

Case study 4 - The Promotion of a National Policy and Governance Agenda for Conservation : Lessons Learned from the Democratic Republic of Congo

Serge Osodu Omba



Background

The Democratic Republic of Congo (DRC) covers an estimated surface area of 2,345,000 km² of which more than 60 percent is covered by forest which contains a very high level of animal and plant biodiversity. Indeed, it ranks as the fifth richest country in the world in terms of biodiversity. The country is endowed with several natural resources that unfortunately, because of problems of governance and the recent armed conflicts that have plagued the country, are not benefiting the majority of its people who live in abject poverty. The DRC is among the poorest countries in the world and the majority of its population lives below the poverty line, on less than a dollar a day.

The government's Strategic Growth and Poverty Reduction Document (*Document Stratégique pour le Croissance et la Réduction de Pauvreté or DSCR*) has identified improving governance

as a priority. The DRC is a post-conflict country, which is emerging from several decades of mismanagement of public resources, including natural resources, followed by a decade of instability characterized by conflicts that have been disastrous for the population. The cumulative effects of this negligence and these wars have had a disastrous impact on the capacity of the country's public institutions, the living conditions of its local populations and the wealth of its biodiversity. Social and economic infrastructures have deteriorated. The systems of forest management, of access to benefits, of control and follow up have been disrupted or are non-existent. Post-war DRC is today looking towards reconstruction. The forests which used to be protected from industrial logging, as well as the country's other natural resources, are now the focus for exploitation. The government of the DRC is strongly committed to exploiting the forest and natural potential of the country in order to successfully carry out its five-

pronged programme of reconstruction, and improve the living conditions of its people. This all the more so, as the DSCRIP identified natural resources, especially forests, as a crucial sector in the drive towards growth.

Alongside this keen interest, the country is undergoing institutional reconstruction with the putting in place of democratic institutions, which has entailed a formidable process of acquiring the appropriate tools of modern governance. Several fundamental texts for the management of various sectors have been drawn up or are being revised, including the Constitution of the Republic, the new mining code, the new investment code, the law on the management of portfolio companies, the appointment of new agents/representatives, the draft agriculture code, the law on decentralization, etc.

In the forest and nature conservation sector, with the support of its conservation and development partners, the government has drafted a new Forestry Code since 2002. This new code enshrines the principles underlying a modern vision of its forestry policy. The government has also initiated a priority reform programme geared towards transparency, law enforcement and increased participation of the public. This reform programme has led inter alia to the withdrawal of 25 million hectares of forest concessions from the forest tax system in a bid to re-orient the tax regime towards taxes that are easier to recover and control, and that have a positive incentive effect. Other elements of the reform programme include periodic publication of the list of forest contracts and their fiscal status, in order to keep the general public informed on the management of the country's natural resources; setting up a Technical Working Group (Groupe Technique de Travail – GTT) to undertake a legal review of old forest titles with the participation of an independent international observer, the private sector, civil society and local and indigenous communities; recruiting a third-party observer to support forest control; and drafting the text of the main implementing instruments of the Forestry Code, with the support of the FAO. The European Union will continue the process of finalizing the texts of the 11 priorities that have been identified to accompany the post conversion. In terms of biodiversity

protection, the government is in the process of reforming Law No. 069 on Nature Conservation. In accordance with the Convention on Biological Diversity, a priority action plan with 11 priority actions has been validated. Alongside these efforts, in a bid to be consistent with the logic of the new Forestry Code, a national forestry and conservation policy (politique nationale forêt et conservation – PNFOCO) is being formulated, using a consultative and participatory approach at a national level.

