

Country Technical Note on
Indigenous Peoples' Issues

Republic of the Congo



Investing in rural people



IWGIA

Country Technical Notes on Indigenous Peoples' Issues

REPUBLIC OF THE CONGO

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Summary

The indigenous population of the Republic of the Congo (RC) include the Baka, Mbendjele, Mikaya, Luma, Gyeli, Twa and Babongo peoples. Depending on sources, these peoples represent a small minority of 1.25 to 10 percent of RC's estimated population of 5.4 million, primarily of Bantu origin. Formerly known as "Pygmies", a discriminatory and pejorative colonial label, they are recognised as indigenous peoples in the 2011 Law on the Promotion and Protection of the Rights of the Autochthonous Population. This law, the first of its kind in Africa— is based on the concept of "indigenous" as understood internationally and by the African Commission on Human and Peoples' Rights (ACHPR). The autochthonous are present in most of the country's 12 departments but the largest concentrations are found in the north and north-eastern part of the country and in the south. Traditionally, Indigenous peoples lived as mobile hunter-gatherers depending entirely on the forest or the savannah and the natural resources therein. Nowadays, only a few groups follow this lifestyle; others have chosen—voluntarily or involuntarily—to become more or less sedentary, settling in fixed hamlets near Bantu villages. However, most remain closely attached to the forest or the savannah, which they consider as the center of their spiritual and intellectual life.

Despite a continuous evolving legal frameworks recognising their rights, most indigenous communities continue to suffer from their long and on-going history of discrimination, land dispossession and socio-economic and cultural marginalization. This situation is the result of historical factors as well as more recent developments such as nature conservation initiatives, logging concessions, deforestation, oil exploration, commercial plantations and infrastructural developments. Logging, in particular, and its many subsidiary developments continue to be the most serious threats against the forest-dwelling groups' survival. As for the sedentary communities, their access to agricultural land is generally controlled by the Bantu, and as landless squatters on the edge of Bantu villages, they have few job opportunities and are faced with ill treatment and discrimination by their Bantu neighbours. Indigenous communities have also far less access to health care, sanitation, and school education than other groups. Indigenous women are particularly vulnerable as targets of sexual abuse, including rape, and multiple forms of discrimination. Children are also a vulnerable group, exploited as cheap labour and exposed to the worst forms of child labour. The sedentarization process has entailed profound changes in their traditional livelihoods, their customs, their diet and their culture. They are in general under strong pressure to renounce their cultural characteristics and they are increasingly adopting the Bantu's ways of life, including polygamy. The latter has entailed a whole series of problems related to health in general and to sexual and reproductive health in particular.

The Republic of the Congo has signed and ratified a wide range of international and regional human rights instruments including a number of international environmental conventions. RC voted for the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) but has not ratified ILO Convention No.169.

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Acronyms and Abbreviations

ACHPR	African Commission on Human and Peoples' Rights
ADHUC	Association pour les Droits de l'Homme et l'Univers Carcéral
AFRISTAT	Economic and statistic Observatory for sub-Saharan Africa
AU	African Union
CACO-REDD	Cadre de Concertation des Organisations de la Société Civile Congolaise et des Peuples Autochtones sur la REDD+/Consultation Framework for Congolese Civil Society and Indigenous Peoples Organisations
CBFP	Congo Basin Forest Partnership
CEEAC	Communauté Economique des Etats d'Afrique Centrale/Economic Community for Central African States
CEMAC	Communauté Economique et Monétaire de l'Afrique Centrale/Central African Economic and Monetary Community
COMIFAC	Commission des Forêts d'Afrique Centrale/Commission of Central African Forests
DSCERP	Document de stratégie pour la croissance, l'emploi et la réduction de la pauvreté
FAO	Food and Agricultural Organization
FCPF	Forest Carbon Partnership Facility
FIPAC	Forum International des Populations Autochtones d'Afrique Centrale.
FLEGT	Forest Law initiative, Governance and Trade
GDP	Gross Domestic Product
GEF	Global Environmental Fund
GNI	Gross National Income
HDI	Human Development Index
IFAD	International Fund for Agricultural Development
ILO	International Labor Organization
IMF	International Monetary Fund
IPPF	Indigenous Peoples Plan Framework
IWGIA	International Work Group for Indigenous Affairs

NGO	Non-Governmental Organization
OCDH	Observatoire Congolais des Droits de l'Homme/Congolese Observatory on Human Rights
OCHA	Office for the Coordination of Humanitarian Affairs
ODA	Official Development Assistance
OFAC	Observatoire des Forêts d'Afrique Centrale
OHADA	Organization for Harmonization of Business Law in Africa
OHCHR	The Office of the High Commissioner for Human Rights
OFAC	Observatory for the Forests of Central Africa
ORA	Observer, Réfléchir et Agir/Observe, Think, Act
PADEF	Agricultural Value Chains Development Programme/Programme d'appui au développement des filières agricoles
PRECO	Président de Comité/President of Village Committee
RAPAC	Réseau des Aires Protégées d'Afrique Centrale/Protected Areas Network in Central Africa
RC	Republic of the Congo
REDD	Reducing Emissions from Deforestation and Forest Degradation
RENAPAC	Réseau National des Peuples Autochtones du Congo
REPALEAC	Réseau des Peuples Autochtones d'Afrique Centrale
UNCT	United Nations Country Team
UNDP	UN Development Program
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNESCO	UN Educational, Scientific and Cultural organization
VPA	Voluntary Partnership Agreement
WB	World Bank
WHO	World Health Organization
WWF	World Wildlife Fund

1. The indigenous peoples of the Republic of the Congo

1.2. The national context

The Republic of the Congo (hereafter RC), also known as Congo-Brazzaville, lies in Central Africa and covers an area of 341,500 sq. km stretching from the Atlantic Coast and some 1,200 km inland, in a north-eastern direction. The Congo River and its tributary, the Oubangui River, form part of the country's borders with the Democratic Republic of the Congo (DRC) to the east and the Central African Republic to the north. RC also shares borders with Cameroon and Gabon to the west and Angola (the Cabinda enclave), to the southwest.

