary legal application texts and, therefore, the tenure situation of 'Pygmies' still lags behind.

In reality, indigenous peoples' traditional rights to lands are often disregarded particularly given that they live on lands conceded by Bantus. As is typical of the situation of 'Pygmies', these populations feel acute tenure insecurity as their lands could be taken any time either by the State or by Bantus. As explained in the case of Nouabalé-Ndoki, progressive and often forced settlement of indigenous forest communities has *"often meant settling on land that is already either claimed, owned or used by settled Bantu farmers. [...] Very few [indigenous] settlements [...] are usually recognized"*<sup>195</sup>. This marginalisation prevails despite the enactment of Law No. 5-2011 on the Promotion and Protection of Rights of Indigenous Populations.

The main points of conflict are related to marginalisation and exploitation by Bantus who traditionally consider themselves as the sole landowners. Indigenous peoples are confined to clearly separated parts of villages that are mainly composed of Bantus. They must submit to the choices of Bantus with regards to where they may build their houses.

In Bomassa, where around 150 indigenous people live (Bambenzele and Bagombe), their subservience to Bantu leaders is evident. Indigenous leaders are subjugated under the influence of Bantus or are imposed by administrative authorities. In general, indigenous

leaders' authority is not officially recognised. Indigenous leaders even tend to lose their legitimacy in the eyes of their own community members, although this is also not unique to the areas in question. Bon Coin, with its 50 inhabitants, is under the authority of Bomassa's Bantu leader. People from Bon Coin have reported that the Bantu leader of Bomassa (who was jailed in Ouessou at the time of the research) used to consider indigenous leaders of Bomassa and Bon Coin literally as his *"vassals"*, further showing the exploitative relationship between Bantu and indigenous communities.

Any efforts from conservation agents to liaise with communities on aspects related to the protected area didn't seem to help address these issues. While Bantu communities also experience increasing difficulties in accessing their resources (through fishing, hunting and gathering NTFPs), the situation is even worse for IPs who are already structurally discriminated against or excluded. Bon Coin's IPs perceive their lands as being even less respected now that the area is under Ndoki Foundation's management, which formalises WCS's authority on the protected area and its buffer zone (see section 3.2)<sup>196</sup>. The situation for IPs is also more precarious because they have not benefited as much as Bantus from employment opportunities offered by the national park, nor were they considered for housing improvement projects<sup>197</sup>.

Indigenous communities in the town of Kobo seem to face severe discrimination. The 'Pygmy neighbourhood' is neglected and people feel disregarded by Bantus, the authorities, the logging company CIB and PROGEPP. According to testimonies, they live in very poor housing conditions and suffer from several skin diseases such as leprosy and scabies (something that is sadly common to 'Pygmies' elsewhere in Republic of Congo). Kobo's indigenous community does not have a traditional leader freely designated by them, their last leader having moved to Bomassa in search for employment. The current indigenous chief is seen as co-opted by the logging company and administrative authorities. In reality, he has no power and is not listened to/respected during meetings; he is subordinated to the authority of the Bantu leader, as in Bomassa. Indigenous

<sup>195</sup> Counsell, 2004, p. 36

<sup>196</sup> Interviewees mentioned the "foundation", it is our assumption that they were referring to the Ndoki Foundation, since it has acted as a competent authority since 2013.

<sup>197</sup> According to written correspondence with WCS, traditional peoples were, back in 2002-2003, almost the only beneficiaries of NNNP's housing improvements program.

peoples of Kabo say they, therefore, do not feel properly represented. When they take part in meetings, it is often only as onlookers and they have no real say. Indigenous women aren't involved at all, according to information collected from the field.

Generally, indigenous peoples are hardly ever consulted about projects affecting them, despite Articles 3 and 35 of Law No. 5-2011: the former requiring free, prior and informed consent, and the latter requiring an environmental and social impact assessment plan prior to any project on indigenous communities' lands including for conservation.

Indigenous peoples were only informed, not consulted, about the creation of NNNP; nor were they consulted when a measure was imposed forbidding night access and activities to the forest in the forested lands in the park's periphery.

While community participation in decision-making processes related to forest management at the national level is insignificant and consultation processes are not approached in a long-term partnership perspective, the lack of

inclusive approach to indigenous peoples who depend on their forests for their subsistence livelihoods is acute. Consultation processes are lacking, specifically those involving 'Pygmies' with regards to forest management (forestry and conservation projects)<sup>198</sup>.



## BOX 6: 'PYGMIES' AND BANTU – INDIGENOUS AND 'TRADITIONAL' SOCIETIES IN THE NORTHERN CONGO

It is important to understand the relationship between the 'Pygmy' indigenous people of the NNNP area and the various Bantu farming communities with whom they are usually closely associated. The 'Pygmies' hunt for subsistence needs, as well as for exchange with Bantus. This trading relationship has likely existed as long as the Bantus have been present in the forest.

However, the relationship between Bantus and 'Pygmies' is often accompanied by a high level of racial discrimination and stigmatisation. It is not unusual for Bantus to refer to 'Pygmies' in ways that indicate that they are considered to be 'not quite human'. Attempts by the State and other actors at forced sedentarisation during both the colonial and post-colonial eras, coupled with weak legal status, have also increased the dependence of 'Pygmy' groups on subsistence farming and exploitative relationships with Bantus.

The precarious situation of 'Pygmy' groups is exacerbated by a system of harsh sanctions regarding hunting in and around national parks. Even where legally permitted (such as inside the notional 'buffer zones' of national parks) 'Pygmies' still tend to be criminalised for carrying out hunting. The threat of arbitrary prosecution for hunting (even if the hunting has been carried out on behalf of others) can be used as a means of extortion, or of demanding labour or other favours.

