Food and Agriculture
Organization of the
United Nations

Enhancing Forest Tenure and Security in Uganda - The turning point

A POLICY BRIEF

Thinking beyond the forest cover and canopy

2015

About the policy brief

This policy brief analyses the policy and institutional frameworks related to forest tenure and security in Uganda's forest sector, looks at the challenges and presents opportunities for forest tenure in Uganda. Based on this, it proposes practical policy recommendations for government to adopt and popularize among forest owners and managers.

The forestry policy, legal, and institutional framework since the sector reforms between 1998 and 2004 are supportive and acknowledge secure forest and land tenure as key to sustainable forest management. Despite this, deforestation has continued at alarming rates approximated at 90,000 hectares per year (NFA, National Biomass Study 2009). The rate of forest cover been estimated at 1.8% per year overall.

Uganda's Constitution provides guidance on land ownership, and the Land Act prescribes in more detail how land can be owned, administered, and how any disputes that may arise can be managed. The Forest and Tree Planting Act guides on tenure and access on public forests through licensing. These legal frameworks determine how forests and trees are owned, and/or used by different stakeholders and in effect guide responsible forest management by government, private and communal forests owners. Despite all these provisions there are still challenges.

The challenges of forest tenure

i)   Challenges in Protected Forests
These are gazetted to provide sustainable tenure for managing forest resources to yield products and services for the present, as

well as for the future generations. They are managed in perpetuity and include forest national parks (managed by Uganda Wildlife Authority) and central forest reserves (managed by National Forestry Authority) and local forest reserves (managed by local governments). However, their tenure is being affected by:

a) Politically-motivated decisions to de-gazette protected areas contributing to the loss of the forest estate. The result is that the would-be investors in the management of the forests are increasingly getting discouraged on investing in forestry.

b) Indigenous people living near and/or inside these protected areas consider them as their land and therefore use them as they see fit. These include the Tepeth in Moroto CFR, the Kadam, in Mt. Kadam CFR, and the Ik in Timu CFR and the Benet in Mt. Elgon Conservation area.

c) Some CFRs are claimed by cultural institutions as their own. This was spurred by the Traditional Leaders (Restitution of Property) Act, 1993. While the law restored the land to the traditional leaders, the legal status of the land remains as forest reserve by the National Forestry and Tree Planting Act, 2013.

d) It is difficult for the poor among the local communities to access licenses through the procedures prescribed in the National Forest and Tree Planting Act as well as the Procurement and Public Disposal of Assets (PPDA) Acts.

ii)   Forests on private/communal lands

a) Guidelines for registration of private forests (natural or plantations) provided for under the National Forestry and Tree Planting Act, 2003, were finalized in 2007 by the Forest Sector Support Department but are not yet popularized and distributed, which impedes the realization of the intended benefits inherent in the law.

b) The Land (Amendment) Act, 2010, allows the private land owner to utilize his or her land in any way, including converting forest land for agriculture or other purposes in the name of development.

c) There is insecure tenure of communal forest lands; where the land is controlled by the community under customary tenure such as in Lango and Acholi Sub-regions in Northern Uganda. Any activity in such a situation requires mobilizing the entire community, usually with limited consensus. Some community leaders are not trustworthy and therefore do not share benefits equally. This requires binding instruments through which communities collaborate and participate in managing their forest.

d) Secure tenure systems like leasehold, mailo, and

freehold land holdings are the best forms of forest tenure on private and communal lands however the process of getting land titles is costly.

e) Economically rewarding alternatives as opposed to communal forests is a big challenge. Communities have chosen to partition land among themselves for quicker economic benefits.

What is being done?

Two approaches have been piloted to address the forest tenure issues. The first approach is the development of the Voluntary Guidelines on Governance and Tenure (VGGT). The Second approach is the establishment of institutional structures such as Communal Land Associations (CLA), community groups of forest adjacent communities, forest user groups, Cooperative Society, Farmers' Group or a Non-Government Organization for purposes of having a common voice, clear management planning and registration of land.

i) The Voluntary Guidelines on Governance of Tenure (VGGT)

The Voluntary Guidelines on Governance of Tenure developed by FAO in 2012 provide guidance to improve the governance of tenure of land, fisheries and forests with the overarching goal of achieving food security for all and to support the realization of the right to adequate food in the context of national food security.

The Guidelines contribute to the global and national efforts towards eradication of hunger and poverty, based on the principles of sustainable development recognizing the centrality of land to development by promoting secure tenure rights and equitable access to land, fisheries and forests.

