

Republic of the Congo

The Congo's Nouabalé-Ndoki National Park: How Indigenous Lands Became an Emblem of Rooseveltian "Wilderness Conservation" in Africa

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Acronyms

ACFAP	Agence Congolaise de la Faune et des Aires Protégées [Congolese Wildlife and Protected Areas Agency]
CIB	Congolaise Industrielle des Bois
GEF	Global Environment Facility
GoC	Government of the Congo
GTZ	Gesellschaft für Internationale Zusammenarbeit GmbH [German Technical Cooperation Agency]
IUCN	International Union for Conservation of Nature
NNNP	Nouabalé-Ndoki National Park
OCDH	Observatoire Congolais des Droits de l'Homme [Congolese Human Rights Observatory]
UNESCO	United Nations Educational, Scientific and Cultural Organization
USAID	United States Agency for International Development
WCS	Wildlife Conservation Society

Introduction

The Nouabalé-Ndoki National Park (NNNP), in the north of the Republic of the Congo (Congo), is one of the most renowned protected areas in Africa. Heralded as a model for other protected areas, it is the site of much pioneering research into the ecology and behavior of “charismatic” animals such as the African forest elephant and the western gorilla. The park has achieved global prominence: members of the US Congress have visited it; it often features in international media; and it has attracted considerable funding from development agencies and high-profile conservation organizations. The park has come under scrutiny, however, for its impacts on, and relationship with, the area’s original inhabitants, particularly the Ba’aka Pygmies (see Box 1). The management of the NNNP, including its buffer zone, exemplifies the challenges and trade-offs that arise when nature conservation and extractive industries in Africa vie for lands occupied by Indigenous Peoples and local communities.

Box 1: Bantus and Pygmies

As in many other parts of the Congo Basin, the Bantu ethnic farming people (Bongili, Bomassa and Bomitaba) and the primarily hunter-gatherer indigenous Pygmies (Ba’aka and Ba’Mbendjele) have long occupied the area in which the NNNP is located.

Co-existing in a dynamic tension, both peoples can claim a long and close relationship with the land and a precisely defined cultural identity. Many of the problems caused by the NNNP apply to all “local and traditional peoples” (the term generally used by the major funding agencies that have supported the NNNP), but this case study considers those problems experienced primarily by the Pygmies, who self-identify as Indigenous Peoples (“*peuples autochtones*”).

Brief history of the NNNP

The area in which the NNNP is located was first gazetted as a reserve in 1991 as an outcome of collaboration between the Wildlife Conservation Society (WCS) and the Government of the Congo (GoC). In 1993, the reserve was declared a national park “to conserve, in its natural state, one of the last examples of an untouched wilderness in the world.”¹ WCS remains involved in the park in the role of “managing institution,” with a permanent management and research settlement at Bomassa, just outside the park. Following an extension in 2001, the park now covers 423,870 hectares, and is recognized as an IUCN Category II reserve.²

The NNNP consists of unlogged high rainforest, with numerous natural clearings, or *bais*. It is an important habitat for forest elephants, western gorillas, chimpanzees, and bongos. The park was originally one of a number of logging concessions delineated in the 1970s and early 1980s, which together cover the entire north of the country. It is thus now abutted on three sides by active logging operations, mostly pertaining to the logging company Congolaise Industrielle des Bois (CIB), which has been owned since 2011 by Olam, a Singapore-based commodities producer and trader.³ In 1999, a formal partnership was established between WCS, CIB, and the Congo’s Ministry of Forest Economy, with the key aim of promoting the management of CIB’s concessions as a buffer zone of the NNNP.⁴ Typically for protected areas in the Congo Basin, these adjoining concessions play a very significant role in the wildlife-human dynamics of the park itself, particularly in terms of increasing human pressure and local demand for protein in the form of bushmeat.⁵ The relationship between WCS and CIB has been particularly controversial,⁶ highlighting the imbalance of power between the conservation bodies and the economic actors on whom the conservation bodies nevertheless rely on for effectiveness. Indigenous communities are squeezed between the two blocs and often suffer at the hands of both.

A formal public-private partnership was established in 2013 in the form of the Nouabalé-Ndoki Foundation, which brings together WCS, the GoC, and others, and delegates management authority to WCS.^{7,8} The park remains under the jurisdiction of the Congolese Wildlife and Protected Areas Agency (*Agence Congolaise de la Faune et des Aires Protégées—ACFAP*), however.