For further details, see **Annex I** in this report.

<sup>198</sup> RFUK, 2016

## 8.2 CONSERVATION-RELATED POLICIES AROUND NOUABALÉ-NDOKI UNDERMINE INDIGENOUS PEOPLES' LIVELIHOODS AND WAYS OF LIFE

Logging and conservation interests, although conflicting by nature, both contribute to disrupt the lives of local communities and especially indigenous peoples. Furthermore, 'Pygmies' are discriminated against in employment efforts of both conservation<sup>199</sup> and industrial forestry operations<sup>200</sup>.

In the last decade, however, CIB has taken voluntary steps to address specific issues faced by indigenous communities in logging concessions, their approach guided in part by requirements for FSC certifications. Mapping and micro-zoning by the NGO Forest Peoples Programme (FPP) in areas covered by PROGEPP is reported to have led to minor changes in the logging practices of CIB, but this seems again to be a voluntary approach taken by the company<sup>201</sup>. By contrast, protected areas' policies lack specific acknowledgment of the need for differentiated approaches to indigenous communities. The specific rights, needs and lifestyles of indigenous communities are barely taken into consideration. The only maps which were produced by NNNP were aimed at demarcating the villages, without differentiating indigenous lands and often without the involvement of any of the communities. To date, there has not yet been any official delimitation of traditional lands by the State.

The Buffer Zone Project, PROGEPP (the main purpose of which is anti-poaching and resource use monitoring) covers forests used by indigenous communities since ancestral times. Most indigenous communities at NNNP's periphery and in CIB concessions are semi-nomadic, and their lifestyle is intrinsically connected to the forest, which they depend upon for their subsistence activities such as

hunting and gathering<sup>202</sup>. As reported during our research, specific anti-poaching measures prevent 'Pygmies' from carrying on their seasonal activities. These entail spending long periods (several weeks or more) and walking long distances within the forest for gathering, hunting and fishing, as well as living in temporary forest camps.

According to interviewees, one measure banning forest access at night was implemented without any consultation. It was reportedly announced to the villagers during an awareness-raising meeting about poaching. The park administration justifies this measure by invoking the need for a more efficient control of poaching activities and asserts that some community members hunt not only for their subsistence needs but also for poaching purposes. Communities have complained about prejudice towards their traditional resource usage rights, but the decision remains unchanged. Although this measure applies in principle to all users, it has a bigger impact on indigenous peoples, not only endangering their livelihoods but also their cultural patrimony.

Overall, indigenous groups suffer the greatest impact in relation to conservation-related restrictions, and the risk of extinction of traditions and culture is at stake. Indigenous groups' vulnerability is exacerbated by discrimination they face from both Bantus and conservation guards. Therefore, despite restrictions, some indigenous people, as explained by interviewees in Bon Coin and Kabo, tend to carry on with their traditional activities as a sort of defiance to the repeated controls and intimidations they have to suffer – though, above all, it is to meet their basic needs.

**“ BOTH COMMERCIAL LOGGING AND STRICT BIODIVERSITY CONSERVATION MAY SERVE TO EXACERBATE [DISCRIMINATION AND EXPLOITATION] BECAUSE THEY EITHER CAUSE A DEPLETION OF, OR REDUCE ACCESS TO, FOREST RESOURCES (ESPECIALLY BUSHMEAT) THAT ARE THE BASIS OF THE [INDIGENOUS] ECONOMY. ”**<sup>203</sup>

Simon Counsell, *Greenbacks in the Garden of Eden: Conservation funding and its impact on indigenous people.*

<sup>199</sup> In the village of Makao, however, and according to WCS, more efforts have apparently been made by NNNP to hire 'Pygmies', using their skills for tracking and guiding roles.

<sup>200</sup> See <http://wrm.org.uy/oldsite/bulletin/57/Congo.html>

<sup>201</sup> Forest Peoples Programme, 2006

<sup>202</sup> NTFPs gathered include leaves, caterpillars, honey, etc.

<sup>203</sup> Counsell, 2004, p. 36

Because of their precarious status, indigenous people are an easy target for monitoring patrols. As far back as 2005, OCDH documented serious cases of violence and discrimination perpetrated by eco-guards serving under PROGEPP towards Bambenzele people<sup>204</sup>. Eco-guards are trained to do routine checks (searching peoples' personal possessions), and they do it in a very abusive way, especially towards indigenous people. Under the pretence of possessing illegally hunted goods, they stop and search bags and belongings at each occasion, arbitrarily extort money from intercepted individuals or their relatives, illegally confiscate their gear or game (including non-protected species), break into peoples' huts and act with no respect to peoples' belongings. Furthermore, these frequently reported interventions are often accompanied by serious forms of violence and intimidation against people 'just because' they are 'Pygmies'. Insults and use of terror by eco-guards are still common practice (see also section 6.1).

Indigenous people continue to face unfair treatment and their rights and livelihoods continue to be undermined as their specific needs are not taken into account by conservation measures. This situation, which is described by FPP as an *"unplanned outcome of the PROGEPP partnership"* and *"PROGEPP's failure to protect indigenous rights in its plans, including their rights to traditional and sustainable use of their forests,"*<sup>205</sup> violates both indigenous peoples' rights and international human rights provisions. It does not seem to have improved much despite the issuance in 2011 of a national law specific to indigenous peoples' rights and declarations of intent from conservation stakeholders. Thus, it seems likely that conflicts between the area's indigenous people and conservation authorities will continue indefinitely, further alienating 'Pygmies' from the cause of conservation.



