

THE INDIGENOUS VOICE

IN THE REDD PROCESS IN THE DEMOCRATIC REPUBLIC OF CONGO

Roger Muchuba



Children in pre-school with emphasis on environmental challenges in forest communities, run by volunteers supported by the NGO CENADEP in the village of Ntondo by Lac Tumba, Equateur, DR Congo, February 2009. Photo: Espen Wähle/Rainforest Foundation Norway.



The REDD process in the Democratic Republic of Congo (DRC) was officially launched on 21 and 22 August 2009 in Kinshasa through a workshop that gathered together government officials, the private sector, researchers and civil society. This was a good opportunity to discuss some issues that will be vital for the success of REDD. Among these are the identification of the real drivers of deforestation and forest degradation, the issue of securing benefits for the communities, and ensuring the full participation of civil society.

The last point is very important as the REDD process require inclusivity. The REDD process in DRC began in January 2009 with the visit of high-level delegates from the UN REDD, the World Bank (Forest Carbon Partnership Facility, FCPF) and the Norwegian government in a scoping mission. Lobbying efforts resulted in representatives from civil society and indigenous organizations joining the mission team. This mission was a success as it built the road for civil society and indigenous peoples' participation in the REDD process.

Indigenous peoples' voice in the forest sector reform

The involvement of indigenous peoples and civil society does not happen automatically but is a recognition of the role they play in the ongoing forest sector reform in the DRC. To better comprehend the background to their participation and standing today, it is therefore necessary to provide some details on the forestry reform process. The link between the forestry reform and REDD is also vital for government, donors and stakeholders to understand, as the lessons learned and the outcomes will greatly influence the results of REDD. REDD cannot be successful unless the whole field of forest management is considered.

A key role of indigenous peoples' organizations and civil society in the DRC is their close collaboration with the communities that rely on the forest for their livelihoods and survival, and who are the victims of mistakes and errors made in the forest sector legal reform process. The World Bank, which sustains this process, failed to apply its own safeguard policy for indigenous peoples known as Operational Policy on Indigenous Peoples OP 4.10. Indigenous peoples of the DRC therefore lodged a complaint with the World Bank Inspection Panel in 2005. The findings of the Inspection Panel confirmed that the Bank had failed to respect its own obligations. This was a big step that gave the indigenous organizations a voice and legitimacy in the forest reform process. Since then, the presence of indigenous peoples and the obligation to consult them in all processes is usually referred to, although not always respected.

The World Bank also changed its understanding of the indigenous community in the DRC because, before this request to the Inspection Panel of the World Bank, the World Bank and other institutions had not accepted that the Batwa was an indigenous people in the DRC. The Congolese government had also long claimed that there was no difference between local communities and indigenous peoples, for example in the Forestry Code of 2002. However, in a Decree dating from 2005 concerning the ongoing forestry reform, indigenous peoples are recognized.

Legal review of logging concessions – a turning point

The crucial moment in the forestry reform process was the government's December 2005 legal review of logging concessions, determining which contracts were legal and which were not, in a forest sector characterized by anarchy before the adoption of the new forestry code. Logging concessions had been



Top: Roger Muchuba speaking at "Protecting rainforest, securing forest peoples' rights" network seminar for partner organizations of the Rainforest Foundation Norway, June 2009, Holmsbu, Norway.

Bottom: Adrien Sinafasi, coordinator in Dignité Pygmé (DIPY) gives a lecture on REDD at the General Assembly of North-Kivu environmental NGOs of Réseau pour la Conservation et la Réhabilitation des Ecosystèmes (Réseau CREF), in Goma, Nord-Kivu, DR Congo, March 2009.

Photos: Espen Wæhle/Rainforest Foundation Norway.