The financing of the NNNP

Funding for the creation and management of the NNNP and its buffer zone has come from a variety of international sources. Detailed information about some of these is not readily available, and the amount of funding derived from general national and regional projects run by WCS is also unclear. Table 1 sets out some of the key known financial sources.

Table 1: Key known major donor grants for the management of the NNNP and its buffer zone⁹

Donor	Amount	Project name	Years
USAID	US\$3,300,000	Forest Conservation in the Republic of Congo	1991–1997
GTZ	EUR 2,836,000	Nature Conservation in Nouabalé-Ndoki National Park (PROECO)	1992–2000
GEF/World Bank	US\$3,332,000	Congo Wildlands Protection	1993–1998
International Tropical Timber Organization (governments of France, Japan, Switzerland, and USA), CIB, GoC, WCS	US\$4,610,707	Biodiversity Management and Conservation in a Forest Concession Adjacent to a Totally Protected area, Northern Congo (two phases)	2000–2011
United States Fish and Wildlife Service	US\$181,379	Various wildlife research projects	1998–unknown
EU-UNESCO	Proportion of funding from regional programme unknown	Central Africa World Heritage Forest Initiative	2007–present
USAID	Proportion of funding from regional program unknown	Central African Regional Programme for the Environment–Sangha Trinational Forest Landscape component	2013–2018
World Bank/GEF	Proportion of US\$6,500,000 funding for two-park program unknown	Strengthening the Management of Wildlife and Improving Livelihoods in Northern Republic of Congo ¹⁰	2017–unknown

Until the mid-2000s, the annual budget of the NNNP appears to have been roughly US\$1 million, although it is now reportedly around US\$3 million.¹¹ According to a 2011 assessment, external sources account for approximately 90 percent of the amount.¹² WCS

reports that the public-private partnership arrangement has allowed “a significant increase in the park’s ranger force and their efficacy at protecting the area’s wildlife.”¹³

The park and the people

No reliable human census data or demographic studies are available for the area (although there is a great deal of detailed census information for several non-human species). The average population density for the region as a whole has historically been around 1-2 persons per square kilometer.¹⁴ Thus, the area now encompassed by the NNNP may have formerly been inhabited or used by some 4,000 people and possibly more. WCS has disputed this figure, claiming that surveys in the earlier 1990s showed the area to be uninhabited, although the literature sources cited by WCS to support the claim do not state this.¹⁵ According to the original grant agreement between WCS and the United States Agency for International Development (USAID), “There is currently no permanent human habitation in the proposed reserve area and very limited transient use of the area by humans.”¹⁶ It appears that a sociological survey proposed at the time was never undertaken. In 1993, in the project document under which it was to provide financial support for the NNNP, the Global Environment Facility (GEF) further discounted the possible use of the area for temporary hunting and gathering activities and for camps typical of Pygmy usage, claiming that: “There are no *permanent* human settlements in the area” (emphasis added).¹⁷

The NNNP was established explicitly as a “wilderness” area, modeled on US national parks. In testimony to the US Congress in 2003, Michael Fay— who initiated and led WCS’s work in northern Congo, and was lionized in various National Geographic outputs¹⁸—said:

*“I believe that Teddy Roosevelt had it right [creating strictly protected areas]. In 1907 ... the US was at the stage in its development not dissimilar to the Congo Basin today ... My work in the Congo Basin has been basically to try to bring this US model to Africa ... The model starts with the identification of large landscapes where land-use management systems can be put in place before the arrival of industrial resource use and human expansion.”*¹⁹

Fay made these comments even though there had been considerable “industrial resource use” on the periphery of what was to become the NNNP, well before its establishment. By the mid-to-late 1990s, however, the park appears to have been totally depopulated. One study estimated that this had involved the expulsion and expropriation of 3,000 people,²⁰ principally by forcibly preventing them from entering or remaining in the area. At that time, there was no law requiring compensatory payments—or strategies to secure alternative livelihoods—and no such payments were made.

Other than expulsion from the park area, the most significant impact of the NNNP on Pygmies has been the suppression of hunting, especially in the buffer zone. As in many other protected

areas in the Congo Basin, some or all of the elements of the NNNP management regime extend into the buffer zone, even though its legal status and boundaries are highly unclear. This, and a general lack of awareness of their (limited) rights, means that Pygmies must undertake hunting with only “informal permission”; as a result, they are liable to abuse, manipulation, and extortion by enforcement authorities—especially because the majority of the park’s “eco-guards” are of the dominant Bantu ethnicity.²¹ Efforts to substitute bushmeat with either imported frozen meat or the rearing of animals and fish in buffer-zone communities have been particularly inappropriate for Pygmies, who have, on the one hand, strong cultural taboos against the consumption of domesticated animals²² and, on the other, insufficient income with which to purchase meat.

