Briefing

iied · Forest Peoples Programme · **RAINFOREST FOUNDATION UK** · SECURING LANDS, SUSTAINING LIVES

Securing customary rights is key to sustainable community forestry

The laws in the Republic of Congo and the Central African Republic provide limited protection to indigenous peoples and local communities regarding access to land and forest resources. Often, logging concessions overlap their territories, restricting access to lands and resources. However, the development of community forests is gaining momentum in the region. These can help secure customary tenure, sustainably manage resources and improve livelihoods for indigenous peoples and local communities (IPLCs). As part of the DFID-funded CoNGOs project, the Forest Peoples Programme and Rainforest Foundation UK supported communities in the Republic of Congo (RoC) and the Central African Republic (CAR) to engage in community forestry and secure equitable and sustainable livelihoods.

Policy pointers

Viable models of community forestry should be developed as alternatives to industrial logging and strictly protected areas, to secure customary tenure and improve livelihoods for IPLCs in RoC and CAR.

Ensure the inclusion and participation of women and indigenous peoples when establishing community forests.

Customary territories should serve as a basis to allocate community forests, even if they overlap logging concessions. Community forests should never be limited to areas that are insufficient to secure communities' traditional livelihoods.

Rights to both lands and resources could be secured through the allocation of community forests, by linking land reform processes and the revision of forest-related legislation.

What do we mean by securing rights in community forestry?

Under international law, communities have rights to the lands and resources they customarily occupy and use. However, in countries in the Congo Basin region (including RoC and CAR) recognition of these rights in national legislation is limited or non-existent. Securing community rights means:

- Other actors cannot access community lands or exploit their resources without their consent

- IPLCs decide how they want to manage and protect their forests to improve livelihoods for present and future generations.

Generally, 'community forestry' is where IPLCs (co) manage forest resources, even in the absence of a legal framework. However, a 'community forest' is more precisely defined as an area officially allocated by a state to a specific community and managed according to specific rules. Under current legislation in some countries in the Congo Basin, communities can secure rights over the resources in their allocated community forest — but not rights to the land itself.

Why is securing rights important?

In both RoC and CAR, the state owns all land not held under a formal property title. The procedures for acquiring a property title cannot be used to gain recognition of collective customary rights.

Since 2015, however, communities in CAR can secure ownership rights to their forest resources by applying for a community forest. This is not yet an option in RoC. In both countries, where logging concessions overlap customary lands, community livelihood activities can only be developed in small areas specifically set aside for their use, called Areas for Community Development (Séries de Développement Communautaire or SDCs) in RoC and Areas for Agriculture and Human Settlements (Séries Agricoles et d'Occupation Humaine or SAOH) in CAR.

Experience has shown that community forests cannot be viable if limited to the small areas of SDCs or SAOHs. This is a major issue, especially in CAR, as almost all of its tropical forests are already allocated as protected areas or logging concessions (Figure 1). This leaves no space for community forests, unless substantial legal and political reforms are carried out.

Securing rights: key results

Experience has shown that community forests cannot be viable if limited to small areas

It is issues such as these that the CoNGOs project sought to address (see project description, p.4). In RoC, the Forest Peoples Programme (FPP) and the Organisation pour le Développement et les Droits Humains au Congo (ODDHC) worked with six IPLCs inside logging concessions to claim their rights to land and resources (see Table 1). It empowered communities to claim their rights using grievance mechanisms established by the logging companies — and also to engage in dialogue with local government and the private sector to improve access to land and resources. Twelve management committees were established to support this and to develop forest-management bylaws.

Three years of permanent engagement with these communities enabled them to better understand and claim their rights within the SDC and beyond. Communities used participatory mapping to show how the restricted SDC area could not viably support community forestry. Visits with indigenous communities to the local collaborative councils (set up to manage local development funds, or FDLs, and comprised of representatives from logging companies, local administration and IPLC groups) also influenced substantive changes to the selection of micro-projects for funding. For example, indigenous women from Ngatongo demonstrated why cocoa production was not a viable livelihood option for them. Nationally, findings from community engagement and fieldwork influenced ongoing discussions about community forestry and the revision of the forest code.