<sup>204</sup> OCDH, 2005

<sup>205</sup> Forest Peoples Programme, 2006, p. 3







# **9. CONCLUSION AND RECOMMENDATIONS**

## 9.1 SOME FINAL CONSIDERATIONS

Local communities and indigenous people continue to be seen as a threat to biodiversity rather than as equal partners in conservation projects. Instead of constructively tapping into their longstanding contribution to conserving their local environment, conservation actors tend to neglect local peoples' knowledge and experience. Conservationists often justify this exclusion by highlighting incidences of local people damaging their environment, or hunting animals which conservationists wish to protect, but as Ellen Desmet has noted:

*“the recognition of and respect for the rights of indigenous peoples and local communities to their lands and resources should not be made conditional on their upholding of sustainable practices or on their conservation record.”*<sup>206</sup>

Over the last two decades, conservation programmes have been progressively, albeit very slowly, placing greater emphasis on participatory approaches to conservation in Africa, encouraged by international institutions and donors. However, this has almost never led to real 'partnerships'<sup>207</sup>. Consultative frameworks (*“cadres de concertation”*), long seen as a central tool in participatory approaches, were rarely pursued for anything other than brief periods and within a specific project lifespan, as illustrated throughout this report. When they exist, these consultation frameworks suffer difficulties related to legitimacy and effectiveness.

Concepts of co-management often remain at a purely theoretical stage, as long as real decision-making power is not genuinely devolved by donors, international NGOs and authorities, and as long as social dynamics at stake are not taken into account. More broadly, this raises the question of whether there is a real political will to involve communities in decision-making processes related to natural resources management. Conservation actors sometimes argue that they are not well-equipped nor in the best position to address forest communities' concerns.

They claim that they should not stray from their core mission – biodiversity conservation – by being obligated to resolve local communities' socio-economic problems around PAs<sup>208</sup>.

This standpoint overlooks conservation agents' clear role in depriving communities of their means of subsistence, not to mention their implication in rights violations. Despite a defeatist attitude towards participatory engagement with local communities, conservation actors nevertheless appear quite capable of building strong partnerships with large-scale loggers and miners. This is done supposedly to promote biodiversity protection but often leaves communities caught between these very different interests.

With livelihood security in decline for many forest-dependent communities and peoples, there is an increasingly urgent need to ensure full legal and practical protections for customary rights to land, territory and forest resources. It is worth remembering that Republic of Congo is obligated under several conventions<sup>209</sup> to uphold not only rights to land and livelihoods, but also basic human rights and the principles of FPIC. As with its neighbours in Central Africa, Republic of Congo fails to apply these principles in the context of its conservation programmes. However, expressing a desire both to reform its forestry sector and to become an “emerging economy” by 2025, Republic of Congo has acknowledged the need to address many challenges, including: the involvement of civil society and local and indigenous communities in forest management; human-wildlife conflict management; use and promotion of traditional knowledge related to resource management; and the development and implementation of a national land use plan with participation from all stakeholders.

<sup>206</sup> Desmet, 2011, p. 31

<sup>207</sup> Binot and Joiris, 2007

<sup>208</sup> European Commission, 2015

<sup>209</sup> Among other relevant conventions ratified by Republic of Congo: Convention on Biological Diversity (CBD), United Nations Framework Convention on Climate Change (UNFCCC), United Nations Declaration

for the Rights of Indigenous Peoples (UNDRIP), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of all Forms of Racial Discrimination (ICEAFRD), Convention on the Rights of the Child (CRC).

In general terms, as stated by Ellen Desmet, it is crucial that rights-based approaches to conservation fully and genuinely consider “stakeholders”<sup>210</sup> as right holders. The author stresses the need to shift from a rhetoric which focuses only on “local livelihoods” and “participation”, to one that emphasises “rights of decision-making”. In addition, we need to “go beyond an exclusive focus on tenure rights, as to include the whole bundle of interrelated civil, political, social, economic, cultural and environmental rights”<sup>211</sup>.

The cases of Nouabalé-Ndoki and Conkouati-Douli National Parks further illustrate the often counterproductive and top-down approaches to conservation in the Congo Basin, as described more generally by RFUK in its recent study of protected areas in the Congo Basin<sup>212</sup>. The impacts of NNNP and CDNP reported in this document unfortunately confirm the globally observed and documented social effects of protected areas on local populations<sup>213</sup>.

Specifically, some conclusions which can be drawn from this study are that:

**1. There has been a failure to include communities in protected areas’ management plans, and failure to revise outdated management plans and poor understanding of land use dynamics:** Conservation programmes usually imply restrictions to land use and access, and changes in land use habits that are rarely beneficial to communities. As emphasised in this report, lack of consideration for traditional lands hampers subsistence activities. Zoning maps rarely take account of (or include) all socio-ecological spaces used by local populations and indigenous peoples (such as transhumance areas, spaces dedicated to shifting agriculture, hunting and gathering on widespread spaces, etc.)<sup>214</sup>. Local land regimes, the multiplicity of actors and socio-economic dynamics are all often overlooked, grossly simplified, ill-understood or simply ignored. Huge assumptions are made about the ability of communities to readjust their livelihoods to the newly imposed restrictions and limits

brought by protected areas, or these concerns are simply not treated at all. There appears to be an insidious expectation that local people will simply disappear if they are forced to stop hunting, farming and gathering. This possibly reflects the fact that, unless conservation agencies are prepared to make the effort to document and map existing usages, local communities’ land and resource uses are often known only through oral tradition and cultural practices, and are invisible in existing maps or documentation.

**2. There has been a lack of clarity in the laws that apply within PAs and buffer zones, and lack of clarity of jurisdictional boundaries:**

Almost all communities within this study express confusion about which laws apply to them (such as in relation to the prohibition of species to be hunted), and as to geographical areas within which any laws may apply. While the initial phase of PA establishment may have involved some (mostly culturally inappropriate) information/instruction in permissible activities, for the most part these are quickly abandoned. The impression is that communities are somehow expected to understand laws even if they are completely unaware of them, and woe be to them if they transgress such laws. Physical demarcation of park boundaries, such that communities know where the relevant conservation laws apply, has almost universally been neglected.