A 1993 GEF document stated that, because of the GoC’s “suppression of communal land law,” the project would have to “reformatize and reinstate the power of local tenure and usufruct rights.”²³ What appears to have happened in the intervening two decades is that, rather, those Pygmies who were physically or economically displaced from the NNNP have gravitated towards Pokola and other logging towns, and to Makao. There, they mostly eke out their existence as day-laborers for Bantu farmers or by providing hunting expertise to satisfy the growing commercial demand for bushmeat among the towns’ burgeoning populations.

Options for, and attempts at, redress

Until recently, the prospects for redress in the case of the NNNP have been slim, with the limited legal measures theoretically available beyond the capacity of local organizations. The acephalous nature of Pygmy communities means that individuals willing to act as representatives or spokespeople are extremely rare and culturally highly constrained. As the (apparently unrecorded) act of dispossession of people from the NNNP has receded beyond the memory of most living people, and as the human-wildlife dynamic has become dominated by the expansion of nearby logging and the populations dependent on it, the prospects for redress have become increasingly remote.

Some practical measures have been attempted in the buffer zone. These include the participatory mapping of forest resources important to Pygmy communities and the exclusion of these from CIB forest management activities, and the establishment of a Pygmy community radio service.²⁴ WCS employees have apparently made some efforts (possibly in their personal capacities rather than as part of the formal program) to assist Pygmies in obtaining birth certificates and thus national identity papers and to improve the housing available to them.²⁵ But these measures have not addressed the fundamental problems of the exclusion of Pygmies from the core protected area and the limitations placed on their economic activities in the buffer zone.

The GoC has ratified the International Covenant on Civil and Political Rights, which stipulates that: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language” (Article 27).²⁶ It could be argued that the forcible suppression of Pygmies’ hunting activities by conservation authorities in the Congo is in breach of the nation’s responsibilities under this covenant—but this has not been tested.

Several pieces of law could potentially be applied to seek redress for the NNNP’s former inhabitants. The Congo’s Law 5/2011 on the promotion and protection of the rights of indigenous populations offers hope because it recognizes the collective and individual rights of Indigenous Peoples to their traditionally owned lands and resources.²⁷ The law remains unenforced, however, and is possibly unenforceable because the necessary legal mechanisms (decrees) to apply it are yet to be put in place. The Congo’s Law 37/2008 on wildlife and protected areas acknowledges the principle of usage rights in protected areas, but these are not defined clearly.²⁸ Under Article 10 of that law, the establishment act of each protected area can define permitted traditional usage rights. Law 37/2008 also mentions the need for spaces to allow communities to carry out socio-economic activities and provides for participation by communities in the management of protected areas—notably through the design, delivery, and implementation of management plans. A 2013 decree setting out the mandate of the ACFAP includes a responsibility “to contribute to sustainable development and well-being of populations living in and at the periphery of protected areas.”²⁹ These laws are yet to be tested in the case of the NNNP; the capacity and resources of civil society organizations that could bring such cases is limited, and the Congolese legal system might prove slow and difficult for them to navigate.

Stronger redress might be available through the laws and standards pertaining to donors that have funded the NNNP in the past or are still funding it. For example, Section 119 of the US Foreign Assistance Act, 1961, which concerns USAID funding of activities related to the “preservation of biological diversity,” states the following: “Local Involvement. To the fullest extent possible, projects supported under this section shall include close consultation with and involvement of local people at all stages of design and implementation.”³⁰

If the reports of expulsion of Pygmies are accurate, it is difficult to see how the Nouabale-Ndoki project, which USAID funded directly in at least 1991–1997 and 2013–present, could have complied with the letter or spirit of this law.³¹ Also unclear is the extent to which the recently funded World Bank/GEF project (see Table 1) has fully complied with the Bank’s safeguard policies concerning Indigenous Peoples.

The legal requirements for the engagement of local people in protected-area management plans in the Congo could be fulfilled without costly and difficult appeal to the law. The NNNP appears to lack a current management plan (contrary to the law), although one is reportedly in

preparation. Thus, international donors could insist that any new plan is community-friendly and involves the strong participation of indigenous communities and local people.