*Floating of logs on the Congo River for export from Kinshasa, motive from Mbandaka, Equateur, DR Congo, February 2009.
Photo: Espen Wæhle/Rainforest Foundation Norway.*

granted by the Environment Minister, in direct violation of a logging moratorium he himself had imposed. In this situation, many companies were operating outside the law and had caused a lot of damage to the communities, including threats, conflicts, human rights abuses, and failure to fulfill their social, economic and environmental obligations. In order to resolve this situation, the government conducted a process whereby the communities living around every concession voiced their opinions about the legality and behavior of the company. Indigenous peoples were invited to attend workshops and activities related to this, and two indigenous representatives sat on the inter-ministerial high commission that assessed the legality of the concessions.

President Kabila's Decree concerning the concession review also specified the participation of local communities and indigenous peoples. This is very important because, since then, the indigenous peoples have been involved in the process, even if the outcome of the process is not yet optimal. For the first time in the DRC, indigenous peoples were involved and recognized as true stakeholders.

At the end of the process many concessions were cancelled, and one of the conditions for legal contracts is now to make a formal agreement with the community that should include social and financial benefits/compensation. This voice of the communities can never again be stopped. This is also why the UN

REDD and FCPF mission needed to include indigenous peoples in the scoping mission.

New World Bank development strategy on indigenous peoples

The World Bank, as partners in REDD, seem to be showing an interest in avoiding making the same mistakes and errors as in the past and, in July 2009, drew up a development strategy concerning indigenous peoples in the DRC, in collaboration with indigenous organizations.

This policy/strategy is not legally binding, but indigenous peoples will closely monitor whether the Bank adheres to its own guidelines. The DRC also voted in support of the United Nation's Declaration on the Rights of Indigenous Peoples (UNDRIP), which constitutes a tool for civil society and indigenous peoples with regard to the government's commitments.

After the January 2009 scoping mission of the UN-REDD, Congolese civil society decided to be involved in the REDD process by creating a Working Group on REDD. This Working Group gathers together NGOs, various networks and coalitions, church groups, local communities and indigenous peoples. The coordination of this group is undertaken by the indigenous network, in collaboration with an environmental network. This group is now fully operational.

The second UN REDD/FCPF mission took place in May 2009. This second mission was important because it was an opportunity to present the staff of the National Coordination Office of REDD to the stakeholders. The staff are important in the process, as they have a mandate to organize and liaise between the different stakeholders, and are in charge of presenting drafts of the work plan and Terms of Reference for important studies. Civil society sends their comments and ensures that they are taken into consideration through meetings and direct contact. The National Coordination Office seems open and ready to discuss. This institutional openness is also a big step forward in the DRC.

Free, prior and informed consent must be respected in every step of REDD

Even though the process has had a positive start, civil society and the indigenous peoples are still cautious and remain critical as they have experienced processes that began well and ended badly in the past. The main position of the indigenous peoples in this process is clear: the principle of Free, Prior and Informed Consent (FPIC) must be respected in every step of REDD. It is very positive that the DRC government (on behalf of the COMIFAC countries), at the last UNFCCC round of negotiations on REDD,¹ took the position that REDD should adhere to the UNDRIP, which includes the FPIC principle. Some government delegates from both the DRC and other COMIFAC countries said that this principle could pose a threat to their agenda, but it is the opinion of the indigenous peoples that this principle must be respected no matter what.

Successful lobbying

We think that the positive start of the REDD process so far is due to the lobbying capacity of the indigenous and civil society organizations, in combination with external pressure from international partners, such as the Rainforest Foundation. We have found that it has been very useful to collaborate with international partners working on indigenous issues or forest issues, such as the Rainforest Foundation, Greenpeace, the Forest Peoples Program, IWGIA and FERN. They have provided assistance in the follow-up to and dissemination of information to local partners on, for example, international donors and agencies. It is important to monitor the process and to conduct lobbying efforts from top down, as well as from bottom up.

We have also found it important to be involved in “the Accra Caucus”, which is a network of indigenous peoples and civil society members from Asia, Africa and Latin America that was formed during the UN Framework Convention on Climate Change negotiations in Accra in August 2008. This network collaborates on policy issues related to REDD and rights in relation to the international climate change negotiations. Contact with other indigenous networks working on the REDD process is also important to sustain civil society in the upcoming climate change negotiations.