In spite of all these efforts, the path towards better governance remains a long one given the challenges that need to be overcome – lack of transparency; the lack of capacity within the forest administration to monitor and control; undervalued and aging staff; and the problem of illegal logging. There is a need for more environmental information and monitoring; a more efficient tax collection system; and more effective implementation of the benefit-sharing mechanisms laid down by the Forestry Code (from the central to the regional and district administrations, and all the way down to the local communities living around the forest concessions). Conflicts are arising between communities and loggers as a result of land being allocated without a land-use plan (LUP) leading to encroachment onto local communities' lands. The issue of indigenous peoples' rights also needs to be dealt with, and general capacity building is required so that all stakeholders, especially within civil society, are better able to play an effective role in natural resource management. Legal instruments need to be finalized and implemented, including those that will enable the enactment of the Forestry Code. Poverty in forest sites must be addressed, and cooperation between government sectors and between institutions must be fostered in the course of developing the necessary programmes and policies. It is against this background that the Country Team of the Central African Regional Program for the Environment (CARPE) has made its contribution to the promotion of national laws and policies aimed at the sustainable management of natural resources, and to attaining the strategic objectives of CARPE.

Methodology

The Country Team as a tool for CARPE to take action on governance and policy

The inaugural meeting of Phase IIB of CARPE, held in Yaoundé in February 2007, enabled some members of the CARPE Country Team in each country to identify and plan priorities in terms of governance agendas in the form of laws and specific national policies to be addressed. These priorities included: contributing to the finalization of the implementing instruments of the Forestry Code; monitoring the decentralization process; finalizing the law on nature conservation; promoting the creation of reserves and community management; developing an environmental framework law; establishing a land-use planning process; developing a new hunting law; popularizing the Forestry Code, and contributing to the process of legal review of forest titles, to mention just a few. In addition, a strategic recommendation aimed at broadening it was formulated. The DRC Country Team is made up of the following: officials of the six protected landscapes funded by CARPE DRC, the CARPE Focal Point, the National Coordinator of the Central African Forest Commission (*Commission des Forêts de l'Afrique Centrale* – COMIFAC), a National Assembly representative, a Government representative (from the Ministry in charge of forestry), a representative of the Congolese Institute for Nature Conservation, and a civil society representative. Recently, in light of the challenges and realities thrown up during the implementation of the programme, the Country Team has decided for strategic reasons also to include representatives from the private sector, the Senate and two international organizations working in the landscapes, to collaborate on aspects such as community participation fora.

Contribution to the process of promoting laws

The Forestry Code and its implementing instruments

The Country Team has participated in the pro-

cess of promoting new laws by contributing ideas, lobbying and also by providing financial support. The CARPE Country Team has actively contributed to the process of producing implementing instruments for the Forestry Code through its engagement with the validation committee put in place by an Order of the Minister in charge of forestry. Points of view put forward by the Country Team were a reflection of the consensus obtained within the team during previous discussions. The validation committee was headed by the FAO within the framework of its project. This contribution facilitated the signing and publication of these legal instruments. Furthermore, having identified as a priority the finalization of instruments on procedures for allocating community forests and for their management, the CARPE Country Team supported the validation of these instruments by ensuring the presence of their Focal Point at the relevant meeting. This made it possible for two draft instruments to be validated while waiting for them to be published.

Contribution to the implementation and popularization of the Forestry Code

The Forestry Code, besides its dissemination and popularization, remains both a need and an unprecedented challenge. Moreover, there is also the problem of differing interpretations. In the past, the Rural Development Service, together with some local and international organizations (including CARPE), has launched several initiatives to disseminate, translate and popularize this code. The CARPE Country Team supported (both technically and financially) the preparation of an annotated version of the Forestry Code by Congolese Government experts. This document, that has already been submitted to the Minister in charge of forestry for comment and final approval, will enable popularization of the Code and will allow all stakeholders access to the spirit of the Code. It will be a working tool on which all user rights can be based, but also a teaching support for popularizing activities identified within the PNFOCO framework. The Country Team intends to translate it into two national languages for wider distribution.

The process of converting forest titles in the DRC

The Forestry Code allows the conversion of old forest titles (letters of intent and guarantee of supply) into forest concession contracts. To this end, a two-phase process was instituted, the first of which was the setting up of a Technical Working Group and an independent observer respectively for identification work and data collection on titles submitted for conversion. The second component of the process concerns the work of the inter-ministerial commission in charge of the review within which there must be representatives of the local communities and indigenous peoples living around these titles. A total of US\$ 250,000 was raised by the World Bank and managed by CARPE.