According to the 2019 revision of the World Population Prospects the total population was 5,244,359.¹ RC is one of Africa's most urbanized countries. More than 70 percent of the population lives in Brazzaville, the capital city, in Pointe Noire on the coast, and along the railroad between these two cities. While 45 percent of the population is Christian, traditional beliefs remain widespread (50 percent). Several Bantu languages are spoken, two of which are recognized as national languages: the Munukutuba (50.3 percent), spoken in the south; and the Lingala (13 percent), spoken in the north and east. French is the official language and the only language used in formal education.

The RC straddles the Equateur and has two main seasons—a dry season in June-September, and a rainy season from October-May—with a short dry spell in January-February. Congo's landscape includes coastal plains, low mountains and plateaus; 65 percent of the country's area is covered by rainforest, but forests are under increasing exploitation pressure.² RC is endowed with numerous rivers with a high hydropower potential and is also rich in natural resources—oil and natural gas, timber, and minerals. Oil and gas also represent an important sector of the economy, with the oil sector accounting for more than half of GDP and more than 80% of the country's exports, making it one of the top 10 producers in Africa.

The RC achieved independence from France in 1960 and is nowadays a presidential republic. After 25 years of experimentation with Marxism, a multiparty political system was adopted in 1992 and a democratically elected government installed. The mid-1990s were marked by political tensions. In 1997, after a brief civil war, former Marxist President Denis Sassou Nguesso (1979-1992) was elected president, winning all the elections since 2002 and, more recently, the March 2021 election.

In terms of the economy, between 2015 and 2020, the real growth rate averaged -5.2% following the decline in oil prices in 2014 and the country's heavy reliance on oil. The COVID-19 pandemic and the attendant oil shocks are bringing unprecedented pressure to bear on the economy. Real GDP contracted by 7.9% in 2020 and is projected to decline by 0.1% in 2021. The country has qualified to receive assistance through the International Monetary Fund Heavily Indebted Poor Countries Initiative.

¹ "World Population prospects – Population division", United Nations Department of Economic and Social Affairs, Population Division, 2019. These are projections as the last census was conducted in 2007.

² The country had a Forest Landscape Integrity Index mean score of 8.89/10, ranking it 12th globally out of 172 countries (2018)

1.2. Terminology

The indigenous peoples of the Congo include the Baka, Mbendjele (also known as Aka), Mikaya, Luma, Gyeli, Twa and Babongo.³ In Lingala, the autochthonous in the north are called Bambenga and those in the south Babongo. All these peoples have formerly been known as “Pygmies”,⁴ a term they find discriminatory and pejorative, preferring instead to be identified generically as “indigenous peoples”.⁵ Although the 2011 Law on Indigenous Peoples does not list and name the specific communities constituting the indigenous peoples of the country, it does state that: “Within the meaning of this law, without prejudice of any anteriority of occupation of the national territory, by indigenous populations we mean the populations which are distinguished from other groups of the population national by their cultural identity, their way of life and their extreme vulnerability.” (article 1)

1.3. Demography and location

Due to the lack of official disaggregated data and census, it is hard to provide the exact demography of the Indigenous populations of the country, but estimates vary between 1,2% to 10% of the overall population. Indigenous communities are present in most of the country’s 12 departments but the biggest concentrations are found in the north and north-eastern part of the country, in Sangha, and Likouala; and in the south, in Lekoumou and Niari. Overall, the main groups indigenous people are mainly concentrated in three departments which contain nearly 76% of the overall indigenous population Likouala, Lékoumou and Sangha).

Indigenous communities speak different dialects related to the Bantu and Ubangi languages spoken by their neighbours.⁶ Yet, despite this linguistic relatedness between them and the farmers, and despite the fact that their economy has been intimately connected with that of other peoples, they have not “merged into farmers' societies, but have maintained their own identities. Thus, cultural identity without linguistic autonomy is the main characteristics of the Pygmy populations”.⁷ The various indigenous communities also acknowledge a certain affinity with each other based on the similarity of their traditional ways of life. Most indigenous live at heart of the forest, but contemporary impact of deforestation, economic development

³ See OCDH: “Les Droits des Peuples Autochtones en République du Congo: Analyse du contexte national et recommandations” (Brazzaville: OCDH & Rainforest UK, 2006). As pointed out by Serge Bahuchet, there is a real problem in the terminology. “Some names found in the literature are classical ones but obviously of colonial origin. Other names are true ethnonyms (e. g. Baka), others are names given by the farmers, others are local dialectal forms. One name may have different spellings and may even have the plural prefix used by Bantu (e. g., Gyeli or BaGyeli).” See Serge Bahuchet “Languages of African Rainforest “Pygmy” Hunter-Gatherers: Language Shifts without Cultural Admixture” (Leipzig 10-12 August 2006), p. 7. Viewed 03.03.2022 at http://hal.archivesouvertes.fr/docs/00/54/82/07/PDF/Bahuchet_2006--Leipzig_Version1.pdf

⁴ The term was originally used by European colonisers, it has been largely used throughout Central Africa but is nowadays usually considered to be demeaning. As noted by Serge Bahuchet (ibid.), “the blanket term Pygmy ... covers artificially a mixture of scattered ethnic groups living in Central Africa ...” and conceals their “huge heterogeneity” when it comes to socioeconomics, linguistics, and relationships with non-foragers neighbours.

