



1.4 Forest governance in DRC: artisanal logging

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Introduction

DRC is a large country, with approximately 1.2 million km² of tropical rainforest, constituting 60% of the Congo Basin Forest. Of the country's estimated 60 million inhabitants, 80–90% live in poverty and 25–30 million live in the tropical rainforest area (Oyono and Nzuzi 2006).

Internationally, the Democratic Republic of Congo (DRC) is not exactly known for the good governance of its natural resources, including its forest resources. International organizations and researchers generally consider the Congolese government to be weak and barely capable of overseeing the vast forest areas in its territory (Oyono and Nzuzi 2006).

The information presented here is based on NGO reports, discussion during meetings and workshops and several studies on artisanal logging by Congolese researchers, NGOs and government officials that will shortly be published by Tropenbos in DRC (Benneker et al. in press).

Background

Extensive efforts have been made over the last ten years to improve the governance, management and conservation of the Congo Basin Forest in general and the rainforest area in DRC in particular. In 2002, with considerable aid from the World Bank, the 1949 colonial forest code was replaced by a new forest code (Counsell 2006).

The new code aims to promote sustainable forest management and socio-economic development based on the use of forest resources. According to a report (Malele Mbala 2010) the Congolese government has been active in implementing its reform agenda aiming at effective sustainable forest management. The report mentions "18 remarkable achievements," including the enactment of the 2002 forest code and corresponding bylaws, the revision of industrial forest concessions and the moratorium on the issuing of new concessions, the engagement of an independent observer to fight illegal logging, the implementation of social responsibility agreements¹ to ensure benefits for communities, and support to the development of community forestry.



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The remarkable achievements presented by Malele Mbala (2010), however, seem as yet to be mainly achievements on paper. The actual implementation of the reform agenda and forest code has been slow and has been mainly directed at the regularization of the industrial logging sector. Not a single forest management plan for the industrial timber sector has been approved. Ten years after the forest code was enacted, the bylaw that regulates community forestry has been drafted but still not approved, and the bylaw for artisanal logging is weak and vague.



Although the forest code enacted in 2002 has barely been implemented, multiple meetings and workshops are now being organized at the national level to discuss and propose yet another set of institutional reforms. The government says it is committed to the implementation of REDD+ and to signing a VPA under the EU-FLEGT programme to stimulate legal logging.

Governance in DRC

In DRC, reform efforts have generated an inconsistency between discourse and practice at different levels of society. Three parallel forest governance arrangements co-exist:

- the reform arrangement is based on the newly issued regulations (the 2002 forest code) and on extensive discussions between multiple parties (government, international organizations, civil society and the private sector) during meetings and workshops at the national level;
- the central government arrangement, representing the long-established centralist and authoritarian model of forest governance, based on the notion that all land and forests belong to the state; and
- the governance in practice arrangement is based on actual forest use in the provinces.

The reform arrangement

The reform arrangement is innovative and is the most participatory forest governance arrangement in DRC. It emerged mainly in response to pressure by international financing agencies (Oyono and Nzuzi 2006: 194). An important element is the 2002 forest code. Although the code itself was developed without much participation by civil society or the private sector (Counsell 2006: 20), some bylaws defining the application of the forest code have been discussed extensively among the different parties. Participants in these meetings get the feeling that a real shift is being made, from a centralized to a more participatory type of forest governance.

Considering the large number of international organizations, programmes, projects and initiatives involved in forest governance issues in DRC,² government officials may be so overloaded with invitations that they spend most of their time in meetings and workshops. Most of these meetings take place in Kinshasa. Occasionally, meetings are

organized in the provincial capitals on a fly-in/fly-out basis, without any meaningful follow-up on the processes initiated.

Both Counsell (2006) and Trefon (2011: 8) argue that civil society has had very little influence on policy implementation due to the dominance of state actors, and the fact that the percentage of the Congolese population participating in these meetings is very small. The ideas that trickle down to the local levels are distorted on the way and further transformed when embedded in a local setting. Up to now, the ideas that have been discussed during the workshops in Kinshasa have little effect on daily forest use practices. As concluded by Trefon (2011:122), international partners have demonstrated their capacity to promote new discourses on good governance but not to actually implement the policies.

The central government arrangement

Officers from the central government participate extensively in meetings and workshops and dominate the discourse on transparent and participatory forest governance. Outside the workshops, officers voice different opinions; for example, that all land and forest is state property and customary land rights are nothing but a remnant of the past. They also feel that their knowledge and capacities are superior to those of local actors, and they discredit decentralization initiatives.