**3. There has been an absence of consultation:**

The evidence shows that the establishment of neither park was accompanied by proper consultation. That little consultation which did take place appears to have been more in the way of ‘information and instruction’, often peremptory and undertaken with limited parts of the communities rather than a genuinely participatory process. The experience of CDNP seems to suggest that the involvement of an international conservation NGO served to undermine and ultimately doom a reasonable process which had been set up with a vision of ongoing consultation amongst local community representatives.

<sup>210</sup> See Republic of Congo - FAO, 2014

<sup>211</sup> Desmet, 2011, p. 30-31

<sup>212</sup> RFUK, 2016

<sup>213</sup> Desmet, 2011, p. 114-117

<sup>214</sup> See Binot and Joiris (2007) on how a majority of conservation initiatives tend to consider as right holders only settled or recently settled populations (especially in low population density regions), overlooking the existence of nomad or semi-nomad groups, putting de facto their needs and legitimate claims for land and resources out of scope.

4. **Indigenous people are disproportionately affected:** Even though Bantus and indigenous people can both claim a long-standing relationship with the land and suffer the same underlying issues, changes brought by conservation measures usually have a bigger impact on the latter because of their already marginalised situation, but also because of their particular ways of using the space. This stresses again the need for conservation programmes to undertake differentiated approaches toward indigenous peoples and *"[reflects] the complex and sometimes difficult relationship between them and their Bantu neighbours"*<sup>215</sup>.
5. **Impacts from human-wildlife conflict are disregarded:** Local populations often suffer material damage and (sometimes) physical harm due to the presence of wild animals (elephants in particular) in proximity to their fields. While contact with and danger from large animals has long been a feature in the lives of Congo Basin forest people, the installation of protected areas has prevented local inhabitants from taking any defensive measures, such as killing rogue elephants. Extra costs are incurred to already very poor people in protecting their plantations and crops. Perhaps most significantly, farming and gathering activities have to be relocated, curtailed or stopped altogether for fear of attack by animals. This problem seems to affect women more than men.
6. **Conflict exists between communities and park management authorities, application of arbitrary sanctions, and human rights abuses:** Our investigations found instances of serious conflict, notably in the case of Koutou, which sadly resulted in three deaths and even more wounded. Conservation policies may also cause internal conflicts within or between communities themselves, especially if benefits are not shared equally. Intimidation, physical violence, unfair treatment, violation of due process and other abuses are countless across many protected areas of the world. The situations of NNNP and CDNP described in this report are no exception, especially regarding the relationship between villagers and eco-guards – and despite declarations of goodwill (e.g. from PROGEPP actors around NNNP). Eco-guards seem to be allowed a huge degree of discretion in determining whether a transgression has been committed, and in levying a fine or other punishment. This has allowed for outright extortion, bullying and harassment. The legal basis for the application of such sanctions, especially in buffer zones, is not always entirely clear.
7. **Lack of access to justice:** In no case could we find evidence that a proper judicial process had been pursued in the event of an eco-guard attack. Although token suspensions of eco-guards for improper behaviour have been recorded, in most cases guards seem to act with virtual impunity.

**“ IN ORDER TO CAPITALIZE ON THIS POTENTIAL OF COOPERATION, IT IS A PREREQUISITE THAT THE HUMAN RIGHTS OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES ARE RESPECTED NOT ONLY IN NATURE CONSERVATION DISCOURSE, BUT ALSO IN CONSERVATION LEGISLATION, POLICIES AND PRACTICES. ”**<sup>216</sup>

Ellen Desmet, Indigenous Rights Entwined with Nature Conservation

<sup>215</sup> Counsell, 2004, p. 137

<sup>216</sup> Desmet, 2011, p. 253

- 8. There has been displacement:** This heavily impacts the livelihoods as well as social identities of indigenous peoples and local communities. Involuntary relocation (in this case study mostly through ‘economic displacement’ rather than through forced physical removal) has rarely (if ever) been accompanied by adequate reparation of the damage and losses endured. Restrictions on access to land and resources have proved detrimental.
- 9. Women have been disregarded:** Restrictions due to conservation initiatives often disproportionately impact subsistence activities of women, such as gathering forest products. In both the cases described in this report, women have barely taken part in information and “consultation” meetings<sup>217</sup>.
- 10. There has been a lack of economic benefits and priority for local development infrastructure:** Whereas protected areas may provide employment opportunities through jobs related to anti-poaching monitoring and/or ecotourism, these tend to be limited to low-level or temporary functions; and the benefits of tourism may only reach a restricted part of neighbouring communities, or only a few dwellers within a single village, a

problem that risks creating tensions between communities and/or internally. In general, the existence of the two national parks under scrutiny has not increased the communities’ standards of living, except to some extent for a limited few who could enjoy better housing conditions and afford imported food products. Despite some positive outcomes in terms of employment in Bomassa, food insecurity and reliance on external food procurements prevail in all villages examined. As to indigenous forest communities specifically, although a few people were hired in NNNP, overall they still live in very poor conditions and experience discrimination and exploitation by Bantus. Overall, the significant flows of funding into the PAs studied, especially for anti-poaching, infrastructure and research facilities, has barely been accompanied by any significant investments in basic infrastructure such as schools, hospitals and decent transportation networks (with a few exceptions, such as support provided to build amenities in Bomassa). Indeed, such services could go some way to compensating communities for the loss of livelihoods and rights.



