



Strengthening Voices for Better Choices

Findings from national assessments of forest governance in Brazil, DR Congo, Ghana, Sri Lanka, Tanzania and Viet Nam

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FOREST CONSERVATION PROGRAMME

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Between 2005 and 2009, the IUCN project Strengthening Voices for Better Choices (SVBC) sought to improve the effectiveness of forest governance in six key tropical forest countries: Brazil, Democratic Republic of Congo (DR Congo), Ghana, Sri Lanka, Tanzania and Viet Nam. SVBC recognised that to improve forest governance requires an understanding of the policy, regulatory and institutional obstacles to managing forests sustainably. To that end, the project sponsored participatory assessments of each country's forest sector aimed at identifying and situating national governance concerns within an overall framework informed by global experience in natural resource governance.

What is governance in the context of sustainable forest management?

Much effort has been expended in recent years on defining governance and identifying its necessary and desirable attributes. As the governance agenda has grown, so too has the debate over whether countries should pursue an absolute ideal of "good governance", or look instead for relative improvements in governance that build on their existing strengths and capacities. Without trying to answer that question, it is possible to define governance as the interaction of rules, institutions, processes and principles through which a society exercises powers and responsibilities to make and implement decisions. These rules (or laws), institutions and processes can be described as the basic components or building blocks of governance. Holding them together are four main inter-related principles of governance: accountability, transparency, participation and predictability.

How do statutory and customary forest law interact in SVBC countries?

All six SVBC countries have plural legal systems – that is, multiple systems operating at once – usually the product of colonisation or religious and cultural accommodation. Some countries explicitly recognise customary law, either by constitution or by statute, or by both. Others do not, though customary law co-exists with statutory law. The degree to which statutory law is harmonized with customary law in the countries that recognise it varies greatly, though the relationship is far too often marked by contradiction and conflict. On the whole, the experience of the SVBC countries is that the interaction of statute and custom often consists of local elites exercising their customary powers while implementing decisions on forest use made by statutory authorities.

How effective are the institutions that undergird forest governance in SVBC countries?

Institutions, as the implementers of laws and rules, play a key role in economic and social development. How they put laws into practice largely

determines whether they create incentives for sustainable forest management or for unsustainable and illegal practices. A range of different ministries and agencies is responsible for administering land and forests in the SVBC countries. A lack of coordination among these institutions, exacerbated by understaffing and a scarcity of funding, has weakened their forest governance capacity. Decision making in general remains mostly closed and centralised, even in those countries that have decentralised forest management and revenues to local authorities. Underperforming forest institutions burden the economy as a whole when jurisdictional conflict and weak coordination generate high transaction costs, and when poor law enforcement leads to lost revenue.

What processes influence governance outcomes in SVBC countries?

All SVBC countries have suffered from process-related weaknesses, such as a lack of transparent, participatory and accountable processes to:

- ▶ Build consensus, negotiate and mediate among different stakeholders.
- ▶ Plan development activities with input from affected communities.
- ▶ Distribute the benefits from forest use and management.
- ▶ Enforce agreements between customary rights holders and commercial interests.

Many of these challenges are rooted in a lack of capacity in national and sub-national institutions to facilitate multi-stakeholder participatory processes, and to use their results in making and implementing decisions. Some countries have no statutory requirements for participatory decision-making processes related to forests. Others require consultations with local communities and other groups on various issues, but these are often ignored or conducted without much effort to ensure full and informed public participation. The end result is the same – people have few options for providing input or for verifying that decision makers have heeded their concerns.

How do SVBC countries ensure accountability, transparency, participation and predictability in forest governance?

Accountability is the requirement to accept responsibility and answer for one's actions. Both individuals and institutions, formal or informal, may be held to account. The quality of accountability is generally poor among SVBC countries. Some have statutory mechanisms to promote accountability, such as laws on administrative accountability, and some also have customary mechanisms. These vary in their scope and effectiveness. Some customary rules hold traditional leaders accountable to each other but not to their people. Also lacking are customary mechanisms to hold traditional authorities to account for the funds they receive on behalf of their communities.

Transparency means sharing information, and emerges from the free flow of information about laws, policies, decisions, spending and other government actions. Forest stakeholders in all SVBC countries face difficulties in compiling and analysing such information themselves, or in obtaining information held by others. In every country, isolated rural communities are at a particular disadvantage as they have few ways of accessing the information provided by government. Even though there may be statutory provisions enabling information sharing and transparency, the infrastructure and channels of communication needed to deliver information to those who demand it are still lacking.

Public participation in decision making on forests is also limited in SVBC countries, though not necessarily because of a lack of goodwill on the part of officials. Often it reflects a lack of capacity to organise participatory processes and the difficulty of consulting with isolated rural people, or of finding credible representatives for them. Transparency affects participation. A lack of transparency – of an effective and timely flow of information – undermines the ability of stakeholders to participate in making and carrying out decisions. Participation, or the lack of it, has economic implications. Declaring a conservation forest or placing other restrictions on forest use without consulting local people can hurt incomes and food security, and in the long run may threaten forest sustainability.

Predictability means equal and consistent treatment – both protection and punishment – under the law. This includes the security of knowing how one can expect to be treated under the law, whether statutory or customary, and the understanding that law is not – nor should be – subject to arbitrary action by those wield decision-making power. In the SVBC countries, however, laws are often applied arbitrarily or inconsistently. Outsiders

may be sanctioned but not members of the same political or social group. At a higher level, nationals are penalised more often than foreigners. And the poor are punished while the wealthy and the political elite escape sanction. Where corruption is perceived as widespread, as it is in the forest sector in SVBC countries, the unequal application of the law may easily be interpreted as corruption.

Policy issues and recommendations

The SVBC national assessments together made more than 50 recommendations for improving forest law enforcement and governance. None of these was common to all six countries, though half were common to at least two. Comparing the recommendations is complicated by the fact that although the assessments followed broadly similar analytical lines, they varied in scope and coverage owing to differing ideas of what was important or a priority for study. Thus the countries neither formulated nor prioritised their recommendations in the same way. That said, a number of key issues and courses of action can be identified. Below are summarised the recommendations made by at least three SVBC countries.

Laws and law enforcement

- ▶ Consolidate outdated, inconsistent, incomplete or overly complex legislation to improve its clarity and applicability.
- ▶ Clarify and strengthen community roles in forest governance through law and policy reforms that devolve management rights to local people.
- ▶ Ensure sufficient financial and human resources for law enforcement measures.

Institutions

- ▶ Create or strengthen mechanisms for communication and coordination between the forest sector and other sectors that influence forests.
- ▶ Promote the role of non-State actors in forest use, management and monitoring to support weak public institutions.

Processes

- ▶ Create or strengthen practical, transparent systems for sharing forest costs and benefits.

Transparency

- ▶ Communicate the statutory rights and responsibilities of individuals, communities and government authorities in clear, simple language.
- ▶ Improve public access to legal information by developing or using effective dissemination channels, including radio, television and newspapers.
- ▶ Make harvesting information accessible to all stakeholders to enable accurate calculation of the entitlements from forest use.

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