⁵ Under the 2011 law, the use of the term pygmy is prohibited. It is assimilated to the offense of insult as provided for and sanctioned by the Penal Code.

⁶ No distinct “Pygmy linguistic family” has been identified although certain similarities in the specialized forest vocabulary used in Aka (Bantu) and Baka (Ubangi) languages indicate a possible remnant from an ancient common language. See See Serge Bahuchet “Languages of African Rainforest “Pygmy” Hunter-Gatherers: Language Shifts without Cultural Admixture” (Leipzig 10-12 August 2006), p. 27ff

⁷ Ibid., p. 2.

and different levels of interaction with other communities mean that the overall situation and location of indigenous peoples vary greatly across the country.

1.4. Different livelihoods

Traditionally, indigenous peoples lived as mobile hunter-gatherers depending entirely on the forest or the savannah and the natural resources therein. But nowadays, only a few groups follow this lifestyle; others have chosen—voluntarily or involuntarily—to become sedentary, settling in fixed hamlets near Bantu villages. Today, a large part of the indigenous populations are increasingly settling around large urban centres such as Brazzaville, Pointe-Noire, Dolisie and the Districts surrounding. These groups represent different stages of overlapping lifestyles, but this does not necessarily mean that some of them have altogether given up going to the forest to forage (wild fruits, tubers, caterpillars, honey) and hunt. Most, if not all, remain closely attached to the forest or the savannah, which they consider as the centre of their spiritual and intellectual life.

1.4.1. The nomadic and semi-nomadic forest dwellers

There is no data available as to the number of people who still live as hunting and gathering nomads, but in the north/northeast (Likouala and Sangha), most of the autochthonous peoples are semi-nomadic and follow to a large extent a traditional lifestyle even if they may spend some parts of the year living in hamlets near Bantu villages. But their entire livelihood, culture and religious practices remain totally linked to the forest and its resources. Traditional access rights to the forest are based on family lineage and social groupings. Areas for gathering and hunting tend to be extensive (between 150,000 and 550,000 hectares) but are usually overlapped by other users for different purposes. The forest dwellers stay in small mobile camps, inhabited by a few families that live in simple huts made of bark, leaves and branches. Camp is moved several times a year. Social organization is based on the clan and a common ancestor. Men are heads of family and engage in hunting, fishing, collecting wild honey, etc. Women manage household resources, gather wild plants and berries, are in charge of erecting their huts and may also engage in simple agricultural activities, weave baskets and mats, etc. Relationships are monogamous. Girls marry when they reach sexual maturity (12-14 years old) and move to reside with or near their husband's parents. Besides a strong social cohesion and the sharing of incoming resources, the traditional autochthonous society has been characterized as essentially egalitarian. At the family level, women participate in important family decisions; at the group level, decisions are taken on a consensus basis but elders are acknowledged and respected for their wisdom as the keepers of the group's knowledge of their environment (sites, plants, animals), their practices (pharmacopeia, hunting, fishing, gathering), their religious beliefs (holy sites, initiation rites, rituals, etc.) and cultural heritage, notably music and dances, for which they are well-known.

1.4.2. Sedentary populations

The process of sedentarization which began during French colonial rule, as well as various post-independence policies as well as the destruction of their traditional living environment are pushing them more and more to settle in villages and settle around major cities. Nowadays, an increasing number of autochthonous lives in permanent settlements on the edge of forests or in the periphery of Bantu villages. However, the degree of sedentarization varies considerably across communities and regions and depends on the possibilities of shorter or longer trips to the forest, and on work opportunities. For most of them, the forest or the savannah continue to cover a fundamental part of their basic material and spiritual needs. In some cases, it also gives them employment (in the logging industry); others, however, depend increasingly on agricultural or other activities (menial jobs, petty trading, etc.).

1.4.3. Interacting with the Bantu

There exists a long-standing tradition of interaction between indigenous communities and their Bantu neighbours. This tradition was originally based not only on mutually beneficial exchanges—metal tools, clothes, etc., being bartered against game, ivory, and forest produce. Seen as gifted with special powers, the autochthonous also held—and still do—an important place in their neighbours' rituals and even participated in them; their knowledge of the forest, their skills as dancers, singers, and musicians, their healing and diviner practices, etc., were and still are both admired and feared. While these relations still subsist in some places, they have in most cases degenerated into a repressive master-slave relationship, as the result of the abusive French colonial system, and, after independence, of the promotion of commercial agriculture (coffee, oil palm, and cacao) where autochthonous labour is used by the Bantu to avoid the hardest chores and attend to other matters.⁸ This has established a relationship of domination and exploitation. Bantu “masters” may control a number of indigenous families; consider them as a “property” that can be inherited; do not pay for their work, or pay them with alcohol or very low wages.

