
Trading communal rights in Gabon: The 'Sustainable Development' Law

The government of Gabon adopted a new 'Sustainable Development' Law in August 2014. This Law is the first that introduces credits not only for carbon or biodiversity (1), but also for 'community capital', the latter being defined as the "sum of the natural and cultural assets belonging to a community." Without further explanation, 'community capital' could include things like community lands, crops, water resources, culture, or education. In this context, women stand to be the most affected as they are most often the care-takers, educators, medicine makers and the ones growing food within communities.

The new Law establishes that companies in Gabon can compensate the destruction they generate to forests or traditional territories by buying 'sustainable development credits'. These credits are divided into four different types: carbon credits, biodiversity credits, ecosystem credits and community capital. The trading system seems to allow full exchangeability across all credit types, meaning it could be possible to trade 'community capital' with other components of 'sustainable development'. The Law however is unclear and open to interpretation. In practice, this could mean taking away community land in one province for industrial tree plantations in exchange of building a school for a community in another province. The Law seems to be in contradiction with local communities' rights, affecting in particular indigenous peoples and women. Destructive companies, such as OLAM, which owns extensive areas of oil palm plantations in Gabon, stand to benefit the most from such policy.

What does the new Law implies?

According to an analysis made by the platform *Gabon Ma Terre Mon Droit* (GMTMD) the main aim of the Law is establishing a market where companies can use 'sustainable development projects' to offset their negative impacts on the environment and local communities by trading what the Law calls 'sustainable development credits' (2).

Areas eligible for the generation, purchase, and sale of these sustainable development credits are called 'sustainable development concessions'. The Law does not provide additional information on the identity or function of these concessions. Are these concessions to include or overlap with concessions for exploitation of 'natural resources' (forests, agriculture, mining, protected areas, etc.) or with the land available for community use? Will these concessions reduce even further the land available to communities? These 'sustainable development concessions' generate 'sustainable development credits', which come from the creation, improvement or maintenance of 'sustainable development assets' related to a 'sustainable development activity'. Thus, a 'sustainable development credit' can be generated, for example, by maintaining a high biodiversity area, or by promoting the creation of a number of jobs.

This environmentally destructive and socially unjust logic of offsetting is being promoted at a global scale by a consortium of transnational corporations supported by industrialised countries which continue to depend on ever-growing and unlimited access to 'natural resources'. It is also endorsed by international agencies like the World Bank, private banks and large conservation NGOs. Those

who promote the idea of compensation maintain that it is the 'best' way to conserve nature, disregarding much more effective forest conservation policies and practices (3). Forest-dependent populations, and women in particular, are affected twice by such a mechanism: on the one hand, communities living inside the area of an industrial plantation and/or other compensation project lose their forest and territory. At the other end of the transaction, the communities that live in the place chosen to 'compensate' the damage from the industrial plantation will also be negatively affected, losing access to their forest territory and/or facing severe restrictions in how they can use their territory.

Women in Gabon and the impacts of the law

Tropical rainforests cover 85% of the land area in Gabon, and some 300,000 people depend on forests for their survival, through hunting, gathering, fishing and small farming. In February 2015, representatives of civil society organizations from Gabon expressed concerns about persistent gender-based discrimination in laws and practice, gender-based violence and lack of access to justice for women (4). Women in Gabon undertake 95 per cent of farming work and yet there were persistent legal barriers for women in realizing their equal rights to land and property. Within the family, the Civil Code provided that the husband was considered the head of the household, while discriminatory provisions in domestic law, specifically dealing with inheritance, existed.

The expansion of large-scale plantations, like the ones from OLAM, will further aggravate the food insecurity already suffered by the general population as a result of the loss of land and deforestation and the depletion of water sources. A resident of Doubou in the region of Mouila said for a study on the impacts of agro-industrial oil palm and rubber tree plantations on local populations in Gabon: "This forest allows us to survive and we do not want to share it. If we cannot plant food, fish or hunt, how are we going to survive?" (5). Moreover, health problems increase due to the heavy use of agrotoxins in the plantations. The consequences mostly fall on women's shoulders, increasing their exploitation and poverty.

The new 'Sustainable Development' Law is very vague and open to interpretation. It is difficult to understand and introduces new concepts without providing full explanations of key definitions and implications. Most importantly, no mention is made in particular of the rights of local and indigenous communities. In relation to women, the Law only makes a reference to the importance of the participation of women within the "Principles for the National strategy to implement the Law" (6), without a proper analysis of the implications that this Law will have, especially on women.