Concrete actions often contradict the forest code and ideas that have been discussed. For example, the ministry has revoked some of the legal competences of the provincial governors and stalled the forwarding of tax payments to local authorities (provinces and territories). The ministry also issued artisanal logging permits to Chinese loggers,³ even though it does not have the authority to issue these permits; moreover, permits can be issued only to Congolese citizens.⁴

A provincial officer from the explained that over the last five years the ministry had made none of the 30 monitoring visits to the concessions stipulated by law. He presented the information in different columns for the different years — 2005: 0; 2006: 0; 2007: 0; 2008: 0; and 2009: 0, with a clear sense for drama.⁵

Governance in practice

Many authors have observed that in the provinces, it is difficult to recognize much of what has been discussed in Kinshasa. Practices in the field are disconnected from the policies designed in Kinshasa. Counsell (2006) mentions that few local forest officers even know the forest code and its bylaws. It's no understatement to say that an efficient, socially integrated and rule-abiding industrial sector has yet to emerge.

A short description of the artisanal logging sector in the Oriental Province may illustrate the working of these local practices. According to the 2002 forest code, artisanal loggers (Congolese nationals only) can be issued one logging permit for 50 hectares of forest per



year by the provincial governor. The governor of the province uses this power for his personal benefit. Besides favouring those in this social network he also obstructs other loggers; for example, by increasing the provincial taxes for the export of timber to Uganda.⁶

According to the ministry only three artisanal logging permits (150 ha) were issued in the Oriental Province in 2010,⁷ although artisanal logging is a mayor economic activity in the province, providing timber for local and regional markets (Uganda, Rwanda and Kenya; Lescuyer et al. 2010). The volume and value of timber harvested by the artisanal loggers in DRC is and has always been much larger than the volume and value harvested by industrial loggers (Gerken, Schwettman and Kambale 1991).

Several studies (see Benneker et al. in press) have shown that although artisanal logging activities are generally considered illegal, most loggers operate with a kind of logging permit, which is often a simple receipt showing that the logger has paid certain fees or taxes. These receipts are accepted as valid documents by the officials who control logging activities. At least six different levels of government agencies⁸ have been identified as issuing artisanal logging permits. Each agency seem to serve a certain type of logger; the more powerful or influential the logger, the higher the hierarchical level of the agency issuing the permit.



Artisanal loggers negotiate their way through this landscape of informal payments and taxes. They engage in social networks and establish relations of trust with politicians and

other powerful actors to improve their negotiation position. They negotiate collective accreditations and logging permits (both of which are illegal) to reduce expenditures or try to avoid payments altogether.

Occasionally, loggers collectively protest against informal payments when excessive creaming off leads to economic loss rather than gain.

Artisanal loggers have little knowledge of the forest code, ongoing discussions regarding the "reform" forest governance agenda, or the competences of the Ministry of Environment. The reform and central government arrangements influence local practices in diffuse, unstructured and unexpected ways; they certainly do not control them (Oyono and Nzuzi 2006). Rather, forest-use practices are the result of constant hassling and negotiations between local actors, including government officials and politicians, loggers, local associations, entrepreneurs, local communities, traditional chiefs and occasionally, NGOs. Negotiation processes are therefore endless and complicated.

Discussion

To a certain extent, the reform agenda and the resulting 2002 forest code determine forest-use practices on the ground. Decentralization has, for example, empowered certain

local actors to increase their influence in the artisanal logging sector. Arguments from the reform agenda are eagerly used: taxes have to be increased “because logging activities are not sustainable,” not because “it enables me to increase my personal wealth.” New legislation that is based on the reform agenda may therefore empower certain local actors over others by increasing their legitimacy and by increasing the legal instruments (laws and regulations) and arguments (discourse) that justify their actions.

It is often claimed that in DRC the government is virtually absent. This is largely true in terms of the provision of public services to the population. Government officers, however, are omnipresent in society and are trained as true “bricoleurs”⁹ (Cleaver 2002) negotiating informal payments from the general public to compensate for their low salaries and reward those who have put them in their position. Trefon mentions that society has somehow found a way to deal with predatory government officials. After all, the government and society depend on each other. Without the loggers, officials cannot negotiate payments, enabling the loggers to keep the informal payments to a certain “acceptable” level. There is some “order in the disorder,” as Trefon argues (2011: 124/5).

The argument is frequently made that the multiple weaknesses, vagueness and contradictions in the forest code and its bylaws have obstructed the application of the law. The government itself considers that strong local resistance, low internal capacity and the lack of financial means have obstructed the application of the law. Malele Mbala (2010) agrees that the new policies were important, but feels that DRC lacked the resources to implement them.