2. Socio-economic profile

2.1. Discrimination & cultural rights

To fully understand the situation of the autochthonous of Congo it is imperative to assess the significant levels of discrimination and prejudice they face in their interactions with the Bantu. This discrimination has, since at least the colonial period, been based on a complex web of stereotypes which have justified their exploitation and allowed that they often live as indentured servants without any rights since they “belong” to their “masters”.⁹ This discrimination has since independence been further enhanced by the official attitude which has tended to perceive the hunter-gatherers' way of life as primitive and unworthy. Despite attempts to fight such discrimination it is still prevalent. As noted by the UN Special rapporteur on Indigenous Peoples during her visit in 2019: “While the wider picture shows a slow but clear shift of mentality in the majority population and a decline in direct discrimination, further progress is needed to eliminate structural discrimination against indigenous peoples and to acknowledge the importance of preserving the indigenous cultural practices, traditional knowledge and semi-nomadic lifestyle that are inherently linked to indigenous peoples' spiritual connection to the forest.”¹⁰

Over the past 40 years, indigenous peoples have increasingly been brought into the cultural world of settled Bantu agriculturalists, although at different speeds and to different extents, depending on the region. This sedentarization process has meant that many communities take up Bantu activities such as agriculture and animal husbandry for which they do not have the required technical skills and which therefore fail to give them a decent income. Their daily diet is no longer as balanced and as rich in proteins as it used to be and culturally, they are increasingly emulating the Bantu by adopting their ways of life, including polygamy. The latter has entailed a whole series of problems related to health in general and to sexual and reproductive health in particular.

⁸ See Bahuchet, Serge & Henri Guillaume (1982) “Aka-Farmer Relations in the Northwest Congo Basin”, in *Politics and History in Band Societies*, edited by Eleanor Leacock & eel .B racRR. Cambridge: Cambridge University Press and Paris: Edition de la Maison des Sciences de l'Homme

⁹ OCDH (Observatoire Congolais des Droits de l'Homme), « Les Peuples Autochtones de la République du Congo: Discrimination et Esclavage, (Brazzaville : OCDH, 2011), p. 25 ff.

¹⁰ UN Doc. A/HRC/45/34/Add.1, para. 33

At the same time, the indigenous peoples are under strong pressure to renounce their cultural characteristics and assimilate. Their knowledge and practices are not valued and they are constantly being told that their culture is poorer and “less developed” than other national cultures. With a few exceptions like the Mbendjele in Sangha who still maintain strong links to their culture, this assimilation of the indigenous peoples by the Bantu has severely eroded their traditional knowledge and know-how of the forest, their hunting skills as well as their cultural values. In the settled indigenous communities, many declare themselves to be Christians and no longer practice traditional rituals. The oral transmission of traditional rites as well as of traditional knowledge no longer takes place systematically and valuable information about, for instance, medicinal plants is going lost.

2.2. Economic hardships and poverty

Despite the economic growth of the past years, more than half of the Congolese live under the poverty line and more than a third suffer from hunger or malnutrition. Many indigenous communities are living under chronic poor living conditions. The draft national action plan for 2020–2023 provides that, by 2023, 60 per cent of indigenous communities should have improved living conditions thanks to income generating activities, including through the distribution of welfare or seed funding for income-generating activities, professional training and the recruitment of indigenous people. However, poverty reduction and income-generating activities had often been premised on assisting and encouraging indigenous peoples to adopt sedentary agropastoral lifestyles that may have been disruptive to them. Compared to the rest of the Congolese population, the economic and social conditions of indigenous populations are very difficult because of their extreme poverty.

The destruction of forests impacts their daily lives. It is when they leave the forest and end up as landless and abused squatters on the edge of Bantu villages, that the autochthonous feel poor and deprived. Here they are faced with ill treatment and discrimination, there are few job opportunities and they often have to work for their Bantu neighbours without any kind of remuneration. Their main economic activity remains therefore linked to the forest (hunting, gathering) and depending on the availability of arable land, to small scale agriculture, their main source of income being selling whatever products they get from these activities. Jobs in the logging concessions or local industries are scarce and here too they are discriminated in terms of recruitment, working conditions, and salaries.

2.3. Health and education

Regarding health, Law No. 5-2011 sets out important guarantees for indigenous peoples’ access to health care, and more particularly Decree No. 2019-202 of 12 July 2019 provides for special measures to facilitate access by indigenous peoples to health care and to protect their pharmacopeia. The Decree requires health facilities to provide health care free of charge to members of impoverished indigenous communities and provides for the protection of indigenous peoples’ traditional medicine.

