Nature & Faune

Volume 24, Issue 2

"Natural resource tenure systems and their implication for agriculture, food security and nature conservation in Africa ".

Front Cover Photos:
Top: Maize farm

Bottom from left: Lions in Kenya, W. Michael Frye; Children drinking water from a public faucet (Das FotoArchive / Voermans Van Bree); a tree in a dryland zone, Somalia, anonymous

Back Cover Photos:
Top: Maize farm

Bottom from left: Gabe-Omo-Natural-River Bed in Ethiopia, Nazret; Dense humid tropical forest in Congo, anonymous; Fish in a river, anonymous; a bird in South Africa

Nature & *Faune* is a peer-reviewed open access international bilingual (English and French) publication dedicated to the exchange of information and practical experience in the field of wildlife and protected areas management and conservation of natural resources on the African continent. *Nature* & *Faune* has been in wide circulation since 1985.

Nature & *Faune* is dependent upon your free and voluntary contribution in the form of articles and announcements in the field of wildlife, forestry and nature conservation in the Region.

Editor: F. Bojang
Deputy Editor: A. Ndeso-Atanga
Advisers: F. Salinas, A. Yapi, R. Czudek

FAO
REGIONAL
OFFICE
FOR
AFRICA

Nature & Faune

Enhanced natural resources management for food security in Africa

Volume 24, Issue 2

Natural resource tenure systems and their implication for agriculture, food security and nature conservation in Africa

Editor: Foday Bojang
Deputy Editor: Ada Ndeso-Atanga
FAO Regional Office for Africa

nature-faune@fao.org
Site web: http://www.fao.org/africa/publications/nature-and-faune-magazine/

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
Accra, Ghana
2010

FAO REGIONAL OFFICE FOR AFRICA

BOARD OF REVIEWERS

El Hadji M. Sène,
Forest Resources Management & Dry Zone Forestry specialist
Dakar, Senegal

Christel Palmberg-Lerche
Forest geneticist
Rome, Italy

Douglas Williamson
Wildlife specialist
England, United Kingdom

Mafa Chipeta
Forest Industries specialist
Addis Ababa, Ethiopia

Fred Kafeero
Natural Resources specialist
Rome, Italy

Jeffrey Sayer
Ecologist/expert in political and economic context of natural resources conservation
Cairns, N. Queensland, Australia

Advisers: Fernando Salinas, Atse Yapi, René Czudek

The designations employed and the presentation of material in this information product do not imply the expression of any opinion whatsoever on the part of the Food and Agriculture Organization of the United Nations concerning the legal or development status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The views expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Food and Agriculture Organization of the United Nations.

All rights reserved. Reproduction and dissemination of material in this information product for educational or other non-commercial purposes are authorized without any prior written permission from the copyright holders provided the source is fully acknowledged. Reproduction of material in this information product for resale or other commercial purposes is prohibited without written permission of the copyright holders.

Applications for such permission should be addressed to the Chief, Electronic Publishing Policy and Support Branch, Communication Division, FAO, Viale delle Terme di Caracalla, 00153 Rome, Italy or by e-mail to copyright@fao.org.

©FAO 2010

FAO REGIONAL OFFICE FOR AFRICA

Contents

Message to Readers 1
Maria Helena Semedo

Editorial 3
Emmanuel N. Tambi

Announcements 6

News 9

Special Feature: 11
Land access and tenure insecurity: implications for agricultural water management in West Africa
Moïse Sonou

Opinion Piece: 18

The new wave of large-scale land intensive foreign investment in African agriculture
Mafa Chipeta *18*

Land tenure issues in Africa: views from the Ivorian private sector
Jean Louis Billion *22*

Articles 25

Legal recognition of sacred forests in Cameroon: giving customary communal ownership rights statutory tenure rights
Chi Augustine Muam *25*

Land resources rights and the Millennium Development Goals in some African countries
Isilda Nhantumbo *31*

Resource tenure systems and poverty alleviation
Sue Mbaya *38*

Land-use control and fishery management at the Nazinga Game Ranch in Burkina Faso
Vermeulen Cédric *45*

Spatial planning of forest lands for land tenure security
Bernard Foahom *49*

The importance of secure land tenure systems in coping with Climate Change: the case of some countries in Africa
Wale Adeleke *54*

Land and tree tenure types and effectiveness of natural resources management projects
Afio Zannou *58*

Country Focus: The Gambia 61
Kanimang Camara

FAO Activities 67
Factors that constrain tenure security and diversification in Africa
Francesca Romano and Dominique Reeb

Links: 79

Theme and Deadline for Next Issue 81

Guidelines for Authors, Subscription and Correspondence 83

Message to Readers

Maria Helena Semedo[1]

As population density increases and available natural resources diminish, tensions and competition increase among stakeholders for access to land for farming and animal husbandry as well as access to forest, fishery and wildlife resources. The scramble for resources involves communities, economic interest groups, governments and the private sector as they compete with each other for the choicest items available. The scenario has far reaching implications for all facets of life in Africa. This edition of Nature & Faune magazine explores the complex subject of ***"Natural resource tenure systems and their implication for agriculture, food security and nature conservation in Africa"***. It argues that the absence of clear understanding of the complexities and implications of natural resource tenure systems in Africa poses a key challenge in achieving sustainable development on the continent.