Another crucial problem arising from the so-called 'community capital' described in the Law is about ownership. As the GMTMD Platform asks, "Who owns it?", the vague definitions suggest that 'community capital' belongs to the community. However, the use of the word 'capital' implies the immersion of what is considered communal into a market logic where the main objective is profits and not rights. In addition, treating 'community capital' as a type of 'sustainable development credit', and as part of the 'sustainable development heritage' of Gabon, that is recorded in a national register, suggests that 'community capital' would be administered by the state, and not the communities themselves.

Also of great concern is the apparent proposal to make 'sustainable development credits' exchangeable throughout the territory. Would this mean that a company could take over and degrade the customary lands of a community and 'compensate' for this by buying or producing credits through the construction of a school for another community 300 kilometres away? If the 'community capital' is negotiated against other credits, this could imply that decisions on the 'value' of rights,

lands, and resources of a community for the national register will be taken by the government and corporate lobbies for economic interests, undermining the rights of communities. It is not clear either whether the geographic exchangeability relates to regions within the same country or between different countries. Could the 'compensation' of forest degradation in Gabon be done with a project in Cameroon, for example?

Final remarks

The government of Gabon is expecting to generate demand for the 'sustainable development credits' through the 'sustainability impact assessment' reports that companies need to do when requesting a project (like a mine, a plantation or any 'sustainable development' activity)'s approval. Reports will quantify the amount of credits considered necessary for 'compensating' the social impacts (on communities) and environmental impacts (on ecosystems, carbon stocks and biodiversity) of the industrial activity. According to the government, the 'carbon footprint' will be one of the main tools for implementing the Law in order to assist companies and institutions "in their decision-making process towards a low carbon economy". For this, the government is accompanying pilot companies in the calculation of their carbon pollution. Among these are large retailers like Casino Mbolo and Cecado, mines like COMILOG, oil companies like Total Gabon, Shell Gabon, Perenco, timber companies like Rougier and SNBG, and agribusiness like OLAM and SIAT (7).

This approach will affect communities twice: In addition to the social and environmental harm done by destructive companies they will face the negative impact caused by the 'compensation' project – in particular where such 'sustainable development' involves replacing territories and forests with large-scale monoculture plantations. The root of the destruction problem is hidden by selling the idea that one could count all this harm, package it in separate units, categorize and exchange the damage. So-called 'sustainable' policies, which further intensify over-consumption and over-production, maintain and expand and oppressive and patriarchal political and economic system. These exacerbate land pollution and dispossession, violence and oppression, especially to indigenous peoples and women. And, where does this leave communities' autonomy to decide over their own lands, practices and lives?

(1) To see more information on carbon offsets and biodiversity offsets, see: "Carbon Trading: how it works and why it fails", Carbon Trade Watch",

<http://www.carbontradewatch.org/publications/carbon-trading-how-it-works-and-why-it-fails.html> and, "A Tree for a Fish: The (il)logic behind selling biodiversity", Carbon Trade Watch, <http://www.carbontradewatch.org/articles/a-tree-for-a-fish-the-il-logic-behind-selling-biodiversity.html>

(2) *Plateforme GABON Ma Terre, Mon Droit*, Gabonese Civil Society Position Paper about the Law No. 002/2014 regarding the direction of Sustainable Development in the Gabonese Republic, 24 January 2015.

(3) <http://wrm.org.uy/actions-and-campaigns/letter-to-be-sent-to-the-president-of-gabon-to-express-opposition-to-the-creation-of-a-national-and-international-ecosystems-services-market/>

(4) [http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/FF512252F17C44E6C1257DEE0058B51D?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/FF512252F17C44E6C1257DEE0058B51D?OpenDocument)

(5) <http://wrm.org.uy/articles-from-the-wrm-bulletin/section3/gabon-new-study-warns-of-impacts-of-the-expansion-of-oil-palm-and-rubber-tree-plantations/>

(6) Presidence de la Republique, Law N. 002/2014 for Sustainable Development in the Gabonese Republic

(7) See

https://seors.unfccc.int/seors/attachments/get_attachment?code=EK33Y1EQDDFKDGLYHDAHVG03JVHAF0Y9

and

https://seors.unfccc.int/seors/attachments/get_attachment?code=X8AS9M9B9ALUZKIGOREOWS20KT5863M3