<sup>217</sup> In general, “conservation agents have tended to communicate principally with men, overlooking the knowledge and experience of women in traditional resource management and social perspective”. Desmet, 2011, p. 116

**11. There has been a lack of transparency and participation in community benefit schemes:**

The limited attempts to distribute some form of benefits to local communities are perceived to be tightly controlled by the conservation authorities, are sometimes used as ‘punishment and reward’ schemes, do not reflect the genuine priorities of the communities, tend to benefit elites especially, are opaque in their decision-making, and have not built confidence or trust in the protected areas.

**12. Bushmeat substitution and other ‘economic alternatives’ programmes are failing:**

Following from the above point, the very limited attempts to develop alternative economic activities for local communities impacted by protected areas appear to have achieved little to nothing in terms of adequately alleviating problems caused by restrictions on access to resources. Bushmeat substitution programmes in particular have not only failed to recognise the cultural significance of wild game to forest communities, but have also failed to provide affordable meat. If alternative measures had proved efficient, they would have contributed to building stronger relationships between communities and parks, which is currently not the case.

**13. There are incomplete and/or unenforced legal frameworks:**

The Congolese legal framework contains a few relatively useful provisions setting the path for the promotion of participatory management and inclusion of communities in projects affecting them. Nevertheless, there are still many loopholes to be addressed, implementation is lagging behind and results remain insufficient. This is particularly true with regard to Law No. 5-2011 on the Promotion and Protection of Rights of Indigenous Populations. Overall, participatory conservation schemes need to be adopted, building on forest communities’ experiences and knowledge and including them genuinely in the planning and management of forests to which their existence is intrinsically linked. Moreover, the more participatory the process is and the more decision-making power communities have in the management of protected areas, the more likely it is that these communities will develop a positive attitude towards the conservation project<sup>218</sup>. In addition, strong and long-lasting partnerships between PA managers and local communities are key to addressing the real drivers of biodiversity loss and the much more destructive impact of large-scale industrial projects<sup>219</sup>.



<sup>218</sup> See Oldekop et al, 2015.

<sup>219</sup> See Büscher et al, p. 309-313.

## 9.2 RECOMMENDATIONS

**In light of the findings of this report, and building on these considerations, our general recommendations to public authorities, international conservation NGOs and donors are to:**

1. Integrate into all aspects of protected areas planning and management indigenous people and local communities' rights to lands, livelihoods, participation and FPIC.
2. Commit to rigorously uphold the relevant national and international provisions concerning respect of civil, political, social, economic and cultural rights in funding, implementation and management of conservation programmes.
3. Strengthen the regulatory framework for participation of local and indigenous communities in forest resource management.
4. Take positive measures to effectively create space for real decision-making, based on transparent information sharing processes.

**Our recommendations to the Congolese government in particular are to:**

1. Ensure the effectiveness of the decentralised bodies for acknowledgment, recognition and registration of customary lands, as foreseen by decrees No. 2006-255 and No. 2006-256, and more generally by Law No. 10 2004 that recognises individual and collective customary land rights; and ensure those mechanisms are known and accessible by communities. Furthermore, address inconsistencies within the legal framework which prevent forest peoples from claiming their right to property via land registration.
2. Ensure recognition of customary land rights prior to the creation of protected areas.
3. Establish clear provisions with regard to redress and compensation in case of restricted rights to customary land and usage rights.
4. Provide adequate provisions and effective mechanisms for support and compensation in the event of damage caused by wild animals to local communities' crops and farmlands in PAs and buffer zones.

5. Take the necessary steps to formulate implementation texts for Law No. 37-2008 on Wildlife and Protected Areas, particularly the principle of participation which provides for the obligation to satisfy the needs of local populations and foresees that an environmental impact assessment is made prior to the decision of commissioning or decommissioning a protected area.
6. Establish by decree the conditions and terms under which local populations are to be associated with the elaboration, delivery and implementation of management plans, as laid out in Articles 20 and 22 of Law 37-2008, notably with regard to how communities and territorial authorities organise into natural resources monitoring committees.
7. Address the overall absence of (validated) management plans across the country and the lack of standards and safeguards by providing a national framework for the establishment of PA's management plans, including obligations in terms of stakeholders' involvement, participatory mapping and planning. Set a deadline for submission and approval of management plans for PAs where these are currently outdated or missing and ensure existing management plans are adapted to the realities of local communities and the specific needs of indigenous peoples, integrating their knowledge into the plans; also ensure their legal enforceability. In the specific case of NNNP and CDNP, update or replace moribund management plans, through participatory processes.
8. Take the necessary steps to accelerate the enforcement of Law No. 5-2011 on the Promotion and Protection of Rights of Indigenous Populations; ensure involvement of indigenous communities meaningfully in resource management, notably by obtaining FPIC and undertaking an environmental and social impact assessment plan (pursuant to Articles 3 and 35 of the Law) prior to any project on indigenous lands, including for conservation.

9. Set the frame for and apply inclusive but also differentiated approaches to take into account the needs of specific groups based on ethnicities, gender, knowledge, etc. In particular, take specific measures to address indigenous peoples' specific needs and (semi-nomadic) lifestyles in conservation initiatives and measures.
10. Information about current and upcoming conservation measures in existing protected areas, and dissemination about relevant legal provisions and texts, should be consistently and systematically disclosed to concerned communities in a clear, culturally adapted and understandable manner.
11. Limits of zones under special protection measures, zones for community development activities, and buffer zones urgently need to be marked and easily identifiable by local residents. The boundaries of the zones devoted to local economic activities should also be defined according to the specific needs and the demography of the communities.
12. Provide and enshrine in legal provisions an adequate, adapted definition of usage rights – for which consent of local and indigenous communities have been obtained – in and around peripheral zones of protected areas, and ensure the respect of these usage rights by external actors.
13. Accelerate the elaboration process of an effective national land use plan, ensuring governmental allocations and designations for different use purposes do not overlap, especially with customary lands.
14. Pursuant to Law No. 37-2008, issue legal instruments to define terms and conditions under which local populations should benefit from income generating activities carried out within PAs, and extend these definitions to local development projects in peripheral zones or conservation areas under PPPs such as PROGEPP.
15. Promote and require local development opportunities and alternatives that respect and value traditional knowledge, culture and local social dynamics.
16. Uphold obligations related to international human rights provisions and implement existing human rights standards in the context of nature conservation initiatives, notably by dedicating resources for the implementation of these measures.
17. Foster access to justice for communities; and remedy past or current human rights violations related to protected areas and collaborate to this end with national and local human rights organisations.