The editorial by Emmanuel Tambi, Director, Regional Policies and Markets, Forum for Agricultural Research in Africa (FARA), sets the tone for this edition of Nature & Faune by highlighting the importance of land for agriculture and other uses and underscoring the need for developing sound land and other natural resources tenure policies in Africa if sustainable agricultural development for food security and nature conservation is to be achieved.

In a Special Feature on the implications of land access and tenure insecurity on agricultural water conservation in West Africa, Moise Sonou shares insights garnered over several decades of working in water resources management issues in Arica. Land-water relationships critical to the debate, are brought into sharp focus in the discussion. The Special Feature further clarifies that without tenure security, investing in water is problematic. The article encourages natural resources practitioners working on water related issues, to conceive joint programs on land and water resources. If you are looking for ideas for future joint interventions on land and water, this article is of interest to you!

In our first Opinion Piece, *"The New wave of Large-Scale Land-Intensive Foreign Investment in African Agriculture"* Mafa Chipeta, FAO Subregional Coordinator for Eastern Africa, shares his personal views on one of the most topical, sensitive and contentious phenomena in developing country agriculture today - the surge in purchase of land in poor developing countries by private investors and governments of wealthy countries, for the purpose of assuring themselves food and natural resources supplies. A second related Opinion Piece is proffered by Jean Louis Billion,

[1] *Maria Helena Semedo, Assistant Director-General/Regional Representative for Africa - Regional Office for Africa, United Nations Food and Agriculture Organization, P. O. Box 1628 Accra. GHANA, Tel: 233-21-675000 Ext. 2112, 233 21 7010 930 ext. 2112; fax: 233-21-668 427*

a business man and president of Chamber of Commerce and Industry of Ivory Coast. His article titled "Land tenure issues in Africa: views from the Ivorian private sector" is a view from the private sector on land tenure issue which illustrate the need for national agribusiness to have secure access to land.

A series of seven subsequent articles are featured, investigating natural resource tenure systems and their implication for agriculture, food security and nature conservation in various African countries. These articles stem from diverse perspectives including: sacred forests; land resources rights and how these influence achievement of the Millennium Development Goals in some Africa countries; resource tenure systems and poverty alleviation; land-use control and fishery management at the Nazinga Game Ranch in Burkina Faso; and spatial planning of forest lands for land tenure security. In addition, the importance of secure land tenure systems in coping with Climate Change is illustrated by a brief overview of some cases from the region. From the grassroots perspective, illustrating the point with real examples, Afio Zanou, in his practical realism, examines what actually happens on the ground through his article on "land and tree tenure types and effectiveness of managing natural resources projects in the Fouta Djallon highlands".

Several of these articles look critically at the contributions from the traditional village/community-level resource management processes and practice. A common trend is that the prevailing assumptions may be erroneous. It is often assumed that giving local communities tenure for forest/land management is automatically better than state or other private management; that the traditional management is better than modern management; that the ancestors did much better than the people of today. There are certainly arguments for all these points, but there is also evidence to the contrary - the *ancient worthies* are not always automatically "wise". Contributions in this edition look at these assumptions/options more critically. There are ample examples in Africa where the traditional arrangements of resources management are unable to cope in the face of rising populations and rising expectations. The 'top-down' planners point of view is also presented (spatial planning), as well as explanations on how the planning process appreciate the potential contribution of the traditional land management process. Africa is still looking for the right balance; what does Africa need to do to find this correct balance?

In our regular feature 'Country Focus' Mr. Kanimang Camara, shares his views and experiences and puts in the spotlight the character and abilities of The Gambian people in dealing with natural resources tenure systems. He introduces us to new creative and effective ways – bringing rewards to The Gambia!

Check out our FAO activities and Links on pages 67 and 79 respectively for actions and results on tenure systems and tenure-related issues in Africa.
I hope that the message carried in each of the articles and features in this edition of Nature & Faune will contribute to increasing your appreciation and understanding of the complexities of land and natural resources tenure in Africa as you grapple with these issues in your work.

Editorial

Land policies and their implications for agriculture, food security and nature conservation in Africa

Emmanuel N. Tambi[1]

Land is a critical productive asset that has multiple uses and applications in the fields of agriculture and industry. In Africa, there is abundant land and other natural resources that could enable food and fiber to be produced to feed the increasing population and also provide industry with inputs. Yet, the continent continues to suffer from poverty, food insecurity, environmental and natural resource degradation. As a productive asset, land is one of the most difficult assets to acquire, own and develop. For many smallholder farmers, issues of *access* to land, clear *land property rights* and *land use* present major challenges. The absence of appropriate land policies that facilitate equitable access to land and guarantee secure land ownership and use makes it difficult to realize the potential contribution that land can make to agriculture, food security and nature conservation. As a consequence, the kinds of land investments that are required to increase agricultural productivity, improve the environment and conserve nature are thwarted. This editorial highlights the importance of land for agriculture and other uses and underscores the need for sound land policy as an instrument for achieving the goals of sustainable agricultural development, food security and nature conservation.

