

**Diel Mochire  
Chouchouna Losale  
Angélique Mbelu.  
Felana Rakotovao**

### **Current situation of Indigenous Pygmy women in the DRC**

Of the estimated 750,000 Indigenous Pygmy people, which represents around 1% of the national population, 57.3% are women and 99% of these women are illiterate. The Constitution of the DRC guarantees free education; however, the school program established by the government does not correspond to the Indigenous Pygmy people's culture, nor to the socioeconomic realities of their lifestyle, accounting for this high rate of illiteracy.<sup>4</sup> For Indigenous Pygmy women, in particular, this high rate is exacerbated by the vulnerability of their position – including social denigration, risk of sexual exploitation, fear of rape, and lack of access to educational infrastructure due to their remoteness.

The Congolese government runs a healthcare program as well as several special programs to support healthcare institutions. In Nord-Kivu, of the 11,651 women established in 164 villages or sites, 4,217 across 67 villages/sites have access to these healthcare services, accounting for 36% of the female Indigenous Pygmy population. It is also worth noting that, of 19,719 children, only 4,761 (24%) have access to the government's vaccination program.<sup>5</sup>

Healthcare institutions established by Indigenous Pygmy people within their environment often do not benefit from the government's support, however, and most Indigenous Pygmy women have little or no access to maternal healthcare or antenatal check-ups, give birth at home, and suffer the consequences of this, including high maternal and child mortality, puerperal infections, postpartum haemorrhage and obstetric stula.

It should be also noted that this issue of access is directly linked to a lack of access to information – for example, in 2021, in three territories of Nord-Kivu, 53% of Indigenous Pygmy people were unaware of the health education sessions organized at healthcare centres.<sup>6</sup>

In the DRC, Indigenous women produce 80% of the harvest yet own an infinitesimally small proportion of the land as most of them merely have usufruct rights. This is due to the aforementioned issues of illiteracy, backwards cultural

context, and due to the lack of female landowners. This situation has a considerable impact on their access to bank credit and agricultural cooperative membership, both of which would enable them to benefit from agricultural inputs and services, often given as a condition of land ownership.

Nonetheless, progress has been observed among the authorities, as can be seen in the adoption of the law on the protection and promotion of Indigenous Pygmy people's rights by the National Assembly and its current review by the Senate.

Furthermore, the document on National land tenure policy<sup>7</sup> recently validated in November 2021 takes Indigenous Pygmy people's rights and concerns into account, and also has a specific focus on women.<sup>8</sup>

Indigenous Pygmy people's rights in the DRC's national land tenure policy

The DRC has at last developed a nationwide land tenure program and this was validated by ministers on 25 January 2022 in the Steering Committee of the National Commission for Land Reform (CONAREF) following national validation on 17 November 2021. Ten years after launching the land tenure reform in the DRC (July 2012), the issues raised in the alarming assessment published at the start of the millennium on deviations from land tenure laws and rights, and on multiplying land conflicts, have been largely addressed.

The hunter-gatherers referred to as Pygmy, first inhabitants benefitting from customary rights to their land and territories, have been the victims of land grabbing and evictions from their rightful lands for decades. This situation contributes to their vulnerability and mostly stems from an absence of measures to guarantee their land and environmental rights and accommodate their lifestyle. Furthermore, while local communities' customary rights to rural land have some legal recognition, Indigenous Pygmy people's rights do not – these are downright denied in multiple areas of the country, particularly in rainforest areas.

Their expectations and advocacy in the face of the social injustice inherited from previous land tenure policies were acknowledged and considered when developing the strategic themes of this new national policy. These include a component to improve the legal aspects of land ownership systems by focusing on recognizing, securing and transferring land rights; a component on social safeguarding to correct social injustices and harmonize the transition from traditional to modern land tenure systems; and a component to reinforce cross-sectoral coordination and develop an inclusive and holistic land governance system. Each of these areas entails recommended priority actions

to facilitate its implementation and secure the corresponding expected changes in policy and practice.