In CAR, the Rainforest Foundation UK (RFUK) and national civil society organisations (CSOs) have supported the government in developing a simple and accessible community forest legal framework, including the Manual of Procedures for Community Forests Allocation ('the manual'), which was adopted in 2015. As part of the CoNGOs project, the strategy was to 'test' this legal framework to inform its revision.[1] In January 2018, following advocacy work by RFUK and local partners, the Minister of Water, Forests, Hunting and Fishing allowed CSOs to support southwestern communities to apply for community forests, despite having their customary territories located within logging concessions.[2] Before this, these communities had no legal option to secure their rights.

As a result, 28 CAR villages in four pilot sites were able to draft their community forest applications (Table 1). In April 2019, the first official community forest was allocated to the villages of Moloukou, Moale and Lokombe, giving them the rights to manage and protect almost 15,000 hectares of the Lomba Forest. This is an unprecedented decision for Congo Basin countries, as communities can officially regain some control over the vast areas of land which for many decades were allocated to loggers.[3]
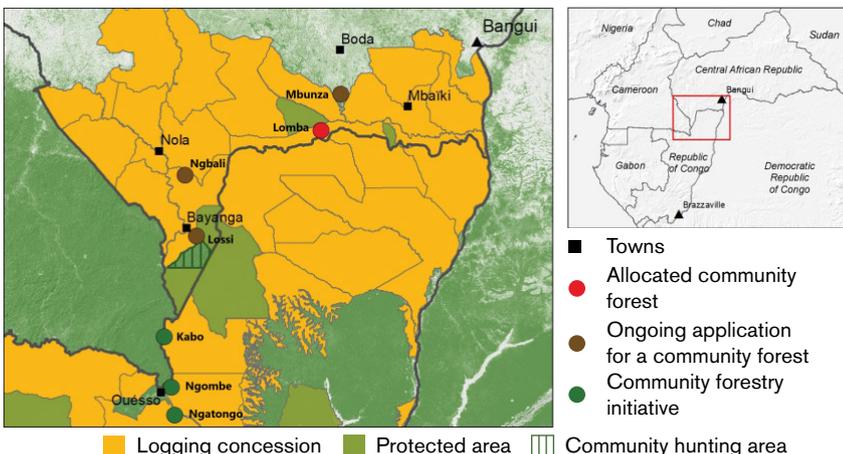
What needs to happen next?

Develop viable models for community forest management. Industrial logging and strictly protected areas have failed to provide benefits either to the environment or local communities. Community forests represent an alternative way to generate community income and reduce poverty. While timber exploitation offers one means of generating income, the CoNGOs project also built on forest-management practices of sustainable exploitation and regeneration of different forest resources.

Another factor key to viable and successful community forests is to ensure that community decision-making bodies are respected. Imposing administrative structures with no local precedent could lead to elites and external actors gaining control and monopolising benefits. Using participatory processes limits the risks of elite capture in community governance structures. In CAR, the manual allows communities to use traditional decision-making bodies to manage their forests, on condition that members are confirmed in a participatory manner. In RoC, FPP and ODDHC supported communities to strengthen internal governance to improve the management of both community forests and income resources.