Land is an essential input in the economic, social and cultural development process of every community. Africa's economic development is directly linked to how land is used for agriculture, mining, forestry, fisheries, water resources, housing, infrastructure development and other competing uses. The ability of households and communities to *access*, *own* and *use* land is critical for their participation and contribution to the development process. With increasing human population growth and the need to take advantage of available economic opportunities, many parts of Africa have witnessed stiff competition among smallholder rural and urban farmers, large-scale foreign commercial agricultural companies, real estate developers and the Government over the ownership and use of productive land. Due to cultural biases which prevents them from accessing land, and the absence of clear land property rights, smallholder farmers, especially women who produce the bulk of the food in Africa are relegated to marginal areas; leading to low productivity, deforestation, environmental degradation and resource depletion. What therefore is the main instrument to ensure that land as a productive asset is efficiently and effectively used by smallholder farmers and other economic operators to increase agricultural productivity and ensure food security?

Experience with policy reform processes has shown that countries with sound land policies and laws that determine who has legal rights of access and/or ownership to

[1] *Emmanuel N. Tambi,Director of Regional Policies and Markets, Forum for Agricultural Research in Africa (FARA). PMB CT 173 / 2 Gowa Close, Roman Ridge Accra – GHANA. Phone: 024 873 0015; Email: etambi@fara-africa.org*

certain resources and under what conditions, and therefore how these productive assets are distributed and used by diverse stakeholders, are those most likely to achieve high growth rates of agriculture, food security and poverty reduction. This is mainly because when farmers and business entities have guaranteed security of tenure over the land they use, they begin to make sustainable long-term investments on the land. For example, experiences with land titling programs in Peru, Thailand and Vietnam demonstrate that significant increases can be obtained in investment and productivity on titled land compared with land without title (World Bank, 2004). Currently, a wide range of policy reforms are on-going in Africa aimed at promoting equitable access to land and strengthening land rights among smallholder farmers and there are valuable lessons to be shared between governments, civil society groups and land experts. Countries such as the Republic of Benin are beginning to learn from this experience by engaging in policy reforms that address issues of land. With assistance from the Millennium Challenge Corporation (MCC), the Government of Benin is investing US$36.0 million to tackle problems related to land property rights. The reform aims to enable 115,000 rural and urban households to have secure tenure and user-rights; contribute to a 50% reduction in court cases related to land disputes; and achieve a 10% and 20% increase in rural and urban investments in land property respectively (Republic of Benin, MCC Compact, 2006).

In Mozambique, significant land policy reforms have also taken place during the transition from socialism to political pluralism. The new Land Policy of 1995 was followed by the Land Law of 1997 and the promulgation in 1998, of regulations dealing with land in rural areas. The National Land Policy recognizes customary rights over land including a system of transmission and inheritance and the role of local leaders in land administration and management. It aims to create conditions for the development and growth of local communities and to promote investment in rural areas. It is pro-agriculture in that it safeguards the diverse rights of Mozambican people over land and other natural resources, while promoting new investment and sustainable and equitable use of these resources. It gives women, the main producers of food crops, full rights of access to land independent of the household or family of which they are a part, and allows foreign nationals to obtain land-use rights, especially for agricultural production (de Quadros, 2006).

In Rwanda, the Government believes that increased security of tenure and right of access to land is important for increased agricultural productivity, food security, environmental conservation, and consolidation of peace and social cohesion. Accordingly, Rwanda's National Land Policy and Land Act call for: land registration and delivery of land title with a 99-year lease hold; enhanced capacity for land-use planning; establishment of an Environment Management Authority to ensure natural resource and environmental protection and proper land management for sustainable development; and settling of people in communal settlements referred to as "*Imidugudo*" (www.fig.net/pub/fig_2001/Ts7-7/TS7_7_rurangwa.pdf). The benefits of the National Land Policy go beyond increased agricultural productivity to include an improvement in the general welfare of people through the provision of shelter and safe water, and the protection of nature through erosion control and

reduced forest and wetland destruction (www.rwandagateway.org/article.php3?id_article=1527).

Land is a fundamental economic, social and cultural asset, especially for smallholder farmers in both rural and urban areas. Efficient and effective use of this asset depends on there being a sound, comprehensive land policy that balances the rights and interests of all users, and ensures the inclusion of all segments of society especially women, to enable them realize full economic, social and environmental benefits from land. Countries with sound land policies, laws and regulations are most likely to achieve food security, poverty reduction and nature conservation objectives.

References

AUC-ECA-AfDB, 2008. The Challenge of Land Policy Formulation and Implementation in Africa, Addis Ababa, Ethiopia.

de Quadros, M.C., 2006. Current land policy issues in Mozambique. Ministry of Agriculture and Rural Development and Law School of Eduardo Mondlane University, Mozambique.

Republic of Benin Millennium Challenge Corporation Compact, 2006.

World Bank, 2004. World Development Report 2005: A better Investment Climate for Everyone. New York: Oxford University Press.