In terms of land and forests, the guidelines seek to:

a) Improve tenure governance by providing guidance and information on internationally accepted practices to deal with the rights to use, manage and control land and forests (and related benefits and services).

b) Contribute to the improvement and development of the policy, legal and organizational frameworks regulating the range of tenure rights that exist over these resources.

c) Enhance the transparency and improve the functioning of tenure systems.

d) Strengthen the capacities and operations of implementing agencies; judicial authorities; local governments; land boards, organizations of farmers and small-scale producers, forest resource users; pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned with tenure governance as well as to promote the cooperation between the actors mentioned.

What are the implementation principles of the VGGT?

The principles guiding the implementation of the VGGT are simple and include the following:

i. *Human dignity*: recognizing the equal and absolute human rights of all individuals.

ii. *Non-discrimination*: especially under law and policies as well as in practice.

iii. *Equity and justice*: recognizing that equality between individuals in order to promote equitable tenure rights and access to land and forests, for all, women and men, youth and vulnerable and traditionally marginalized people.

iv. *Gender equality*: Ensure the equal right of women and men to the enjoyment of all human rights and ensuring that women and girls have equal tenure rights and access to land and forests.

v. *Holistic and sustainable approach*: recognizing that natural resources and their uses are interconnected and therefore an integrated approach to their administration.

vi. *Consultation and participation*: considering

power imbalances between different parties; ensuring active, free, effective, meaningful and informed participation of individuals and groups in decision-making.

vii. *Rule of law*: adopting a rules-based approach based on natural resources laws, existing obligations under national and international law and commitments under applicable regional and international instruments.

viii. *Transparency*: widely publicizing decisions in applicable languages and in formats accessible to all.

ix. *Accountability*: holding individuals, public agencies and non-state actors responsible for their actions.

x. *Continuous improvement*: States should improve mechanisms for monitoring and analysis of tenure governance in order to develop evidence-based programmes and secure on-going improvements

b) Institutional Arrangements in Governance of Land & Forest Tenure

At the national level, the Ministry of Lands Housing and Urban Development is responsible for providing policy direction, national standards, coordination for all matters concerning land, and reviewing & putting in place the necessary policies and laws. Key Departments include Survey and Mapping, Land Administration and Land Registry.

The Uganda Land Commission administers land that is held by government. The institutional structures have been decentralized up to sub-counties. They include District Land Boards that depend on technical support from the District Land Office. Land Committees & Tribunals are established at the lower local government levels (Sub-counties).

The Ministry of Water and Environment is responsible for ensuring that Uganda's forests are managed in a responsible manner. The Forest Sector Support Sector Department (FSSD) is the technical arm of the Ministry that advises on forestry policies, standards & legislation, coordinates, supervises, and provides technical support to the players in the forestry sector. The National Forestry Authority (NFA) is responsible for sustainable management of Central Forest Reserves. Uganda Wildlife Authority (UWA) is responsible for management of forests in

Wildlife Protected Areas.

NFA and UWA issue licenses to various people to carry out business in CFRs and Wildlife Protected Areas, and enter into & monitor forest user arrangements with local community partners.

The District Councils, through the District Forestry Officer, are responsible for managing Local Forest Reserves, supervising of management of forests outside PAs, and providing technical support to private and community forest owners.

The law also mandates private forest owners (PFOs) and community institutions appointed by the Minister to carry out the duties of Responsible Bodies, alongside NFA, UWA and local governments.

Cultural institutions also own land, some of which is forested. However, the law does not classify them as Responsible Bodies but the draft Land Policy mandates them to hold land in trust for their adherents. But unless this is backed by a law, they will have to register their forests as private or community forests in order to get their forests legally recognised.

Local communities have also been allowed by the law to enter into Collaborative Forest Management (CFM) arrangements with the managing institutions of PAs. However, the arrangements in operation currently subordinate the local community partners to their managing institution partners and therefore, the arrangements are still unsatisfactory.

Operating at the national, local government, and forest management units, civil society organisations (CSOs) do not normally hold land but they advocate for responsible management that is socially beneficial, environmentally resilient, and economically rewarding to those with a legitimate stake in forests.

Secure forest tenure remains the most important intervention of securing existing forests as well

as encouraging investment in forestry. So far, in Uganda, there is good progress in securing protected areas while the private, institutional, dual-managed and communal tenure security is still wanting but can be addressed by the following proposed recommendations with collaborative linkages amongst the above institutions.

Forest tenure and the related rights

Many private and community forest owners do not know their rights. Forest tenure literally means understanding the bundle of rights forest owners (and communities surrounding the forest) have (including roles/responsibilities that have to be harnessed to get benefits/returns. These are briefly explained below:

1. *Access Rights* - the right to enter the forest area.

2. *Use or withdrawal rights* - the right to obtain resources such as timber, firewood or other forest products and remove them from the forest, this includes grazing rights.

Use rights can include the right to earn income from the forest even if one does not use the forest directly.