Ethnically disaggregated health and education statistics are not available but statistics for the departments in where indigenous peoples live show great disparities with the rest of the country and reports show that the situation in indigenous communities is even more disadvantaged. The overall indications are that indigenous peoples struggle to access public health, State-run clinics are often scarce and often ill-equipped especially in rural forest community centres. Indigenous community often suffer from high levels of tuberculosis and malaria, and yaws are common illnesses. It is also estimated that indigenous peoples’

rate of access to health care is 2 to 3 times inferior to that of other groups.¹¹ One approach to address these issues is via the development of localised health centres, notably in the region of Sibiti. With support from the WHO, these health centres have been able to provide more localised and relevant health access, and the centres in Komono and Mayéyé integrate a relationship manager with indigenous peoples.¹²

Indigenous communities are also disfavoured in terms of access not only to safe drinkable water and sanitation but also to vital information on important health activities like immunization campaigns, free malaria treatment for children aged 0 to 15 or HIV/AIDS. Various reports also point out that the indigenous peoples are furthermore subject to so-called Neglected Tropical Diseases as yaws and leprosy, which is seen as a sign of the marginalization and the neglect autochthonous people suffer from. The health situation of autochthonous tends to further deteriorate when they become sedentary due to nutritional changes, the prevalence of malaria and the risk of HIV/AIDS. Indigenous peoples show higher maternal and child mortality, with UNFPA reports that 99.8 per cent of indigenous women give birth at home or in the forest and that 65 per cent of them give birth without any prenatal consultation.¹³ Moreover, in addition to the prohibitive cost of medical consultations and the scarcity of health-care centres, indigenous peoples complained about stigmatization and discrimination in health-care facilities administered by Bantus.¹⁴

In terms of education, Article 19 of Law No. 5-2011 requires the State to develop and implement education programmes and appropriate structures that correspond to the needs and way of life of indigenous peoples. Education is to be free and mandatory for all children aged 6 to 16 years. The decree implementing Law No. 5-2011 with regard to education provides for special measures to be applied to indigenous children, including their automatic eligibility for scholarship to higher education, the annual distribution of school kits and uniforms and the opening of school restaurants for indigenous children.

In general, the national rate of access to primary schools has improved noticeably, an important factor being the policy of free education (elimination of school fees and provision of textbooks to state schools) initiated since 2007. However, there are great disparities between urban and rural areas, with estimation that 65 per cent of indigenous children between the ages of 12 and 15 years were not in school, compared to 39 per cent in the national population as a whole.¹⁵ The situation in the indigenous communities is characterized by a high rate of illiteracy (estimated to be 98 percent), low school enrolment and retention rates. Several types of factors are at play: schools are located far away, parents cannot meet school costs, the curriculum and school calendar are not adapted to the children's educational needs and semi-nomadic lifestyle, instruction is not given in their language, the teaching staff do not value their culture and lifestyle but reproduce negative Bantu stereotypes.

Since the early 2000s, the introduction of preparatory schools based on the ORA (*Observer, Réfléchir et Agir*) educational system seems to have had a certain success in Likouala and Sangha, with a growing number of children, including girls, enrolled. ORA schools use a non-formal teaching method based on the ways of life of indigenous peoples. Both indigenous languages and French are used in the three-year integration phase, which prepares indigenous students for integration into mainstream schools. While the "observe, reflect and act" system has led to an increase in the number of indigenous children attending

¹¹ UNICEF, "Projet descriptif de programme de pays 2014-2018" (2013), p. 3.

¹² WHO in the Republic of Congo, Annual Report of 2020.

¹³ As reported in UN Doc. A/HRC/45/34/Add.1, para. 40

¹⁴ Ibid, para. 40

¹⁵ UN Doc. A/HRC/45/34/Add.1, para. 49

school, indigenous adolescents still represent only 0.05 per cent of the junior high school population and 0.008 per cent of all high school students, with indigenous girls remaining particularly excluded from education.¹⁶

2.4. Rights and access to land and resources

Hunter-gatherers depend on the availability of large tracts of land—forest and woodlands— where their freedom of movement and their access to the natural resources, on which their material and spiritual sustenance rely, are not obstructed. Secure rights to land/forest and natural resources were therefore identified as the most important challenge by the majority of indigenous people consulted during the process leading up to the elaboration of the 2011 Law on the protection and promotion of indigenous populations. Law No. 5-2011 recognizes that indigenous peoples, collectively and individually, have a right to own, possess, access and use the lands and natural resources that they have traditionally used or occupied for their subsistence, pharmacopeia and work (art. 31). It requires the State to facilitate delimitation of those lands on the basis of indigenous customary rights and to ensure legal recognition of titles in accordance with customary rights, even in cases where indigenous peoples did not previously possess any formal title (art. 32). Despite these norms, indigenous communities still suffer from serious issues with having rights and access to their traditional territories.

Since independence, the indigenous peoples have suffered a process of gradual land dispossession as the result of the proliferation of nature conservation initiatives, logging concessions, deforestation, oil fields, commercial plantations and infrastructural developments. Restrictions on indigenous peoples' access to their traditional territories have worsened in recent years, as the commercial exploitation of the forests has increased and as the rich biodiversity of the country's remaining areas has continued to attract conservation projects. Due to conservation projects, indigenous peoples often lose access to their ancestral territories without having neither been consulted nor are they generally informed about decisions and regulations (like hunting prohibition) that affect them. Those living near conservation areas are often abused and ill-treated by state- or eco-guards.¹⁷

As for sedentary autochthonous communities, their access to agricultural land is generally controlled by the Bantu or depends on the good will of the Bantu or the local chief. Most indigenous peoples forced out of the forest and living in the outskirts of Bantu villages, however they live at the depend of neighbouring Bantu community and could face forced eviction at any time.