An alternative approach in northern Congo?

In many senses, the NNNP has been an exemplar of typical interplays in the Congo Basin between international conservationists, economic interests, and the national government in which all local communities, including Indigenous Peoples, have been totally disempowered and dispossessed. In the case of the NNNP, the interplay and intermingling of interests has created a new “status quo,” the changing of which will require radical approaches.

Although there could be scope to redress past wrongs—in the sense that relevant agencies have not properly fulfilled their responsibilities to local communities—through some of the legal avenues set out above, full redress in terms of the restitution of lands and traditional usage rights, or meaningful compensation, seems a distant prospect. The NNNP is adjoined on most of its boundaries by logging concessions, which have attracted thousands of people to boom towns that are now growing endogenously. The increasingly degraded concessions that notionally comprise the park’s buffer zone seem destined to become exhausted of commercial timber and progressively converted to agriculture.³² Whatever customary tenure and forest usage rights existed in the area before, say, 1980 are unrecorded and are probably becoming progressively less clear among local elders with each passing year. Both the Ba’aka Pygmies and the Bantus are increasingly likely to become wage-laborers in farms, plantations, and timber-processing plants in the degraded buffer zone, and the protection of the NNNP and its fauna will become a more difficult—if not impossible—task requiring increasingly intense patrolling by heavily armed guards.

Thus, the future of the NNNP and its relationship to its former inhabitants is bound up inextricably with the operations of the neighboring logging companies—simultaneously making a strict “guns and guards” protection of the NNNP the only plausible option for preventing wildlife hunting (if that is the objective) and probably dooming it to fail. The NNNP could have a different future if a radically changed regime were to be applied in the buffer zone, such as the dismantling of the adjoining logging concessions and their conversion to, say, community forests. This would require that adequate records of the former customary tenure could be re-established, upon which community control could be built. Significant areas, such as around the logging town of Pokola, would probably need to be allocated as permanent farmland. Elsewhere, forest restoration would have to be undertaken on a major scale, with the closing of logging roads and the repair of wider damage.

Moreover, innovative arrangements would be needed to permit controlled hunting and other usage rights by the Ba’aka Pygmies throughout the buffer zone. If such measures were to prove successful in halting and reversing degradation in the buffer zone, perhaps the

approach could be extended to the park itself. In the meantime, probably the most viable measure is the restoration of some Ba'aka use in the NNNP through the revision of its management plan.

¹ WCS (2004), cited in Counsell, S. 2004. Conservation Funding: Helping or hurting indigenous peoples? Case study on Nouabalé-Ndoki National Park. Unpublished.

² Government of the Congo. 2012. 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.

³ Olam. 2011. Olam International's subsidiary in Congo (Brazzaville) becomes manager of the largest contiguous, FSC certified, natural tropical rain forest worldwide. Press release, 24 February.
<http://c.yimcdn.com/sites/www.iwpawood.org/resource/resmgr/imported/Press-Olam-FSCcert.pdf>

⁴ Forests Monitor. 2001. Sold Down the River. Ely, England.

⁵ World Bank. 2002. CEO Initiative and Sustainable Management of Production Forests: A preliminary assessment of CIB – Pokola (Congo Brazzaville). Washington, DC.

⁶ See, for example, Labrousse, Arnaud. 2006. Mal de l'air au Congo Brazzaville. Available at: www.congopage.com/Mal-de-l-air-au-Congo-Brazzaville

⁷ United States Agency for International Development and Wildlife Conservation Society. 2013. Cooperative Agreement # AID-660-A-13-00007 – Central Africa Forest Ecosystems Conservation (CAFEC) – Sangha Tri-National Forest Landscape – Attachment B, Program Description. Washington, DC. Available at: http://carpe.umd.edu/Documents/2014/AID-660-A-13-00007_WCS-USAID.pdf

⁸ Wildlife Conservation Society Congo Program. 2017. The Nouabale-Ndoki Foundation: A new model for park management. Brazzaville. Available at: http://wcscongoblog.org/wp-content/uploads/2017/05/WCS-Congo-Fact-Sheet-The-Nouabale-Ndoki-Foundation-A-New-Model-for-Park-Management_compressed-1.pdf

⁹ See Ayari, Inès and Simon Counsell. 2017. The Human Cost of Conservation in the Republic of Congo: Konkouati-Douli and Nouabalé-Ndoki national parks and their impact on the rights and livelihoods of forest communities. Rainforest Foundation UK; see also Counsell 2004. Various other smaller foundations and institutions have also contributed; the table likely does not show all of WCS's committed resources.