Civil society organizations working to defend Indigenous Pygmy people's rights should thus celebrate these important achievements in recognizing Indigenous Pygmy people's land rights and henceforward focus on achieving a number of actions that lie at the heart of their advocacy work, such as:

- Adopting land laws appropriate to local sociocultural contexts, clarifying all forms of social ownership, and improving the recognition and scope of Indigenous Pygmy people's land rights to the extent necessary to ensure fair access to the land and proper benefit of their land rights. In cases of extreme vulnerability due to loss or denial of Indigenous Pygmy people's land rights, the State should commit to compensating them in kind.
- Certifying local communities' collective land rights as they see by means of cartography and any accessible and available technology.
- Restoring equitable access to land and organizing a legal review of past property titles to rural lands. The recovered lands could be subject to positive discrimination benefiting vulnerable or marginalized groups during the local implementation of land management policies.
- Improving rates of public participation by legally defining the terms of free, prior and informed consent (FPIC), which is a right recognized to any individual or entity to give or refuse their consent in a context free from all pressure or intimidation.

These priority actions, among many others, are included in the National Land Management Plan, which forms a framework for implementing National Land Management Policy aimed at ensuring appropriate planning through different thematic programmes. These in turn will allocate roles and responsibilities to official, unofficial, governmental, and non-governmental actors representing relevant anchor points for the continuation of civil society organizations' advocacy work.

### **Validation of the law on the protection and promotion of the Indigenous Pygmy people's rights in the National Assembly**

In addition to validation of the aforementioned national land tenure policy, the law on the protection and promotion of Indigenous Pygmy people's rights was definitively adopted by the National Assembly on 7 April 2021 after validation by the Sociocultural, Human Rights and Legal and Administrative Policies Joint Commission. It is currently being reviewed by the Senate.

Once adopted by the Senate, it will be transferred to the President of the Republic for promulgation and publication in the Official Journal of the Republic. It will enter into force six months after publication.

Its implementing texts will then be developed and, together with the law itself, will represent the very pinnacle of protection and promotion of Indigenous Pygmy people's rights.

## Notes and references

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6. Data obtained from raising awareness and gathering information on COVID-19 in Indigenous Pygmy villages in Nyiragong, Masisi, and Walikale on the part of the Integrated Programme for Pygmy People's Development in 2021 (Programme Intégré pour le Développement du Peuple Pygmée, PIDP).
7. CONAREF. "Atelier National de Validation du Document de Politique Foncière Nationale Kinshasa, Pullman Hôtel, 15 au 17 novembre 2021." CONAREF, <http://www.conaref-rdc.org/atelier-national-de-validation-du-document-de-politique-fonciere-nationale-kinshasa-pullman-hotel-15-au-17-novembre-2021/>
8. "The State takes every measure, both legally and socio-culturally, to encourage the abandonment of restrictions imposed upon youths and women regarding land access and ownership, and the safe and complete enjoyment of theirland and property rights. The customs and traditions marginalizing women in particular regarding land ownership are not currently acknowledged. To address this issue, the State will take the measures hereinafter (Document de Politique Foncière Nationale, page 47): Line 7: On the acknowledgement and scope of women's, youths' and children's land and property rights: In collaboration with customary authorities, local communication campaigns of many kinds shall be undertaken, including to inform and raise awareness on gender issues, in order to incite desirable changes in the perception of women's and children's land and property rights, particularly in rural areas. Line 8: On land access and gender: In addition to a provision integrated in the law to invalidate the habits and customs that limit or impede upon women's and children's rights to land access, the State, through the National Tenure Plan, must adopt a programme that includes dialogue sessions and awareness campaigns

to incite a change in perception of women's and children's land rights, particularly in rural areas and a few target urban areas

**Diel Mochire** is an Indigenous activist and Provincial Director of the Programme Intégré pour le Développement du Peuple Pygmée (PIDP), a very vocal Indigenous organisation based in North Kivu.

**Chouchouna Losale** is the co-founder and program officer of the Coalition of Female Leaders for the Environment and Sustainable Development (CFLEDD) in the Democratic Republic of Congo. Passionate about the rights of girls and women, she focuses primarily on gender issues related to land rights and natural resource management.

**Angélique Mbelu** joined the Rainforest Foundation Norway in Kinshasa in 2019 as the Head of Advocacy and Communication.

**Felana Rakotovao** joined the Rainforest Foundation Norway in Kinshasa in 2019 as the coordinator of RFN's Indigenous People's programme.

**Joel Ilunga** joined the Rainforest Foundation Norway in Kinshasa in 2020 as the Junior Coordinator Advocacy & Communication.

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