2.5. The situation of indigenous women and children

2.5.1 Indigenous Women

Apart from the discrimination and ill treatment suffered by autochthonous in general, autochthonous women suffer discrimination both as indigenous and as a woman. Indigenous women and girls continue to lack access to reproductive health care, and to be subjected to gender-based violence including rape, and early marriages, high rates of maternal and infant mortality and food insecurity

¹⁶ UNICEF, *Analyse de la Situation des Enfants et des Adolescents en République du Congo*, (September 2019) p. 124

¹⁷ See Survival International, *How Will We Survive? The Destruction of Congo Basin Tribes in the Name of Conservation* (2017), p. 95. See also John Vidal, "Armed ecoguards funded by WWF 'beat up Congo tribespeople'", *The Guardian* (7 February 2020).

Rape is a constant threat; it is seldom reported and usually remains in impunity. While a marriage between an indigenous man and a Bantu woman is inconceivable and considered a sacrilege, the opposite, i.e., the marriage between a Bantu and an autochthonous woman, happens more frequently. Such marriages do not require the payment of a bride price or only a very modest sum (5,000) compared with the 50,000 FCFA that the family law stipulates. It also often happens that the woman is simply “on loan”, i.e., she is returned to her family once she has produced some children. When going to the market, autochthonous women are often jeered at and chased away. They are often not allowed to use the same water posts as the Bantu and food prepared by them is considered “unclean”. Within their own community, it is not unusual to see girls as young as 10 years old getting married to older men (50 yrs. old) and having early pregnancies.¹⁸ When sedentary, the women often suffer from the influence that the Bantu’s unequal gender relationships has on their men’s behaviour. They may be discriminated, and, for instance, no longer be allowed to speak on topics that are relevant for them; they have to accept polygamy, and domestic violence becomes more common.

2.5.2. Indigenous Children

Indigenous children are also a vulnerable group. They often experience problems accessing social services because their parents did not register their births. They may be engaged in the worst forms of child labour, particularly in dangerous activities in agriculture and domestic service. Baka children have been reported to be exploited as cheap labour, sometimes cutting grass at school while children of other ethnic groups attend class. Malnutrition affected indigenous children: 40 per cent of indigenous children under 5 years of age suffered from chronic malnutrition, compared with 26 per cent for the whole population.¹⁹

2.6. Access to Justice & Public Participation

Access to justice is often challenging for indigenous communities living in far remote rural areas. There is often a lack of judicial infrastructure in the rural areas and justice is therefore dealt with by the police acting as legal auxiliaries. But police posts are few and far away, and the prospect of having to pay not only legal fees but also bribes to the policemen, deters most individuals from complaining. Many contentious issues are therefore often brought before the local Bantu chief and settled by him. One of the main issues concerns, indigenous women who have been raped by Bantu men or abandoned after giving birth to children by Bantu men. Indigenous communities have reported that the authorities tend to ignore their complaints, leaving the communities to seek to resolve violations of their rights by themselves.²⁰

In terms of public participation, whilst indigenous communities are largely egalitarian, they recognize a moral authority that is often consulted at times of conflict. This authority is the family patriarch, who will typically possess a deep knowledge of customary and ritual practices, or otherwise a person chosen for his wisdom and advanced age. But this position is usually not recognized outside the indigenous community. The major local authority in Congolese villages is the mayor, officially called the PRECO (President of the Village Committee) who is appointed by the *sous-préfet* (the government’s representative at departmental level). The PRECO has an important decision-making role at the village level—especially when the village is in a remote area far from other representatives of the state—which includes resolving conflicts, organizing village events or works, and distributing funds received by the village. However, villages only inhabited by indigenous are not recognized as such by the departmental authorities but depend upon the nearest Bantu

¹⁸ OCDH, op. cit. (2006), p. 40 ff.

¹⁹ Congo, Ministry of Forest Economics, Cadre de Planification en Faveur des Peuples Autochtones : Rapport Final (November 2018), p. 24

²⁰ UN Doc. A/HRC/45/34/Add.1 (2019), para. 85. .

neighborhoods, whose PRECOs are almost without exception Bantu. It is customary that the PRECO designates an autochthonous “chief” that sits in the village committee, but this “chief” has virtually no decision making power and he is generally being marginalized in the committee. At the same time, he has no credibility or legitimacy in the eyes of his own community. Many indigenous communities living in remote areas are not familiar with the concept of voting and there are no indigenous peoples elected to public office at regional or national level. Very few state officials are indigenous.

One other issue is the lack of registration, only 32.1 per cent of indigenous peoples have civil documents compared to 93.3 per cent of the general population.²¹

3. Relevant Laws and Institutions

The Government of the Congo has established a solid legislative and institutional framework for the protection of indigenous peoples’ rights with the adoption of Law No. 5-2011, on the promotion and protection of the rights of indigenous peoples sets out a sound legal foundation for indigenous peoples to claim their rights, protect their culture and livelihood, gain access to basic social services and protect their civil and political rights.

In 2015, the need to promote and protect indigenous peoples’ rights was given constitutional recognition in article 16 of the new Constitution.

Other relevant laws of the country are:

- the Law on Wildlife and Protected Areas (28 November 2008)
- the Law governing the Forest Code (20 November 2000)²²
- the Law on Environmental Protection (23 April 1991)
- the Law setting out the general principles applicable to private and state-owned land regimes (26 March 2004)
- the Law establishing the agricultural land regime (22 September 2008)

Moreover, in 2019, six decrees were adopted to implement Law No. 5-2011 by providing special measures to facilitate civil registration and access to basic social services and education. The decrees also provided guidance on holding consultations with a view to obtaining the free, prior and informed consent of indigenous peoples in the context of socioeconomic projects and development programmes and to protecting indigenous cultural, intellectual, spiritual and religious property and knowledge.²³ They established an interministerial committee to guide the Government’s actions for indigenous peoples, in particular its implementation of national action plans to improve the quality of life of indigenous peoples.