Promote the participation of women and indigenous peoples. Indigenous Aka, Ba(y)aka, Mikaya and Mbendjele forest hunter-gatherer communities in CAR and RoC still face extreme discrimination, including forced labour and slavery, and are often dominated by their Bantu neighbours. Politically, they are marginalised in decision-making

Figure 1. Intervention area in RoC and CAR

- ■ Towns
- ● Allocated community forest
- ● Ongoing application for a community forest
- ● Community forestry initiative

- ▨ Logging concession
- ▨ Protected area
- ▨ Community hunting area

Table 1. IPLCs supported during the CoNGOs project

	Central African Republic				Republic of Congo		
Forest name	Lomba *	Mbunza *	Lossi **	Ngbali **	Ngombe **	Ngatongo **	Kabo **
Within logging concession	SCAD	Centrabois	SINFOCAM	SINFOCAM	IFO	CIB Olam	CIB Olam
Population	3 villages, 2,380 people	11 villages, 4,440 people	13 villages, 10,009 people	8 villages, 10,926 people	1 village, 178 people	1 village, 2,097 people	2 villages, 811 people
Indigenous population	18% Bayaka	8% Bayaka	N/A	N/A	52% Mbendjele	42% Mbendjele	38% Mbendjele
Area (being) secured and status	14,975 ha Allocated as an CF	13,920 ha CF application being prepared	14,900 ha CF application being prepared	14,985 ha CF application being prepared	6,372 ha Allocated as an SDC	220 ha Allocated as an SDC	3,200 ha Allocated as an SDC

* Supported by RFUK; ** Supported by FPP

processes. As a result, indigenous communities from Ngatongo in RoC asked to undertake community forestry separately from the Bantu. Fruitful cooperation between the two groups is possible in some contexts (such as when protecting a shared forest from outsiders),[4] but safeguards are needed to promote indigenous peoples' rights and guarantee their meaningful participation.

The CAR manual contains such provisions. These have been tested by communities. Bayaka groups have created official indigenous councils to deliberate among themselves, identify their own objectives and create action plans, before discussing them with other communities. This gives indigenous groups a stronger voice to negotiate their agenda and even veto propositions that are counter to their interests.

Testing the CAR manual, however, revealed too few provisions to address discrimination and marginalisation faced by women. Women of the Lomba and Mbunza community forests decided to create their own councils — decision-making bodies allowing them a more equal voice and influence over community forestry outcomes. In RoC, FPP and ODDHC supported women's inclusion in the new management committees. Six Baaka and Mbendjele indigenous communities were assisted in identifying their priorities with FDL projects.

Allocate areas corresponding to customary territories. In both countries, current legislation limits community forestry either to areas that have not previously been allocated to any other use (despite the extreme scarcity of such land) or to SDCs/SAOHs within logging concessions. SDCs and SAOHs are mostly small areas delimited by loggers next to villages. Yet traditional subsistence activities such as hunting, fishing and gathering are carried out in much larger areas of land deeper in the forest. In SDCs and SAOHs, communities cannot explore other forms of community management, such as ecotourism, community conservation, timber exploitation or reforestation. SDCs and SAOHs are inherently incompatible with

the concept of community forests, as they are insufficient to secure communities' livelihoods.

In CAR, RFUK and its partners documented the need to lift the size limit for community forests, currently 5,000 hectares. For the pilot communities, this proved much too small. Instead, they jointly obtained almost 15,000 hectares as an indivisible and shared territory, with the three contiguous community forests to be managed as one.

The legal frameworks in CAR and RoC need urgent review to ensure that communities are eligible to apply for useful areas matching their customary territories, regardless of size and location. RoC appears to have agreed this principle by including provisions in the latest version of its draft forest code. In CAR, the recent allocation of its first community forest (within a logging concession but outside of any SAOH) is a first step. All national stakeholders are also engaged in reflecting on how to officially overlap the rights of loggers and communities on the same territory and ensure the sustainability of co-management structures.

Move beyond access and secure rights to both land and resources. Current legal reforms related to community forestry in RoC and CAR aim to secure IPLC *ownership rights* over their forest resources, based on traditional occupation. This is an improvement compared to the default category of *usage* or *access rights*.

But reforms could also help secure collective ownership of customary lands — not only resources. Recognising both types of rights is possible. Community forest allocation is a comprehensive administrative process that could be turned into a land title acquisition process. This has already been discussed with CAR authorities as a way to scale up collective land titles in the future. Recognising collective ownership of both land and resources will bring greater benefits to communities and improve the sustainability of their livelihoods.