3. *Management Rights* - the right to regulate internal use patterns or transform the resource. This involves a collection of decisions, practices and concepts that involve decision making beyond the immediate resource use, hence planning for future use.

This includes decisions on protection, maintenance of sacred places, ecosystem services, tourism, carbon for subsistence and commercial use.

4. *Exclusion Rights* - the right to decide who can use the forest and who is prevented from doing so. They are often important for conservation, as well as access to benefits such as payments for environmental services.

This is the ability to control the entry of outsiders to prevent degradation. It impinges on the rights of some customary users.

5. *Alienation Rights* - sale, transfer or lease of the land, which includes the transfer of all the other rights as well. However, this does not to the sale of forest products.

It is only a registered and declared forest owner that is assured of the above rights.

In Uganda, this is done through issuance of permits, licenses on public forests by responsible bodies such as the National Forestry Authority. Private Forest Owners and Communities often have a right to transfer but this should be backed up with documents such as land titles and signed agreements.

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Secure the above rights by registering your forests

Public forests such as the Central Forest Reserves, Local Forest Reserves and Forest National Parks are gazetted under Uganda's laws and therefore the tenure rights are secure. Tenure rights for private and communal forests can only become secure if the forest is registered and/or declared as a forest. Private and communal forest owners need guidance on the steps for registering and declaring their forests for purposes of guaranteeing security of tenure. These are the steps:

1. Initiate the process by contacting the District Forest Officer.

2. Make sure you understand the relevant policies and laws as regards private and community forests.

3. The group needs to formalise itself by signing of the Memorandum of Understanding that constitutes the group as an legal entity that can get the Certificate of Registration.

4. Forest boundaries should be should be clearly marked and forest area (in acres or hectares) measured.

5. Before registering a forest, you need a Forest Management Plan. Consult the Forest Officer to guide you on how to develop one.

6. Consult the land committees at sub-county and district level to guide you on how to acquire a land title. This is necessary before Registration and Declaration of the Community Forest

7. The District Forest Office will then guide you through the process until final declaration of the community forest or private forest.

8. Once registered and declared, you need to adhere to the proposals in the Forest Management Plan.

9. Communities are encouraged to undertake Participatory Monitoring and Evaluation of the Community Forest

10. It is important that revenue and other benefits from the community forest are shared equally.

Benefits of registering and declaring private and community forests

Apart from security of tenure and guaranteeing tenure rights, the benefits and opportunities of registering and/or declaring of forests are enormous:

• *Market access* – there will be better business opportunities through assured market for the forest products and services. In future, people will buy forest products and pay for services only from people that have registered their forests.

• *Right to sell carbon (carbon trading)* - When the forest is registered, one has the rights over the carbon stored by the trees and can also be paid for sustainable forest management through carbon crediting schemes.

• *Security* - With a land title of a registered forest, one is able to secure or acquire loans

from the bank or any other financial institutions.

• *Donations* – With a registered forest, the owner can easily access grants for sustainable forest management

• *Confidence and Respect* – With a registered forest, one has assurance that he or she owns the forestland and therefore commands respect within the public.

• *Reduction of illegalities* - It helps to fight illegal trade of the forest products since legal sources are known.

• *Networking* - Fame (getting to be known worldwide) - when a forest is registered, the public will be aware of its existence.

• *Right to ownership* - the rights to manage and use that forest are strengthened and the owner stands a chance to earn more benefits in future.

• *Easy to control/manage the forest* – One has the freedom of entry into and exit out of the forest with no restrictions.

Policy recommendations

a) Recommendations for Public Forests

Combine physical and digital/cadastral demarcation of state-owned forest lands: Land grabbing, a rush to secure land which is not visibly demarcated, surveyed or titled, is one of the major challenges of state –owned forests. Although most of them are titled, there are no visible marks to deter encroachers and/ or increase level of guilt upon encroachment. This may be addressed through:

• **Demarcating all boundaries with pillars and coppicing species such as Eucalyptus**
• **Institute a beneficial collaborative boundary management with adjacent communities**

Strengthen Collaborative Forest Management (CFM) Approaches: Well managed CFM arrangements deter loss, degradation and de-gazettement of forest estates. Uganda has adopted the same but there is no affirmative action to a win-win scenario and as a result communities find it more of a cost than a benefit. This

can be improved by:

- *NFA should institute the provision of 5% of central forest reserve land to management by adjacent community groups for economically viable forest based enterprises such as tree planting, bee-keeping, sustainable timber harvesting.*
- *Responsible bodies should institute a forest benefit sharing policy with adjacent community with clear reward for communities that help abate illegalities.*
- *Easing the bidding process for concessions to benefit communities.*

Institute a supportive legal framework that deters any form of illegality on forest estates. There are some existing legal provisions for rights of access such as through licenses, permits, bids and user agreements. There is also an Environmental Protection Force in place to help in law enforcement and prosecuting culprits. Additionally, there is need to:

- *Establish legal officer positions up to range and district forest services level for effective litigation*
- *Deploy an Environment Protection Force Officer in each range and District Forest Service.*
- *FSSD should institute deterrent fines that are commensurate to loss or the illegality.*

b) Recommendations for non-state owned forests

Incentivize acquisition of land titles for private forest lands: Insecure land tenure in Uganda is the biggest factor affecting tenure governance of private, non-state institutions and communal land and forests.