The contribution of the CARPE Country Team represented by the Focal Point, SNV (the Netherlands Development Organisation), and civil society was to guide and support members of the coalition of NGO Networks in the implementation of the strategy to designate community representatives. The team supported the administrative and technical management of the project and carried out lobbying activities with partners on legislative aspects accompanying the process. The ministry and other partners were kept informed at all stages of the process.

Several radio and television programmes and newspaper articles were produced on the process. The CARPE Country Team also facilitated the designation of a permanent indigenous peoples' representative to take part in the inter-ministerial commission. The same team also lobbied the ministry over the signing and publication of two ministerial decrees on how to modify the composition of the inter-ministerial commission and on the appointment of commission members. The Country Team also assisted in the drafting of a ministerial decree on the terms and conditions of management of those titles that remained unconverted after the review, because the current Code does not cover this eventuality in the text of its implementing instruments.

As a result of these activities, civil society has been strengthened, and partners and the general public have been kept informed about the pro-

cess. Altogether, the Team facilitated the designation of 195 community representatives including many from amongst the indigenous peoples, and local communities have learnt about the Forestry Code.

Institutional representation

The Country Team (Focal Point, SNV and civil society) has lobbied the ministry on several occasions for representation in a number of national governance processes. These include the PNFOCO Coordination Unit where a member of the coalition of NGOs is represented; the forest advisory council instituted by the Forestry Code; the steering committee in charge of revising the law on nature conservation; and the validation committee for legal instruments (the African Wildlife Foundation and the Focal Point are members). The Country Team also contributes actively to various national fora and meetings on governance in terms of endorsing policies, operational guides, national and sectoral action plans related to governance and forests.

Capacity building

National Assembly

Since 2006, the DRC has set up democratic institutions for its governance including a two-chamber parliament. This budding National Assembly, that will be playing a key role in the country's governance, approached CARPE for assistance with capacity building. Conscious of the strategic importance of this institution, the Country Team organized a training and discussion session on the Forestry Code and its vision, as well as the environmental challenges ahead, for 20 Members of Parliament (MPs) from the environment commission. The success of this training is visible today with the active participation of MPs in environmental debates in the parliament.

Civil society

One outcome of Phase IIa of CARPE was the creation of a platform of Networks of environmental NGOs. This platform had neither legal status, nor a strategic vision, nor a programme of activities. The Country Team helped with the drawing

up and legalization of the Statutes of the coalition, organized a training session on the formulation of the organization's logical framework and strategic planning, and supported them in carrying out their programme. All of these activities have helped them become more involved in advocacy aimed at policy change or reform, with the objective of further involving the indigenous and local peoples in the process of conversion of forest titles, or the annotated Forest Code.

Forest land-use planning process

The DRC has neither a national land-use plan, nor a forest LUP and has therefore been groping its way in the dark when it comes to allocating forest concessions. This has caused several conflicts on usage and occupation between various stakeholders. With the new Forestry Code, the DRC wants to have its own forest LUP. A national workshop was organized (with the help of IUCN) to capitalize on the experiences of several partners on the matter. CARPE partners as well as the Focal Point gave presentations and pleaded for CARPE experience of large-scale planning to be made use of. Discussions are still underway.

Diplomacy

In the course of implementing the programme, several strategic partnerships have been developed with public institutions and partners, as well as contacts in various ministries whose activities could be considered to interact directly with those of CARPE. These include the Ministry of the Interior and Decentralization, the Ministry of Planning, the Ministry of Agriculture, the Ministry of Mines, the Ministry of Public Works and Reconstruction, the Ministry of Rural Development, and the Ministry in charge of forests.