ANNOUNCEMENTS

"Africa's changing landscape: Securing land access for the rural poor" is the title of a new publication by the FAO Regional Office for Africa. For further information please contact:
FAO Regional Office for Africa
Gamel Abdul Nasser Road, Accra,
Mailing Address: P.O. Box 1628 Accra, Ghana
Email: fao-ro-africa@fao.org ; joan.nimarkoh@fao.org ;
Telephone: +233-21-675000
Fax:+233-21-668427 ; Website: www.fao.org/africa

The Year 2011 has been declared the International Year of Forests by the United Nations.
Resolution 61/193 of the United Nations General Assembly declared 2011 as the International Year of Forests (IYF). The secretariat of the United Nations Forum on Forests (UNFF) was requested to serve as the focal point for the implementation of activities linked to this milestone. Stakeholders at all levels (governments, civil society organizations, private companies etc.) were encouraged to use this occasion to raise awareness about the value of forests and how they can be sustainably managed. The celebration of the IYF aims at raising general awareness of the important roles of forests in national socio-economies, welfare of rural populations, and environmental protection; as well as informing the public on the need for sustainable management, conservation and sustainable development of all types of forests. A number of countries and organizations have already expressed interest in launching various activities.

The IYF will provide excellent opportunities for the forest sector to showcase success stories, build partnerships, encourage public participation, and build awareness of important forestry issues. To support these objectives, the UNFF Secretariat has initiated a range of preliminary activities: a unique IYF logo is being designed; an official website will serve as a centrepiece for information; and a commemorative stamp series will be issued to honour the celebration of IYF. UNFF is also liaising closely with the Secretariat of the Convention on Biological Diversity to learn from the work carried out in implementing the 2010 International Year of Biodiversity, and to capture potential synergies.

The IYF will be a global initiative, but much of the enthusiasm and energy that will make IYF a success will be triggered at regional and national levels. National committees will take responsibility for co-ordinating and publicizing country-level celebrations and will communicate action plans to UNFF. Activities proposed by UNFF to promote IYF at regional and national levels include at the regional level: awards to be granted to agencies, associations or individuals for remarkable actions or practices relating to forests and forestry; regional round tables, conferences and seminars; publications, flyers, posters, etc.

IYF may also be used to put forestry-related matters on the agenda of regional and sub-regional fora. The Secretary-General's Report on Preparations for IYF (United Nations A/64/274) identifies several events at which celebrations of IYF will be marked.

Forests are an integral part of global sustainable development. The UN's Food and Agriculture Organization (FAO) estimates that every year 130,000 km^2 of the world's forests are lost due to deforestation. Conversion to agricultural land, unsustainable harvesting of timber, unsound land management practices, and creation of human settlements are the most common reasons for this loss of forested areas.
Sources: http://www.un.org/esa/forests/2011/intlyear2011-resolutionb.html
FO:APFC/2010/INF.5
http://www.un.org/esa/forests/2011/2011.html
http://www.un.org/esa/forests/2011/intlyear2011-inputsb.html
http://en.wikipedia.org/wiki/International_Year_of_Forests
http://www.un.org/News/Press/docs/2006/ga10565.doc.htm
http://www.fao.org/docrep/meeting/018/ak841e.pdf

New climate change case studies in Madagascar and in Brazil using EX-ACT
EASYPol has recently published 3 new climate change case studies using EX-ACT (Ex-Act Software for Carbon-Balance Analysis of Investment Projects):

(i) Irrigation and Watershed Management Case Study in Madagascar [EASYPol Module 263]; (ii) An Application to the Rio de Janeiro Sustainable Rural Development Project in Brazil [EASYPol Module 260]; (iii) An Application to the Santa Catarina Rural Competitiveness Project in Brazil [EASYPol Module 261]

Summary
Three case studies of Carbon-Balance Appraisal for a FAO/WB investment project: one in Madagascar and two in Brazil, using the new EX-ACT application.

Who might this benefit?
Users who wish to improve their skills on how to estimate climate change mitigation potential of agricultural programmes/projects and to integrate these measures in the economic analysis of projects.

Synopsis of contents:
- A brief description of the two projects implemented in Brazil: [Rio de Janeiro & Santa Catarina] and in Madagascar
- EX-ACT analysis of the project
- Guidelines for structuring project data
- Discussion of the results

Related resources
- EX-ACT webpage www.fao.org/tc/tcs/exact
- EX-ACT Software, Technical Guidelines & EX-ACT Brochure [EASYPol Module 210]

- Policy brief: Mainstreaming Carbon Balance Appraisal of Agriculture Projects and Policies. A Tool for Measuring Carbon-Balance in Ex-Ante Project - Programme Impact Appraisal

EX-ACT Resource package

See theTraining Path on EX-ACT which contains the complete resource package.

Contacts

For technical advice, please contact:

- *Louis Bockel: louis.bockel@fao.org*
- *Giacomo Branca: giacomo.branca@fao.org*
- *Marianne Tinlot: marianne.tinlot@fao.org*
- *Martial Bernoux: martial.bernoux@ird.fr*

Please send your comments to: easypol@fao.org

News

Morocco's National Earth Charter, the first commitment of its kind in Africa and the first in the Arab World.

