
Is forest law enforcement and governance the answer?

Companies and governments involved in the international tropical timber trade have a well deserved bad image. Most of their activities have resulted in widespread forest destruction and human rights abuses in numerous countries, while corruption has been at the core of many of their practices. Some of those same actors now appear to be willing –after having been targeted by strong NGO campaigns- to improve their performance in both logging and international timber trade.

This has led to Forest Law Enforcement and Governance (FLEG) processes to deal with the issue particularly in Asian and African forests, while the European Union has also launched a similar initiative to address imports of illegal timber in its member states.

As expressed in the name itself, the FLEG approach mostly focuses on two issues: law enforcement and good governance. The reasoning behind it thus appears to be that as long as forest legislation is complied with and governments play their role adequately, the outcome will be positive to forests. As a result, international trade will be able to continue in business –under the banner of legality- with a clean image.

This approach is based on the implicit assumption that laws are basically good and governments are legitimate, thereby simplifying the very complex issue of forests and forest peoples and leaving outside –or at best at the margins- the crucial topic of forest ownership.

In most tropical countries, the law establishes that forests are owned by the State, which thus has the right to award logging concessions to private corporations. As a result, companies logging in those concessions are operating within the law. If those companies act according to the rules (e.g. respecting annual allowable cuts, concession boundaries and other legal requirements) and if government officials also act according to law in monitoring logging companies, then the forestry sector will be considered to be operating “legally” and having achieved “good governance”.

However, from a community perspective the picture is entirely different. For forest and forest dependent peoples such laws are illegitimate and should not be enforced; they originated in the colonial past and were later adopted by the post-colonial governments to serve the interests of both local elites and foreign corporations -mostly based in the ex-colonial metropolis. For them, forest law enforcement and governance implies strengthening a situation that operates against their will and interests and that they have never accepted as righteous.

From their perspective, illegal logging and corporate-government corruption are not the main issues. Destructive logging of their forests by outsiders –and the human rights abuses involved- is the real problem, regardless of how legal or illegal the operation may be.

Legality is not necessarily synonymous to legitimacy. What needs to be done is precisely that: to make both coincide. For that to happen, laws need to be drastically changed. Governments and civil society need to acknowledge the legitimate right of forest communities through adequate legislation that recognizes community ownership of forests.

Recognizing those rights would be the first –though not the only- step in the right direction. Only then would law enforcement be considered to be positive by local communities and only then would good governance make sense. Until that happens, we will continue to consider much of the “legal” tropical timber trade as illegitimate and the corporations involved as intruders in other peoples’ lands.