18. Halt increasing militarisation, overly repressive behaviour, and impunity of eco-guards by ensuring their adequate training and by establishing effective sanction systems where they might be held accountable. To that end, put in place specific monitoring, verification and grievance mechanisms.

**Our recommendations to international conservation NGOs are to:**

1. Establish rigorous internal systems specific to the Congo Basin region to ensure transparent and participatory management of protected areas and more effective representation of local people in decision-making processes.
2. Strengthen partnerships with local community organisations by providing them with sufficient resources through PA budgets to participate meaningfully.
3. Ensure systematic access of communities (and civil society in general) to precise and understandable information about existing or upcoming conservation projects and measures, including: hunting periods and zones, integrally/partially protected/non-protected species, specific measures or rules, allowed quotas for collecting unprotected species, and legal hunting techniques; and provide concrete information about the scope and remit of eco-guards, including the geographical extent of their duties and their exact responsibilities when carrying out these duties. Also, ensure management plans and zoning maps are available and easily accessible.
4. Identify right holders and respect and safeguard their local rights: undertake thorough social analyses (including livelihood surveys) and ensure that creation, extension, or management of PAs do not undermine local rights. Use participatory mapping for PAs identification, categorisation, delineation and zoning.
5. Aim to transfer power, decision-making and technical knowledge to local stakeholders: to this end, develop 'exit strategies' and/or sustainability plans, integrate and strengthen local peoples' traditional knowledge and governance systems in protected areas' planning and implementation, and ensure flexibility of conservation practices and their adaptation to local contexts.
6. Repair previous prejudice carried out in the establishment of protected areas or their extension, based on broad and effective consultative and participatory processes with all stakeholders: an agreement on how affected people want to exercise their right to reparation has to be reached.
7. Integrate human rights principles in present and future conservation projects and related measures, and use independent and/or participatory monitoring mechanisms.
8. Provide training on human rights standards and obligations to all conservation agencies including PA managers, public-private partnership managers and eco-guards.
9. Ensure that indigenous peoples are recognised as equal stakeholders along with other local communities in consultations and participatory decision-making processes.
10. Ensure indigenous people benefit equally from employment opportunities or measures for social development by protected areas, and take positive measures to avoid exacerbating indigenous groups' vulnerability and discrimination.
11. Ensure that agreements and partnerships with the private sector and, in particular, with extractive and logging industries (such as PROGEPP in NNNP) benefit communities, help them secure their rights to lands and resources, and protect them against open access and overexploitation of resources by outsiders. Such agreements must be discussed with and consented to by local communities, integrating the latter at early stages in land use planning; and if already existing, PPPs terms must be reassessed through effective consultation and participation processes. Agreements between conservation agencies and private sector interests should also be publicly available and fully transparent.

**We urge institutional and private donors to:**

1. Monitor, through independent mechanisms, compliance of financed projects with relevant international and national laws, including human rights standards; and refuse to fund or withdraw funding from projects which do not comply with these standards.
2. Urge governments to acknowledge violations to community rights and basic human rights, and take immediate steps for remedy, ensuring also that no further violations take place.
3. Provide support to national governments for better application of human rights standards in conservation, including supporting completion, harmonisation and consistency of legal frameworks.
4. Dedicate a significant part of funding for conservation programmes to directly benefit local communities involved in current or potential conservation initiatives, not only to offset the loss of livelihoods resulting from conservation measures but also (and in particular) to improve local services and infrastructure, strengthen their capacity for decision-making, and increase their ownership of conservation projects taking place on their lands.
5. Require much greater proof of understanding of local community (customary) land tenure, livelihood systems, and prevailing social and economic dynamics within forest communities before financing a conservation project. Demand also the commissioning of social and anthropological studies, where necessary, and require that local right holders are demonstrably involved in the design of conservation programmes.
6. Seek to fund genuine participatory conservation approaches, including community and indigenous based conservation areas.
7. Dedicate a significant part of funding to address specific needs of indigenous peoples in conservation programmes.
8. Ensure that programmes for alternative livelihood activities take into account gender-related dynamics and the sometimes sharper consequences of encroachments on women's

subsistence activities by conservation-related restrictions. Women's perspectives and rights need to be integrated, for instance, in relation to participation processes.

9. Effectively support communities in remaining self-sufficient and in decreasing dependency on inadequate (and often expensive) food imports; promote also the development of viable economic alternatives with full participation of communities.

**And finally, to international bodies such as IUCN, UN agencies and regional mechanisms, we recommend to:**

1. Stress the importance of preventing human rights abuses by promoting the application of human rights impact assessments prior to the establishment of protected areas, and call on states to enshrine such assessments in national legal frameworks.
2. Promote the incorporation of human rights standards into conservation activities and the adaptation of protected areas legislation to the standards of international human rights law.
3. Promote stronger collaboration with civil society organisations to monitor the human rights situation around PAs.
4. Urge governments to undertake revision and validation of PA management plans, as well as the other necessary measures as set out above.
5. Define the framework and guidelines under which consultation processes, as well as adequate social and human rights due diligence, must be undertaken: for instance, as regards to financial resources and indicative time frames (on when to start a consultation and the period within which a state and its conservation partners should uphold and act upon the results of a consultation process).