Trefon (2011:1-2) contradicts this type of explanation, claiming instead that “reform policies superficially respond to symptoms without addressing the root causes of the problem. Reform failure in DRC reflects both the complicated power relations underpinning Congolese politics and society and the ambiguity that characterizes international idealism.” He argues that forest governance is a political social and cultural problem, not a technical one.

Although DRC may be an extreme case, the tendency of policy-makers to engage in the design of theoretically and technically interesting policy reform without considering what is happening on the ground is not unique to the country (De Koning and Benneker in press). Cleaver (2002) strongly contests the idea that well-designed institutions can change local reality in any predefined way. The context in which new regulations are applied is not empty, but is defined by existing complex, entangled and dynamic sets of institutional arrangements containing elements of different periods in time, value sets and power relations. Existing structures cannot be erased or redone. Newly introduced institutions get absorbed and embedded in existing structures and therefore will never define more than a part of local practice.

Conclusions and recommendations

Given the lack of implementation of the 2002 forest code in DRC, the international community needs to closely reflect on the consequences of promoting yet another set of policy reforms in the forest sector. As mentioned before, the meetings and workshops of REDD, FLEGT — and to a lesser degree, forest certification — are in full swing in Kinshasa. Government officials happily take part in the meetings and once again learn the corresponding discourses. But reform is easier to talk about than achieve. In practice, the centralized system of forest governance is still strong and local practices are virtually unrelated to the reform agenda. Counsell (2007: 26), when discussing the prospects of FLEGT being implemented in DRC, stresses that it is unlikely that anything will change: “the performance of the Congolese government as a meaningful agent of policy development, monitoring and implementation has to be seen as a very distant prospect.”



How can the three forest governance arrangements have so little in common? Trefon (2011:8) argues that Western experts see Congo as they think it should be, based on imported paradigms and world views, instead of accepting it as it is. The expectations of ordinary people are rarely taken into account because they are disassociated from debates about institutional reform. The total absence of cultural reality in the reform agenda is partly due to the lack of social scientists with cultural sensitivity in the corps of reform experts. “Foreign expatriates interact mainly with the local elites — the political insiders — and not with the voiceless hoi polloi” (Trefon 2011: 8).

So how can forest governance in DRC be improved? Brown (2002: 7–8), in his analysis of forest governance in Cameroon, emphasizes that the policy development process in countries with weak governance need to match supply-side policy changes — largely donor-inspired — with demand-side pressures to build accountability from below. In line with Trefon, he considers that there is a clear need to learn from the grass roots up because “local experience is required to develop operational policy” and because “without local engagement, central authorities may lack the will to initiate the process at all.”

Brown argues, moreover, for a more pragmatic approach to property rights; tenure over resources may be more effective than pursuing radical land reforms. Overall, a long-term and flexible commitment is necessary to overcome the multiple challenges. Both international and national NGOs in DRC might consider these recommendations and balance their lobbying practices with more action on the ground.

Endnotes

1. Cahiers de charges are agreements on compensation payments between logging concessions and communities.
2. They include the Congo Basin Forest Partnership (CBFP), Central Africa Regional Program for the Environment (CARPE), Banc Mondiale, FAO, GIZ, UNESCO, USAID, WWF, WCS, WRI, CARE, SNV, AWF, IUCN, CIRAD, CIFOR and others (see Oyono and Nzuzi 2006: 197).
3. See www.congoforum.be/fr/nieuwsdetail.asp?subitem=3&newsid=180684&Actualiteit=selected.
4. See the *Code forestière 2002*, chapitre IV, article 29.
5. This was a presentation given in Kisangani, 2010.
6. See <http://radiokapi.net/actualite/2011/05/30/bunia-la-taxe-d%e2%80%99evacuation-des-bois-d%e2%80%99oeuvre-revue-a-la-hausse> and <http://radiokapi.net/economie/2011/01/17/bunia-leevee-partielle-de-la-mesure-d%e2%80%99interdiction-d%e2%80%99exploitation-de-bois>.
7. See www.mecnt.cd/images/DOWN/liste%20pcb10.pdf.
8. These are the ministry, the governors, the provincial coordination of the ministry of environment, the environmental inspectors at the district and territorial level and military authorities.
9. This is from the French verb *bricoler*. A bricoleur is a do-it-yourself individual who resourcefully makes creative use of whatever materials are available to complete a task, regardless of their original purpose.

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