In celebration of Earth Day's 40th anniversary, the Kingdom of Morocco in April 2010 announced an unprecedented National Charter for Environment and Sustainable Development, the first commitment of its kind in Africa and the first in the Arab World. The charter will guide policy in the country and future laws on natural resources, the environment and sustainability. The King of Morocco, Mohammed VI, spearheaded the National Charter for Environment and Sustainable Development, which has undergone a nationwide, public consultative process and will form the framework for national environmental laws.

News item culled from: Environment News Service, 620 Vineyard Lane, Suite #B303, Seattle,WA 98110. Questions or Comments: news@ens-news.com
Website: http://www.ens-newswire.com/ens/apr2010/2010-04-22-01.html

African Nations Plan to Save Thousands of Endangered Chimpanzees

The nations of East and Central Africa and some of the world's largest conservation organizations have developed a 10-year conservation action plan to save thousands of endangered eastern chimpanzees. The main threats to these animals, which share 98 percent of human genes, include hunting for bushmeat, capture of infants for the pet trade, disease and habitat loss.

For more, visit: http://www.ens-newswire.com/ens/jun2010/2010-06-22-02.html
News item culled from: Environment News Service, 620 Vineyard Lane, Suite #B303, Seattle, WA 98110. Questions or Comments: news@ens-news.com

The government of Finland announces international support for sustaining biodiversity in association with the LifeWeb initiative

The Prime Minister of Finland, Matti Vanhanen, on 16 March 2010, announced in Dar es Salaam that Finland will support Tanzania under the LifeWeb Initiative. This is the result of cooperation between Finland's Ministries of Environment and of Foreign Trade and Development. The LifeWeb Initiative is a partnership platform to strengthen financing for protected areas to conserve biodiversity, secure livelihoods and address climate change, through implementation of the CBD Programme of Work on Protected Areas. This support to Tanzania marks the first project that Finland will contribute to as a partner in the LifeWeb Initiative. A press release sent out today by the Finnish government states that Finland will look for further opportunities to support nature conservation projects through the LifeWeb Initiative. Consistent with the Finnish Forest Biodiversity Programme (METSO), LifeWeb facilitates voluntary support for biodiversity priorities. The project in Tanzania will sustain biodiversity as a means to strengthen local livelihoods, especially those of women, and adapt to climate change in the Mahale Mountains National Park and surrounding villages.

Further information on LifeWeb, please visit www.cbd.int/lifeweb/ or contact Jason Spensley +1.514.287.8704 or jason.spensley@cbd.int. For more about the Convention on Biological Diversity contact David Ainsworth on +1 514 287 7025 or at david.ainsworth@cbd.int
The Secretariat of the Convention and its Cartagena Protocol is located in Montreal. Website: www.cbd.int

Gorillas could disappear from most of Africa's Greater Congo Basin within 10 to 15 years unless immediate action is taken to combat the illegal activities of militias, counter poaching and safeguard gorilla habitats, the United Nations and INTERPOL warned in a report released 24 March 2010. Illegal logging, mining, charcoal production and increased demand for bushmeat, plus deadly outbreaks of Ebola hemorrhagic fever are wiping out Congo Basin gorillas.

News item culled from: Environment News Service, 620 Vineyard Lane, Suite #B303, Seattle,WA 98110. Questions or Comments: news@ens-news.com

Website: http://www.ens-newswire.com/ens/mar2010/2010-03-24-01.html

Special Feature

Land access and tenure insecurity: implications for agricultural water management in West Africa

Moïse Sonou[1]

Introduction

Land-water relationships are complex. The care given to land management affects water and vice-versa. Therefore, land and water management integration at basin level is recommended. However, water and soil conservation activities are an investment that only farmers who are sure to reap the expected profits dare to take up. The same holds true for agronomic practices for the preservation of fertility and irrigation to improve its productivity, the benefits of which can extend over several years. In rural areas, access to credit is required for investments and is subject to a guarantee, and to a land title that smallholder farmers simply do not have.

When land access and tenure systems insecurity prevent long term investment, either the farmer gives it up, or he invests only in short term or immediate profitability, even if it means adopting environmentally unfriendly practices especially for soil and water: poor tillage, poor irrigation resulting in water-logging and salinization, excessive groundwater drawdown and pollution, draining of surface water reserves and, possibly, saltwater intrusion in coastal areas. Irrigation then becomes nomadic, from one degraded site to a new one, as long as there still remains irrigable lands.

This paper presents an overview of land-water relationships; the duality of land tenure systems, between modernity and traditions; land access and tenure insecurity and its implications for agricultural water conservation in West Africa.

Land and water: a complex relationship

The relationships between land and water resources are such that any land use type has implications for water resources and vice-versa. The same holds true for all land development and management activities whether they are farming/residential/touristic-oriented. These activities result in changes in the *surface status* (Casenave, 1989) and soil structure with effects on infiltration, runoff and humidity retention capacity factors. Ultimately, the production capacity with rain or irrigation is affected. On the other hand, any change in hydrologic regime such as building a dam for agricultural, power, touristic, urban water supply or flood control purposes, has profound implications for lands located within the reservoir's area of influence. The inconsiderate draining of wetlands (lowlands, marshes and swamps) can destroy their production capacity.