By Decree No. 2017-260 of 25 July 2017, the lead role for the promotion of the rights of indigenous peoples was transferred from the Ministry of Social Affairs and Humanitarian Action to the Ministry of Justice,

²¹ Congo, Ministry of Forest Economics, Cadre de Planification en Faveur des Peuples Autochtones : Rapport Final (November 2018), p. 21.

²² A new forest code, which has been in the drafting process since 2012, is meant to set out the rights of local communities and indigenous peoples to forest management.

²³ Decree No. 2019-201 of 12 July 2019, prescribing the process for consultation and participation of indigenous peoples in decisions regarding social and economic development programmes, provides some foundation for respecting indigenous peoples’ right to free, prior and informed consent

Human Rights and the Promotion of Indigenous Peoples, which has, since then, had a dedicated directorate-general for the promotion of indigenous populations.

Since 2009, the Government has designed and implemented two consecutive national action plans to improve the well-being of indigenous peoples in the Congo, one for 2009–2013 and one for 2014–2017. A third plan, for 2020–2023, has been at the drafting stage for several years. The draft plan covers areas such as participation, civil registration, access to health-care and education services, water and employment, the promotion of indigenous culture and the mapping of indigenous peoples' locations.

4. Climate Change policies

Historical climate data show that, on average, temperatures have increased and rainfall has decreased in the Republic of the Congo in the second half of the twentieth century. Being highly dependent on natural resources for their livelihoods, autochthonous peoples are also highly vulnerable to climatic changes. Indigenous communities are directly affected by these changes which impact on their lives in terms of health (water pollution, malaria-carrying mosquitoes) and nutrition (the gathering of wild meat, fish and wild plants has declined severely, etc.).²⁴

In October 2012, RC signed an agreement for the establishment of a UN-REDD National Program, and in 2016 the Government adopted of a national strategy for the implementation of the REDD-plus mechanism that was later supplemented by a planning framework to support indigenous peoples affected. As part of it the Ministry of Forest Economics identified the most pressing social issues affecting indigenous peoples: difficult access to education, health, water and sanitation, as well as the economic and cultural subjection of indigenous peoples to Bantu populations. It also recognized the importance of allocating lands for indigenous peoples. In the planning framework, published in November 2018, the Government proposes creating a fund to compensate for the loss of crops destroyed by wildlife, developing a plan to safeguard indigenous sacred sites and cultural heritage, establishing a mechanism to seek the free, prior and informed consent of indigenous peoples and identifying a process for land demarcation and the distribution of land titles.²⁵

5. International and regional human rights treaties and instruments

The Republic of the Congo has signed and ratified a wide range of international and regional human rights instruments including a number of international environmental conventions. In 2007, RC voted for the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). RC has not ratified ILO Convention No.169 on Indigenous and Tribal Peoples in Independent Countries. The UN Special Rapporteur on the rights of indigenous peoples visited the country in 2010 and 2019.

²⁴ Rainforest UK, "Adaptation des Peuples Autochtones aux Changements Climatiques en République du Congo" (Rainforest UK: 2013), p. 15.

²⁵ Cadre de Planification en faveur des Peuples Autochtones (CPPA) - available at : See <http://documentos.bancomundial.org/curated/es/256731559039112296/pdf/Cadre-de-Planification-en-Faveur-des-Peuples-Autochtones.pdf> (in French)

5.1. International human rights treaties

RC is party to several of the main international human rights treaties that are relevant to indigenous peoples' rights, including:

- The Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- The International Covenant on Civil and Political Rights (CCPR)
- The International Covenant on Economic, Social and Cultural Rights (CESCR)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- The Convention on the Rights of the Child (CRC)
- The Convention on the Rights of Persons with Disabilities (CRPD)

RC has ratified several universal human rights instruments related to armed conflicts, a number of UN conventions and several UNESCO conventions of importance to indigenous peoples. RC is a member of the International Labor Organization (ILO) and has ratified 22 of its conventions, including C29 and C105 (on forced labor), C100 and C111 (on discrimination within employment and occupation), and C138 and C182 (on child labor), which are specifically relevant for Congolese indigenous peoples. RC is also Party to the main international conventions and agreements related to environment, bio-diversity and climate change as well as intellectual property rights. These include the World Bank's Forest Carbon Partnership Facility (FCPF) and the United Nations collaborative Program on Reducing Emissions from Deforestation and Forest Degradation in developing countries (UN-REDD+). The country has voluntarily joined the FLEGT (Forest Law Enforcement, Governance and Trade) to control wood poaching and trade related thereof.