¹⁰ Global Environment Facility. 2017. Strengthening the Management of Wildlife and Improving Livelihoods in Northern Republic of Congo. Washington, DC. Available at: www.thegef.org/project/strengthening-management-wildlife-and-improving-livelihoods-northern-republic-congo-0

¹¹ Ayari and Counsell 2017.

¹² International Union for Conservation of Nature and Central and West Africa Regional Program. 2012. Parcs et réserves du Congo: évaluation de l'efficacité de gestion des aires protégées. Ouagadougou. Available at: <https://portals.iucn.org/library/node/10369>

¹³ Wildlife Conservation Society Congo Program 2017.

¹⁴ Global Environment Facility. 1993. Congo Wildlands Protection. Project document, March 1993. Washington DC. www.wds.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&eid=000009265_3961219141757; World Bank 2002.

¹⁵ See Eves, Heather and Richard Ruggiero. 2000. Socio-economics and the sustainability of hunting in the forests of northern Congo (Brazzaville). In: Hunting for Sustainability in Tropical Forests (eds. Robinson, John and Elizabeth Bennett), pp. 427–454. New York, USA: Colombia University Press, as cited in Curran, B., T. Sunderland, F. Maisels, J. Oates, S. Asaha, M. Balinga, L. Defo, A. Dunn, P. Telfer, and L. Usongo. 2009. Are Central Africa's protected areas displacing hundreds of thousands of rural poor? *Conservation and Society* 7(1): 30–45.

¹⁶ United States Agency for International Development. 1991. Contract for Grant 679-0008-G-00-1384-00, Congo Forest Conservation. Washington, DC.

¹⁷ Global Environment Facility 1993.

¹⁸ See, for example: <http://voices.nationalgeographic.org/author/mikefay/>.

¹⁹ US Congress. 2003. Saving the Congo Basin: The stakes, the plan. Hearing before the Subcommittee on Africa of the Committee on International Relations, House of Representatives, One Hundred Eighth Congress. First Session, March 11, 2003. 85-639PDF. Washington, DC. Available at:

http://commdocs.house.gov/committees/intlrel/hfa85639.000/hfa85639_of.htm.

²⁰ Cernea, Michael and Kai Schmidt-Soltau. 2003. National Parks and Poverty Risks: Is population resettlement the solution? Gland, Switzerland: International Union for Conservation of Nature. Available at:

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.131.3166&rep=rep1&type=pdf>.

²¹ Ayari and Counsell 2017.

²² Corbley (undated), seen in Counsell 2004..

²³ Global Environment Facility 1993..

²⁴ Lewis, Jerome. 2012. Technological leap-frogging in the Congo Basin, Pygmies and global positioning systems in Central Africa: What happened and where is it going? African Study Monographs, Suppl. 43: 15-44.

²⁵ Ayari and Counsell 2017..

²⁶ OCDH. 2004. The situation of the Pygmies in the Republic of Congo. Brazzaville and London: Congolese Observatory for Human Rights (OCDH) and The Rainforest Foundation UK.

²⁷ Government of the Congo. 2011. Loi n°5-2011 du 25 février 2011 portant promotion et protection des populations autochtones.

²⁸ Government of the Congo. 2008. Loi n°37-2008 du 28 Novembre 2008 sur la faune et les aires protégées.

²⁹ Government of the Congo. 2013. Décret n°2013-178 du 10 mai 2013 portant approbation des statuts de l'agence Congolaise de la faune et des aires protégées.

³⁰ USAID. 2003. Biodiversity conservation: A report on USAID's biodiversity programs in fiscal year 2002. Washington, DC: United States Agency for International Development (USAID).

³¹ The GEF claimed that the GoC held several public consultations at the time of the NNNP's establishment, the outcome of which was that there was a "strong desire on the part of the local populations to create a reserve on the condition that they were invited to participate in defining the limits for the core and buffer zones of the reserve." It is unknown, however, whether these consultations included explicit discussion of Pygmy expulsion or, if they did, what the reaction was among the affected communities.

³² See, for example: FSC-Watch. 2011. CIB—FSC certified forests in Congo to be felled for palm oil plantations? Available at: <https://fsc-watch.com/2011/06/28/cib-fsc-certified-forests-in-congo-to-be-felled-for-palm-oil-plantations/>