In spite of these close links between land and water, most often, when dealing with land access and land tenure systems, water rights are often ignored. In many traditions, water is viewed as a common property freely accessible. However, the owner of a plot of land adjoining an inlet channel does not necessarily have drawoff rights over the passing water. It is a fluid, fluctuating, even elusive resource. However, the land remains fixed

[1] *Moïse SONOU, Consultant, land and water management 06 B.P. 3419 Cotonou, BENIN. Email: msonou@gmail.com Telephone: + (229) 979 82381*

and motionless even if it erodes under the combined effect of wind and water. From a legal point of view, it is easier to conceptualize, establish and administer land rights than water rights (Hodgson, 2004).

Duality of land tenure systems: customary and modern practices

In most African countries, land tenure systems refer either to customary law, to modern law, or to an often difficult combination of both. In some countries, traditional land tenure has been taken over by the State as in Southern and Eastern Africa (Norton, 2004). The transition from traditional to modern law can engender land insecurity if the process is not properly supervised.

Case of Niger

In Niger, Ordinance No. 93-015 dated March 2, 1993 establishes the main rules pertaining to the appropriation, ownership and management of natural resources. Its first Article mentions that these resources "are part of the nation's common heritage". The Ordinance does not operate in neither land reform nor agrarian reform. It aimed at dealing with both the population's habits and customs and needs. It mentions the equal access to natural resources for men and women. Article 10 of the Ordinance establishes the principle of equal rights for land owners be they customary or based on modern law (land title, administrative authorization). Their holders are granted the same prerogatives and obligations.

In the case of private irrigation programmes (PIP1 and PIP2) funded by the World Bank in Niger, lands developed under sub-projects are private property resulting in most cases from inheritance, from purchase, lease or from fixed-term loan (5 to 10 years) transactions. The latter case is more frequent on collectively irrigated sites. The PIP2 did not experience open land conflicts mainly because of preliminary land securing measures. On the other hand, other similar projects funded by other sources have been affected by land conflicts that impeded farming after land development..

Case of Mali

At national level, land issues are regulated by the Land Tenure and Public/Private Ownership Code *(Code Foncier et Domanial-CFD)* which grants to the State land ownership while acknowledging private ownership, the registration of which represents the final form. In its Article 43, the Code stipulates that customary rights exercised collectively or individually over non-registered lands are confirmed. Traditional land rights translate dependency and alliance relationships between individuals more than ownership relationships between man and land. The farmer is only a temporary user.

More than twenty years after the adoption of the Code and its various and subsequent amendments, land tenure security in rural areas still remains a more or less remote perspective for most of the grassroots actors. In the Kangaba circle, like elsewhere in the country, land is still managed by traditional authorities (FAO, 2005).

The Agricultural Orientation Law (AOL) adopted in 2006 aims at improving land tenure security in rural areas. It recommends the formulation of a law on agricultural land to determine the public/private land ownership and the tenure system applicable to rural lands as well as land tenure security principles of rural actors.

Case of Burkina Faso

The land situation is in a transition phase. The current body of legislative writings (legislative corpus) is based on a principle and an exception. The principle establishes that all lands located on the national territory represent the national land estate; it is the "*domanialité*" principle. The exception is private property: some lands among the state-owned lands may be transferred as private property to legal or physical entities according to the provisions made by the Law.

Access to rural lands for irrigation purposes is currently regulated by Law No. 014/96/ADP dated 23 May 1996, on the agrarian and land reform. On irrigable lands, farmers usually receive different occupancy titles depending on whether the lands are developed or not. These titles grant them a right of enjoyment for a more or less extended period. According to the law, it is possible to transform a right of enjoyment into a property right. However, the process is particularly cumbersome and expensive, thereby automatically excluding smallholder farmers who represent the majority of producers.

The current regulation ignores customary land tenures; under some restrictive terms, their persistence is tolerated on lands used for non-profit ventures and that are not dedicated to economic development.

A new law on land tenure in rural areas was recently adopted but is not yet enforceable. It identifies: i) state-owned land, ii) territorial communities' land estate, and iii) private land estate for legal and physical entities.

Case of Nigeria

Customary land tenures vary according to ethnic groups. Traditionally, the Clan Chief, *Oba* or *Emir* is the trustee of lands ownership and administers them on behalf of the community. All members of the community are entitled to usufruct. Individual rights could not be subjected to any commercial transaction such as lease, mortgage or sale. However, with the increasing demographic pressure, land fragmentation has worsened and market transactions formerly forbidden have become common.

To harmonize land tenure systems in the country, Decree No. 6 dated 19 March 1978, later integrated into the Nigerian Constitution, stipulates that all lands within the territorial boundaries of a Federal State fall under the authority of the Governor of that State who will administer them for the common use and benefit of all Nigerians. In spite of the stipulations of the Decree, land tenure still conforms *de facto* to customary rights. Even though the Decree does not include any discrimination between men and women, the latter do not actually enjoy the same rights as men. In the South, they have access to land only through men, while in the North, a woman can only inherit the portion prescribed by the Muslim law, Sharia, that is half the part devolved on a male heir.