5.2. Regional human rights instruments

RC is member of the African Union and has ratified or signed the following regional human rights instruments:

- The Constitutive Act of the African Union
- The African Charter on Human and Peoples' Rights (ACHPR)
- The African Charter on Rights and Welfare of the Child
- The Protocol to the ACHPR on the Rights of Women in Africa (signed)
- The Protocol to the ACHPR on the Establishment of an African Court on Human and Peoples' Rights (signed)

5.3. Other relevant regional instruments

RC has ratified several African conventions and is member of several regional institutions, including the Economic Community for Central African States (CEEAC), the Central African Economic and Monetary Community (CEMAC), the Economic and Statistic Observatory for subSaharan Africa (AFRISTAT) Brazzaville hosts the headquarters of the Central African Regional Development Bank (BDEAC) and the Central African Power Pool (CAPP). RC is member of the Central African Forest Commission (COMIFAC) and a signatory of the Convergence Plan for improved management and conservation of forests in Central Africa (February 2006), as well as to a number of forest-related regional organizations.

6. National and grass-roots organizations

In 2007, the **National Network of Indigenous Peoples of the Congo (RENAPAC)** was established as a platform to represent indigenous civil society. It is a network of more than 20 Congolese civil society organizations working on various relevant issues such as human rights promotion, indigenous rights, biodiversity protection and local development.²⁶ Along with other civil society organizations RENAPAC is member of the Cadre de Concertation des Organisations de la Société Civile Congolaise et des Peuples Autochtones sur la REDD+/Consultation Framework for Congolese Civil Society and Indigenous Peoples Organizations on REDD+ (CACO-REDD) established in 2010.

L'Observatoire Congolais des Droits de l'Homme/The Congolese Observatory of Human Rights (OCDH) was founded by a core group of journalists, lawyers and other activists in 1994 in response to the human rights abuses during the civil war. It has a broad human rights focus and has in collaboration with the UK branch of the Rainforest Foundation strongly advocated for the elaboration of the 2011 Law, among others through a number of surveys and documents on the situation of indigenous peoples.

L'Association des Droits de l'Homme et de l'Univers Carcéral/The Association for Human Rights and Persons in Prison (ADHUC) was established in 1995. It works on the promotion and protection of human rights in general including on the rights of indigenous peoples. ADHUC focuses on human rights education and carries out seminars, conferences, training, etc., and ADHUC is member of a number of national and international human rights networks. ADHUC has worked with indigenous peoples since 2002 and was an active participant in the dialogue with the government of Congo around the development of the law on the rights of indigenous peoples. ADHUC has its head office in Brazzaville and smaller field offices in all the provinces.

7. International organizations

7.1 UN agencies

Currently, the United Nations System in Congo is made up of 20 resident and non-resident agencies, funds, programmes and entities, including the following agencies and offices: FAO (UN Food and Agriculture Organization), IFAD (International Fund for Agricultural Development), ILO (International Labor Organization), UNDP (UN Development Programme), UNFPA (UN Population Fund), UNHCR (UN High Commissioner for Refugees), UNIC (UN Information Centre) UNICEF (UN Children's Fund), WFP (World Food Programme), WHO (World Health Organization).

The UN country team has in collaboration with the Congolese government elaborated a Framework Plan (2018-2022) aligned with the National Development Plan (NDP) to support the Republic of the Congo achieve better economic management, create an environment conducive to economic diversification, strengthen its human capital and provide basic social services, particularly in the areas of health, education and social protection to achieve the SDGs.²⁷

7.2. International financial institutions

In December 2019, the World Bank Group adopted its new Country Partnership Framework with Congo for the 2020-2024 period. This strategy, which is aligned with the government's objectives, is aimed at helping

²⁶ Website at <http://www.renapac.ifaway.net/>

²⁷ Available at: [UNCT CONGO-BRAZZAVILLE 2020 annual report double spread \(1\).pdf](#)

the country improve economic management, create a business environment conducive to economic diversification, strengthen its human capital, and improve the delivery of basic public services, in particular health, education, and social protection services. As of June 30, 2021, the World Bank is financing 14 national projects and one regional project amounting to \$562 million. In terms of the new 2020-2024 Country Partnership Framework, the World Bank Group will establish various financing mechanisms as well as closer collaboration between the World Bank, the International Finance Corporation (IFC), and the Multilateral Investment Guarantee Agency (MIGA), and will promote public-private partnerships.

Of special relevance to indigenous peoples, in 2019, the World Bank approved additional funding for the Lisungi project, a project that provides cash payments to households, particularly Indigenous families, to help them access health and education services. This project extension will enable direct cash payments to be made to refugees and local households on the condition that they send any children under the age of 14 to school and have their health monitored

7.3. Bilateral international and regional development agencies

Congo's main bilateral partners include the European Union (EU)—national infrastructure; governance, health, trade, justice and private sector development; the French Development Agency (AFD)—river infrastructure, health, vocational training environment and bank sector; and China (infrastructure, agriculture, health and education). In 2022, a forum of Congo's development partners has been set up with the participation of the African Development Bank and the European Union.

8. IFAD projects and operations in the Republic of the Congo

IFAD's engagement in the Republic of the Congo was initiated in the 1980s but interrupted in 1995 due to the Civil war. It was resumed in 2002, and since then IFAD loans support efforts to improve income and food security for poor rural people.

IFAD projects:

https://www.ifad.org/en/web/operations/w/country/republic-of-congo#anchor-projects_and_programmes

IPAF projects:

https://www.ifad.org/documents/38711624/41839851/ipaf_africa_e.pdf/73fe84da-7916-b06b-6f38-01484a056426

Relevant sources and Websites

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Office High Commissioner for Human Rights – Republic of the Congo: [OHCHR | Congo Homepage](#)

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