We have also been privileged to work in collaboration with the National Assembly through its commission and the Presidency of the Republic in the execution of our activities. Thanks to the work of the Country Team, CARPE's reputation and image are strong in the eyes of its partner institutions, and collaboration is fruitful. In the near future, the expansion of the Country Team will allow it to open up to the private sector, to the

Senate and to the Prime Minister's Office.

Lessons learned

The Country Team as a platform for action

The Country Team has facilitated the creation of a coalition of various actors of different interests, of diverse horizons indispensable to governance around CARPE objectives and outputs. This platform has enabled the team to capitalize on the contributions from some very influential actors who have leverage in decision-making circles. Partners come together, discuss the context and the implementation of the programme, its strengths and weaknesses as well as avenues to be explored. All the appointed members were chosen for their potential to contribute and their added value. The Country Team is a driving force, a melting pot of ideas and a facilitator of discussions.

Achieving acceptance of CARPE and its objectives

During Phase IIa, the programme was neither well perceived nor understood by the Government. It was viewed with much suspicion, as something from the Americans, and what was being done in the landscape was shrouded in obscurity. But the Country Team has made it possible for there to be a rapprochement not only with the government (the Ministry of environment), but also with other government agencies and other institutions such as the Presidency and Parliament. Through their representation in the Country Team which facilitates information sharing, and especially as a result of seeing the actual activities undertaken, the reputation of the programme has been enhanced and CARPE is now well accepted. Relations with the government and especially the Ministry of Forestry have improved significantly. Members thus recruited undertake advocacy and lobbying for the programme and its objectives. Everybody has understood that the CARPE's mission is first and foremost to facilitate conservation and the development of the Congolese people.

The principle of member-driven

The Country Team facilitates a sense of ownership and capacity building amongst its members. The sense of ownership is nurtured by allowing participation in sessions to identify and plan the programme's strategic activities, and in core discussions on the programme. Capacity building occurs by the mere fact that participants are involved in the planning forum of USAID/CARPE. This principle allows for the validation of the planning matrix in relation to annual priorities and allows for judgment to be passed on the evolution of the project.

Communication amongst members should be developed

Communication is an important element within the Country Team especially as it only meets formally twice a year. Although a certain amount of information sharing already takes place, much effort is nonetheless required to improve communication both laterally and horizontally within the Country Team. It would be good for members to know what activities are taking place in each other's institutions and organizations, but the Team also needs to find ways of regularly keeping all members informed on progress made on the evolution of activities and also giving them vital information on monitoring governance and on identifying priorities within the context of the government's priority actions.

The need for preparatory technical meetings

The whole area of forest and natural resource governance is very dynamic. New facts and information are emerging all the time that require consultation, analysis and a jointly prepared response. This is the case with the texts under preparation on local community forests, for validation under the Forestry Code. A meeting bringing together strategic members of the Country Team was held and, after heated discussions, a common position was adopted. But in practice, since all members are not available at all times, there have been very few meetings of the kind especially for ongoing processes of the law in the

country. Efforts will be made to have extraordinary sessions to focus on events that come up that are unforeseen but nonetheless must be followed up.

Motivation of Country Team members

The work of the Country Team is time-consuming for its partners (participating in meetings, carrying out activities, reacting to produce the MOV). This fact, and acknowledging the quality of the members facilitating the implementation of the programme, have made the subject of motivation of members come to the fore. It is accepted that, besides current allowances, a mechanism needs to be found to pay members for activities carried out within the framework of the programme.

Strengthening civil society

The Coalition of eight Networks of national environmental NGOs is a member of the CARPE Country Team. It has a strategic vision, strategic plan and work plan with actions covering three CARPE intermediary outputs and touching on various environmental themes including governance. Its functioning is greatly handicapped by a lack of operational capacity. More resources should be raised in addition to those awarded by the Small Grants Scheme to further support the operational capacity of the coalition. The Country Team has made a start by helping provide the coalition with a vision, a critical analysis of its strengths and weaknesses, a strategic plan and a work plan, and a legalized statute for its legal recognition.