In West Africa, although it is a common feature to see traditional and modern land tenure systems coexisting, it is not easy to administer both. Most often, the enforcement of land laws or other codes is delayed by lack of enforcement legislation.

Land access and tenure insecurity: implications for soil and agricultural water conservation

As indicated earlier, land access modes and land tenure systems in West Africa are characterized by different forms of insecurity. In areas prone to recurring armed conflicts, rural populations are often compelled to interrupt their agricultural activities, abandon their lands to become refugees. In such conditions, people are not enticed to invest in water and soil conservation or irrigation infrastructure works since they are not sure to remain a few years or even several months at one place.

Some development projects involve population displacement. It is the case for large multi-purpose dams. As the construction can take years, uncertainty eventually sets in among the populations targeted for resettlement. Consequently, they are no more interested in investing in activities such as water management and soil fertility to improve their productivity and productions beyond the immediate or short term.

In normal conditions, land tenure-related insecurity is a real obstacle to investments in land management and development. It undermines farmers' will to invest in their environment. During the 26 case studies conducted in 15 sub-Saharan countries, some individuals asserted that farmers will significantly contribute to water and soil conservation if the private status of the land is established (Reij *et al*.). In the Upper East Region of Ghana, women in general, and land tenants in particular, cultivate plots on the basis of temporary agreements. They constantly fear that the plots will be re-appropriated. In these conditions, both categories of farmers consider that long term investment to improve the land is inappropriate since they have no guarantee that they are going to reap its benefits (Millar *et al.*).

In the northern Nigeria, land fragmentation due to demographic pressure and market transactions has created a great number of landless farmers. Thus, in some States, one can find farmers having their own motor pumps and farming on rented plots of land. Where there is no surface water, they bear the cost of sinking wells that they are ready to give up to the land owners whenever the latter decide to terminate the contract. Sometimes, seasonal irrigators go from one State to the other, carrying their motor pumps along, seeking irrigable lands. Of course, the precarious land tenure status of these irrigators does not allow them to envisage water and soil resources conservation. From one season to the other, they do not always come back and farm in the same areas.

In Burkina Faso, landless farmers engage in various types of arrangements with land owners as reported in the box below.

***Box*: Land ownership in Private Small-scale Irrigation**

In private small-scale irrigation, most garden farmers do not own the lands they acquired temporarily without financial compensation, even if there exist cases of final transfers. This precarious status limits investments such as tree plantation and organic manure input.

There are two types of contract. In the first case, the promoter acquires a motor pump, installs the water distribution network on all the lands involved and commits to provide water to land owners for the period of time agreed on (1 to 6 years) at the end of which the plot he is farming is permanently transferred to him. In the second case, at the beginning of the contract, the promoter provides to the land owners a brand new motor pump and install the water distribution network. He therefore becomes the owner of the plot transferred to him by the former owners. However, the agreement is more frequently revoked once land owners get to master production techniques and obtain enough funds to install their own irrigation systems.

There is also a private farming system of two, three, or even four producers. It is an association between land owners and a promoter who contributes the water control equipment. As a compensation for accessing the land, the motor pump owner provides irrigation water to the land owners. Each plot is used and managed completely privately, under the sole responsibility of the producer.

In Mali, in areas with large potentials of lowlands, the use of those lowlands traditionally remains mainly a woman's job. Land tenure is based on women's right to use plots. However, it has been established by previous experiences that in certain cases, men question this arrangements and seize the developed lands from women.

In Niger, on some sites developed by women for irrigation, they comply with arrangements through which users (women) and owners alternatively use the land: users during the dry season and land owners during the rainy season, the latter benefiting from the fertilizers residues left by the former. That precariousness does not facilitate sustainable investments, particularly in the area of water conservation and soil fertility.

Even in the case of private smallholder irrigation programmes initiated by the State and its technical and financial partners (TFP), land access and tenure insecurity remains a constraint. Small-scale promoters need loans to realize their investments in infrastructures and water mobilization and distribution equipment (pipes, boreholes, drip irrigation kits). Without a land title used as a guarantee for the bank, it becomes difficult, even impossible to obtain loans. Therefore, how can decision makers promote technologies such as drip irrigation that use minimal irrigation water and labor and increase yield, but the installation cost of which can be relatively more expensive?

In the context of the above scenarios of land insecurity, the farmer is generally unwilling to invest in operations to fight the degradation of his natural resources base, water and land, in the medium and long terms. His concern is mainly limited to the short term. Excess irrigation is not uncommon and deprives tail-end irrigators from their water entitlements. In the absence of appropriate draining, water-logging and salinization result from excessive irrigation. In some case, the irrigator shifts from the degraded land to a new site; irrigation thus becomes nomadic. Moreover, wasting irrigation water can result either in draining surface water reserves, or in excessively lowering the level of groundwater table, with the risk of saltwater intrusion in coastal areas.

In most countries where irrigated perimeters are initiated and funded by the State and/or its technical and financial partners, access to land or its use remain precarious and conditional. Plots are allocated only to farmers who commit to comply with the rules of operation and to fulfill their obligations regarding, for example, water management. Failure to do so would mean eviction for the farmers. Land tenure insecurity could therefore be a coercion factor in favor of a good irrigation water management on large state-owned plots, or on the contrary a factor fostering poor management on individual plots.