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## ANNEX I: 'PYGMIES' AND BANTU – INDIGENOUS AND 'TRADITIONAL' SOCIETIES IN THE NORTHERN CONGO

It is important to understand the relationship between the 'Pygmy' indigenous people of the NNNP area and the various Bantu farming communities with whom they are usually closely associated. The term 'Pygmy' has been often used as a pejorative term, but has also been reclaimed by 'Pygmy' people and used as a self-identifier in their efforts to have their rights recognised. It applies to a number of related groups across the Congo Basin, including the Bambenzele and Mikaya of northern Congo, the former of whom are the specific group found in and around NNNP.

Bantus and 'Pygmies' alike often suffer the same underlying difficulties: lack of opportunities for employment and income, lack of access to social services such as education and health care, lack of meaningful involvement in political processes, and lack of access to justice. Many Bantu communities can also be seen to qualify against several of the criteria used to define indigenous people, such as historical continuity with pre-colonial societies, strong link to territories and surrounding natural resources, distinct language, culture and beliefs, etc. However, 'Pygmies' differ in that they also self-identify as indigenous (which Bantus typically do not) and are a non-dominant part of society (whereas Bantus are), these also being criteria recognised under accepted definitions of indigenous people<sup>220</sup>.

Western Bantu people probably moved into northern Congo around 2,500 years ago<sup>221</sup>. In general, it is not clear whether 'Pygmy' people were already present prior to the Bantu's arrival, but in some localities they may have already been there for several thousand years. The Bantus' eastward migration (from what is now eastern Nigeria) into the Congo Basin forests was enabled by cultivation of plantain, which is still an important staple food and forms a part of the rotational farming systems. Bantu cultivation is typically carried out in small 'forest gardens', which are temporarily cleared of lower vegetation by slashing and burning, and planted with short rotation crops, such as plantain and taro, accompanied by selection and retention from the natural vegetation of plants producing fruits, nuts, rattans and medicines, etc. There is some evidence to suggest that the 'forest ecosystem' in many parts of the Congo Basin could be considered to be a product of more than 2,000 years of such modification by Bantu farmers.

Northern Congo has the highest concentration of indigenous (or 'Pygmy') people in the country – with over 20,000 in Likouala and Sangha departments, according to government figures<sup>222</sup>. The extraordinary hunting skills of the 'Pygmies' are used to provide meat for subsistence needs, as well as for exchange with Bantus for sources of carbohydrates. This trading relationship has probably existed as long as the Bantus have been present in the forest, and is the basis for what some observers believe is an essentially 'symbiotic' relationship between the two ethnic groups.

During the colonial era, forest-dwelling people, including 'Pygmies', were encouraged or forced to settle close to roads or rivers, a policy that has persisted under the independent African states. The trend towards greater sedentarisation has continued in modern times as people seek work, health care and education in towns where rudimentary services may exist. As nomads, 'Pygmies' have been excluded from legal processes determining rights to land, and sedentarisation has thus often meant settling on land that is already either claimed, owned or used by settled Bantu farmers. Typically, 'Pygmy camps', consisting of around 100 people from 2-3 large 'family clans' are located at the edge of, or nearby, a larger Bantu village. Most 'Pygmies' either cannot or do not register the birth of their children, and thus do not obtain the birth certificates required to obtain national identity cards. They are thus often 'invisible' in terms of the law, and very few 'Pygmy' settlements (usually termed 'campements') are officially recognised. Along with government, NGO and missionary sedentarisation programmes,

<sup>220</sup> UN, undated.

<sup>222</sup> Republic of Congo, 2011

<sup>221</sup> Vansina, 1990

## ANNEX I: 'PYGMIES' AND BANTU – INDIGENOUS AND 'TRADITIONAL' SOCIETIES IN THE NORTHERN CONGO [CONTINUED]

pressure is created for Pygmies to become increasingly dependent on subsistence farming – but without secure rights to cultivable land – or on wage-labour for Bantus.

The relationship between Bantus and Pygmies is often accompanied by a high level of racial discrimination and stigmatisation. Whilst sexual violation of 'Pygmy' women by Bantu men is fairly commonplace, marriage between the two is unusual, and marriage between Bantu women and 'Pygmy' men is almost unheard of. It is not unusual for Bantus to refer to Pygmies in ways that indicate that they are considered to be 'not quite human'. 'Pygmy' children suffer ruthless bullying and victimisation by Bantu children, which serves as a strong disincentive for them to attend school. As a result, levels of literacy and numeracy amongst 'Pygmy' communities are generally very low. Whilst Bantus rely on the meat hunted and provided by Pygmies, in general they will not share eating implements or other tools used by them<sup>223</sup>.

Some of the animal species traditionally hunted by Pygmies – including elephants, the hunting of which is culturally significant, as well as providing food – are protected nationally in the Congo under wildlife conservation laws. The commercial trade in monkey, gorilla, deer and elephant meat can be lucrative, and efficient networks have developed to satisfy the demand for bushmeat from logging workers, local communities, and distant urban centres. Pygmies are often 'recruited' to do the hunting: a typical arrangement might involve the 'Pygmy' hunter being 'paid' with the head of the animal caught, whilst the Bantu patron retains the rest<sup>224</sup>.