Freehold, characterized by acquisition of titles is the most assuring form of tenure. With the existing opportunity of decentralizing Lands Offices/Authorities up to sub-county level, in all regions of Uganda, the processes of acquiring land titles have been eased. However most of the surveyor services are privatized which makes it harder for a private forest owner whether for a natural or a planted forest to acquire a land title. Options to implement the above policy recommendation include among others:

- *All forestry agencies and civil society implementing forestry related projects should mainstream aspects of supporting acquisition of land titles for forest owners. Including supporting all the processes involved as well as surveying costs*
- *Lobby projects in the Lands Department to prioritise forest owners to acquire land titles. This could be eased through establishment of private forest owners associations*
- *Lobby to create a Forest Lands Department in the Lands Offices to support forest owners wishing to have land titles at a subsidized rate.*

Simplify forest registration process: The current forest registration process, requires a forest to have a management plan that should be approved by the line minister. This is a cumbersome process, first of all there is limited capacity for private forest owners to develop management plans. Secondly it is very bureaucratic to get a ministers signature. Options to implement the above recommendation include among others:

- *Revise guidelines for registration and declaration of private forests to include most feasible options for forest registration that can be afforded by small scale forest owners as well as medium to large scale.*
- *Signing off of the management plans be decentralized to district level. Alternatively, the management plans can be categorized according to scale, intensity and risk as defined in the national standard for forest management and other globally recognized best principles of management such as FSC principles and assigned different signatory levels.*
- *FSSD should develop generalized formats for developing forest management planning and popularize them country-wide.*

Institute innovative ways to discourage forest conversion in fragile ecosystems . This can be done through establishing:

- **A forest conversio n tax (including privately owned natural forests,**
- **Water abstraction taxes (targeting the national water and sewerage corporation that draws water from forest sources),**
- **Biodiversity offset tax for developments that have negative impacts on biodiversity**
- **Conversion permits by district for land-use changes targeting forests.**

Achievements of the 'Enhancing Forest Tenure and Governance Project'

FAO, in collaboration with the Forest Sector Support Department (FSSD) of the Government of Uganda and the Uganda Forestry Working Group, implemented the "Enhancing Forest Tenure and Governance in Uganda Project, 2014 - 2015. The project was intended to improve understanding of the principles, key issues and processes to strengthen forest tenure systems in the country through registration and declaration of community and private forests. The following were the key achievements:

Component 1: Strengthening Registration of Private Forests and Declaration of Community Forests:

a) Six (6) Communal Land Association/CBO members and 47 Private Forest Owners in three ecological landscapes were identified, mobilized and sensitized on forest tenure and governance with reference to the VGGT guidelines.

b) The project has supported the development of 55 Forest management plans of which 27 are completed.

c) A process has been initiated for declaration and/or registration of the forests. This includes profiling of the forest owners, the forest registration process, documentation of the forest management plans, establishing contacts with the district land boards, publication of the legal instruments for declaration of community forests and strengthening community institutional arrangements.

Component 2: Enhancing Knowledge and understanding of VGGT and other related National Guidelines and Legislation.

a) Radio programs (radio talk shows/spot message guidelines and drama guideline) based on the VGGT guidelines were developed, packaged and aired on 3 radio stations reaching an approximate audience of 600,000 listeners in the 3 agro-ecological systems.

b) A policy brief, a poster and three sets of stickers with messages based on registration and declaration of forest were produced and 3,000 copies of each were disseminated.

c) Guidelines for registration and declaration of community forests and private natural forest management and registration guidelines have been produced and will soon be popularized.

d) National Forestry and Tree Planting Regulations have been signed and is yet to be printed, launched and disseminated.

Component 3: Enhanced Transparency, Coordination and Collaboration among Sector Stakeholders:

a) Two national level stakeholder forum meeting/dialogue for consultations and planning (based on identified topical issues) has been organised. Recommendation have been forwarded to decision making entities of government.

b) Nine (9) regional meetings with key actors at regional level have been conducted to strengthen and enhance understanding of VGGT guidelines.

c) A national forest status report has been prepared, validated and disseminated to a wider audience.

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A Tree Talk Plus Policy Brief Series TTP-01-15