Key recommendations

Policymakers

- Guarantee IPLCs' rights to free, prior and informed consent. Include specific provisions in law and involve IPLCs in all decision making that may have an impact on customary lands.

- Revise national forest codes to provide a simple framework for communities to secure their rights over territories matching their customary lands.

- Develop clear and coherent legal frameworks so that every indigenous and local community is eligible to apply for community forests on customary land, regardless of size and location. Create an enabling environment for the sustainable management of community forests.

- Develop manuals and simplified guides to community forest allocation and management procedures. These should be adapted to diverse local contexts and traditional practices and be easily accessible to rural communities.

- Evaluate the impact of other types of land use (such as logging and mining) and foster participatory mapping to identify and allocate sufficient space for community forests.

- Consider specific measures for the co-management of resources where community forests overlap logging concessions.

- Reform land legislation so that community forest allocation can also be used as a simpler process for acquiring collective land titles.

Civil society organisations

- Support IPLCs to understand their rights and the implications of community forestry.

- Promote active, effective IPLC participation in legal reform processes, including land and forest reforms.

- Provide technical capacity building for IPLCs to strengthen internal governance and improve profit management and equitable benefit sharing. This will reduce the risk of elite capture.

- Support community initiatives appropriately to ensure that project implementation takes into account the specific context of each community. Women and indigenous peoples must be represented equitably and participate in decision-making and benefits-management processes.

- Strengthen the institutional and technical capacities of the forest administration so it can fulfil its role in community forestry processes.

Donors

- Ensure that financial support provided to CAR and RoC governments is in line with their commitment to respect IPLC human rights and international standards to improve forest conservation and management.

- Support community forestry initiatives which aim to sustainably improve IPLC livelihoods, reduce rural poverty and secure customary land tenure.

- Support experimental programmes to test community-based forest-management models, to provide examples of good practice and learning.

- Invest sufficiently in IPLC capacity-building.

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About the project

This briefing is one of five on the 'NGOs collaborating for equitable and sustainable community livelihoods in the Congo Basin forests' (CoNGOs) project. Launched in 2016 in the Congo Basin — where the second-largest tropical rainforest provides the livelihoods of 40 million people — the project aimed to improve the livelihoods of forest-dependent communities through better governance and practice. The project partners believe that strengthening the organisation and capacities of CSOs and local communities to secure and develop community forestry rights and enterprises have been central to achieving this. CoNGOs was led by IIED with a consortium of NGO partners in five countries. UK: ClientEarth, Fern, Forest Peoples Program, Rainforest Foundation UK, Well Grounded. Cameroon: Association OKANI, Centre for Environment and Development, INADES-Formation. CAR: Réseau des Populations Autochtones et Locales pour la gestion durable des écosystèmes forestiers de Centrafrique, Centre pour l'Information Environnementale et le Développement Durable. ROC: Organisation pour le Développement et les Droits Humains au Congo, Forum pour la Gouvernance et les Droits de l'Homme, Comptoir Juridique Junior. DRC: Tropenbos International.

Notes

[1] RFUK (2019) L'attribution des forêts communautaires en République Centrafricaine: leçons tirées des expériences pilotes et recommandations pour des réformes politiques et légales. https://fr.rainforestfoundationuk.org/media/a5a7102b-92d9-4cce-8a25-c56a6e48244d / [2] RFUK (23 May 2018) Towards innovative community forests in CAR. Forest Zone blog. http://bit.ly/2yv91sv / [3] RFUK (2 May 2019) Historic first in the Central African Republic as communities gain rights over their local forests. Press release. http://bit.ly/2yuVKjB / [4] RFUK and Moïse, RE (2019) Making community forests work for local and indigenous communities in the Central African Republic: anthropological perspectives on strategies for intervention. http://bit.ly/2OsWHUr

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