Even where legally permitted (such as inside the notional 'buffer zones' of national parks) 'Pygmies' still tend to be criminalised for carrying out hunting; informal 'promissory hunting rights' open the potential for further abuse and exploitation. The threat of arbitrary prosecution for hunting (even if the hunting has been carried out on behalf of others) can be used as a means of extortion, or of demanding labour or other favours. In a context of harsh sanctions, the legal and penal system is rudimentary and open to easy corruption and manipulation. As legal and civil support systems are virtually non-existent, and as 'Pygmies' may have only the most rudimentary understanding of their rights or due legal process, it is likely that accused 'Pygmies' will succumb to whatever demands are placed upon them as a means of 'informally resolving' the threatened prosecution.

<sup>223</sup> OCDH, 2004

<sup>224</sup> Eves and Ruggiero, 2009



## ANNEX II: RESPONSE FROM WCS

Wildlife Conservation Society  
2300 Southern Blvd  
Bronx, NY 10460 USA 718.220.5100  
WCS.org

12 September, 2017

Dear Mr. Counsell,

Thank you for inviting WCS to comment on the draft of your report. We greatly appreciate your openness.

We also appreciate RFUK's efforts to engage and mentor national civil society human rights groups in the Republic of Congo. Supporting Congolese organizations to defend the rights of fellow citizens is truly important in a country where so much power and wealth is retained almost exclusively by senior political figures. Your work with the Observatoire Congolais des Droits de l'Homme, and Observatoires des Cultures Bantou, de la Biodiversité et de l'Éducation à l'Environnement helps advance civil society pressure on the government to comply with human rights accords.

Unfortunately, the draft report on NNNP and CDNP is still at an early stage of development. The multitude of factual errors will weaken the credibility of the messages that this report needs to convey. For example, when the investigators and authors of this report get simple things like the distance from Bomassa to the nearest border of the NNNP wrong – it is 22km not “less than a kilometer”, or state that the NNNP borders the Sangha river, when in fact it is 20km east of the Sangha and borders the Ndoki river, it risks both undermining the authority of the authors and the report in the eyes of knowledgeable readers, and spreading provably incorrect information attributed to RFUK.

We were also surprised that your field team, some of whom are based in Ouessou, decided not to visit Makao. As you know, this is the 2nd base for the NNNP park agency and the largest settlement of traditional people in the Republic of Congo. Not talking with traditional people in Makao and learning of their perspective seems like a very significant oversight.

Given the importance of the issues being addressed, we considered it worthwhile to share the report with the field staff who work on the ground on a daily basis with these matters. Attached is a detailed list of factual errors that we identified. We also added additional information missing from the report, which would have been secured by interviewing knowledgeable WCS field staff in Congo or key Republic of Congo ministry and agency staff, or even representatives of the private sector companies named in the report.

In the interest of using the same concepts as those who work with indigenous people in Central Africa, we suggest that, as part of the methodological discussion, the authors explain how they are using the term “indigenous,” and what their usage intends to convey regarding relationships between Bantu and non-Bantu members of local communities, and the relationships of each with agents of government, NGOs and private sector companies discussed in the report. Different writers have approached this in different ways, and we certainly do not presume to tell you how it should be handled in the context of your report. However, it seems important to include your use of terminology as part of the methodological discussion, because these dynamics are central to your findings and recommendations. As with many of our colleagues working on these issues, we tend to use the term traditional to distinguish communities that retain their cultural sense of self through their day-to-day livelihood practices. The term autochthon is, as you know, equally applicable to refer to hunter-gatherers like the Bambenzele, Baka, BaNgombé, as it is for the Sangha fishers and all Bantu farmer-foragers, though each differ in their level of adherence to

traditional subsistence practices, engagement in market economies, access to social services, and political agency to determine their futures.

As an organization, WCS is dedicated to conserving the world's remaining wild places, those dwindling few areas on earth that persist largely outside the influence of industrial, urban humankind. WCS recognizes that the fates of these wild places are inextricably bound to the fates of the people who have long called them home. The report seems to fall into the popular misconception that 'wild places' are areas where humans are absent. Though there certainly are wild places where no humans live, this is not typically the case. Indeed, many wild places have been profoundly shaped by their human inhabitants, and persist today in their current form thanks to the effective stewardship of local people.

The indigenous and traditional peoples who live where WCS has chosen to work have long depended on the direct use of these wild places for their wellbeing. As conservation of natural resources is vital to their health, livelihoods, and cultural identity, we share a common interest. Around the world traditional and indigenous people have proven time and time again to be our strongest conservation allies. In isolated tropical and boreal forests, temperate and tropical grasslands, and coastal reefs we have repeatedly built effective local community partnerships that have secured the land and resource rights of indigenous and traditional people and conserved wildlife and their habitats. These partnerships have been built on clear and honest communication of our respective interests and goals. For our part, while we are committed to conserving wildlife, we are also committed to ensuring that conservation is not achieved at the expense of the well-being of the people who live in the places that wildlife inhabit, and we are clear that any allocation of land and resources that unilaterally deprives rights holders of the sustainable use of their lands and waters is both illegitimate and unethical.

Respecting and protecting the human and civil rights of people is integral to achieving the mission of WCS. A report that seeks to protect the rights of indigenous and traditional peoples is aligned with our mission and something we strongly support. So, anything that we can do to ensure that the RFUK report is read by and not rejected by key thought leaders, donors and change agents concerned about human rights is important to WCS.

You might want to include in your report a request to the human rights civil society community to engage with governments' and conservation NGOs to devise a structure and financial mechanism whereby staff of human rights organizations provide day-to-day 3rd party monitoring. This would be an invaluable service and would ensure adherence to internationally accepted human-rights standards, in the context of the conservation of nature and natural resources.

Thank you once more for seeking our input. We hope that our comments advance the need to ensure that peoples' rights are respected and protected in the context of the conservation of locally and globally valued natural resources.

Sincerely,

**David S. Wilkie**

Executive Director Conservation Measures and Communities

**Mark Gately**

Director Republic of Congo Country Program



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