The presence of indigenous peoples on the boards of the UN REDD and the FCPF is also taken seriously by officials and governments. Being involved in these international REDD institutions is a reminder that this can be a strong survey/control mechanism to be used when things are not fair. Right now it is clear that the indigenous peoples and local communities are important in the REDD process and that civil society is not there only to validate documents but to participate in planning and execution.

In the REDD work plan of the National Coordination Office, crucial studies are included on the drivers of deforestation and forest degradation and the issue of land tenure. The view of the government was that civil society did not have the capacity to conduct such studies but the participation of indigenous peoples and civil society in the forest legal review has shown the opposite.

It is now accepted that, when you talk about forests, indigenous expertise is available. In addition to making comments on the National Plan and Terms of Reference for government-led studies, indigenous peoples and civil society are developing their own work plan with a main focus on capacity building of civil society, indigenous peoples and local communities. We will also conduct case studies on drivers of deforestation and forest degradation, and traditional community management of forests, and continue to produce the tools for REDD outreach. As REDD takes off in the DRC, more funding and partners will be needed, as the country is big and that requires more resources.

To this day, the government continues to claim that the main driver of deforestation and forest degradation is the consumption of local communities and indigenous peoples through slash-and-burn agriculture and use of fuel wood. Civil society believes that the main driver of deforestation and forest degradation is instead industrial logging, including the indirect consequences, something not usually cited by the government at all. Blaming the comm-



Catfish is being prepared for a meal by Lac Tumba, Equateur, DR Congo, February 2009. Photo: Espen Wæhle, Rainforest Foundation Norway.

unities is not fair, as everyone knows that they have protected the forests through traditional sustainable use for centuries. In the DRC, there is no more large-scale agricultural activity in the forest, so we are calling for the use of good methodologies to conduct these case studies and establish the responsibility of industrial logging in this regard. When it comes to the use of satellite images in studies and systems for Monitoring, Reporting and Verification (MRV), the use of these must be followed by ground-truthing and field observations.

The National Coordination Office will develop a strategy for consultation with the communities. It will be very important for indigenous peoples to provide input to this, as well as develop their own plans for consultation.

Ongoing institutional developments

A Decree is in the process of being signed by the Prime Minister that establishes the national REDD institutions: an Inter-ministerial Committee, a National Committee and a National Coordination Committee. The National Committee is very important in controlling how the work plan is developed, approved and implemented, conducting follow-up and evaluation and establishing the funding mechanism to be put in place for the distribution of benefits from REDD. Civil society has five (out of 14) places on this board, and two are for indigenous representatives. There will also be a scientific committee which indigenous peoples will be members of.

An indigenous representative as well as a civil society member will also be part of the Congolese negotiation team in the UNFCCC Conference of

Parties in Copenhagen in December 2009. These persons will be close to the government negotiators, and should help develop the negotiation texts and positions. It will, however, still be very important to maintain independent positions.

Finally we think that indigenous peoples have an opportunity to play a vital role in the REDD process. The big question is the degree to which the government, the World Bank and the UN agencies involved (FAO, UNDP, UNEP) will continue to be open and inclusive, ensuring a participatory, transparent and fair REDD process in the DRC. There is still some way to go for some of these institutions to accept the principle of Free, Prior and Informed *consent* of IPs - not just *consultation*.

As the Readiness Plan for REDD is being developed, the best option for now is that indigenous peoples and civil society care and are involved in the process to the end. And we also need to bear in mind the fact that Copenhagen is not the end but merely the beginning of REDD. □

Note

- 1 This position was taken at the June 2009 SBSTA negotiations on REDD, on behalf of the COMIFAC countries comprising the Republic of Congo, Chad, Equatorial Guinea, São Tomé/Príncipe, Gabon and the Central African Republic.

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