The disengagement of the State from management and production activities on large and medium irrigation schemes has resulted in the transfer of these responsibilities to groups of farmers organized in water users associations (WUA). These farmers did not own their plots. The operation which should have been accompanied with actions such as appropriate training of WUAs, effective and gradual transfer of responsibilities and means was often performed without transferring property titles. Without property titles, the new managers found it difficult to interact with banks. The necessary investments for the proper maintenance or renewal of infrastructures and for a sound water management were therefore delayed or given up. **It would be unrealistic to hope that irrigation management transfer programmes would be successful without land tenure and water rights security.**

In the case of small-scale urban and peri-urban irrigation, land access and tenure insecurity has negative environmental and sanitary impacts. Even though land use plans in urban and peri-urban areas do not integrate agriculture, it is growing, occupying any free space with some water for irrigation. The only available sources of free water are often drainage canals, even sewers with the related sanitary risks. Farmers are in a very precarious situation because they can be evicted by urban authorities or the owners of non-developed plots. Therefore, they are not willing to invest in the supply of the appropriate quality of irrigation water. It is estimated that at least 20 ha are under such small-scale informal irrigation in the main cities of west and central Africa (Drechsel *et al*, 2006).

Conclusion

Land-water relationships are complex. The care given to land management affects water and vice-versa. The intensity and sustainability of that care depends on the types of land tenure; the more precarious the tenure, the more serious the negative impacts on soil and agricultural water management and conservation.

In the past, traditional land tenure enabled a non-conflicting management of land and water resources. With both demographic and urban pressure, land fragmentation and market transactions formerly forbidden have spread and imposed the modernization of land tenure. However, almost everywhere, the coexistence of both traditional and modern tenure systems is not easily manageable.

Land tenure insecurity limits farmers' access to credit schemes and deters investment in technologies to improve productivity and preserve the environment. In the current context of climatic change coupled with the expected increase of agricultural water requirements and the reduction of available resources, water productivity is a priority towards which land tenure systems should contribute.

Bibliography

1. Casenave, A., et Valentin, C., Les Etats de Surface de la Zone Sahélienne, Influence sur l'Infiltration, Paris, ORSTOM

2. Drechsel, P., Graefe, S., Sonou, M. and Cofie, O. O., Informal Irrigation in Urban West Africa : An Overview, Colombo, IWMI

3. FAO, 2005, Programme de Développement des Bas-Fonds et des Plaines (PDBP), TCP/MLI/2908, Rome, FAO

4. Hodgson, S., 2004, Land and Water – the rights interface, Rome, FAO

5. Millar, D., Ayariga, R. et Anamoh, B. 1996, Relations du genre et système *yaba-itgo* dans le « *Upper East Region* » du Ghana *in* Techniques traditionnelles de Conservation des Eaux et des Sols en Afrique par Chris Reij (voir 7 ci-après)

6. Ministère de l'Agriculture, de l'Hydraulique et des Ressources Halieutiques, Burkina Faso, 2004, Politique nationale de développement durable de l'agriculture irriguée, Rapport principal, Ouagadougou

7. Reij, C., Scoones, I. et Toulmin, C., 1996, Techniques traditionnelles de Conservation de l'Eau et des Sols en Afrique, Paris, Karthala, CDS et CTA

Opinion Piece

The new wave of large-scale land-intensive foreign investment in African agriculture

Mafa E. Chipeta[1]

This opinion piece is prepared in a personal capacity. It presents some thoughts on one of the most topical and contentious phenomena in developing country agriculture today: the surge in investment by rich countries (a large number being developing ones) in poor countries for the purpose of assuring themselves food supplies.

The issue: With the 2008/9 advent of soaring food prices last year, many surplus countries blocked exports of basic grains; importing countries were left in a situation where even if they had money the world market was no longer an assured source of food security. Rich importing countries (many of them oil-rich) lost faith in the international market as a guarantee of food security; being low in domestic farming potential, they started to invest in land-rich poor countries, with the intention of importing food back for their citizens outside the framework of open trade. Africa, especially Eastern Africa, is at present a major destination for such investments, mainly by nearby oil-surplus Middle East countries. Many have targeted securing large expanses of land there, including by their sovereign wealth funds, and it is this that has set alarm bells ringing.

Some NGOs, international organisations and a number of developed country governments have raised the alarm at the possibility of situations in which poor developing countries could be locked into unfair land deals, which many label as "land grabs". They fear the threat of such deals reducing access to food by the hungry people of investment recipient countries as the rich export grain back to their homelands, the inequality of bargaining power in the negotiation of deals, the presumed lack of attention to the rights to land and livelihoods of neighbouring indigenous populations, and the lack of external oversight over the deals, which operate outside transparent trade rules. They call for strong guidelines based on severe application of the "precautionary principle" (i.e. do not move forward until you are absolutely sure that no harm will result). On their part, the investor countries see the prospect of more assured food security for their peoples; the investment beneficiary countries, particularly in food-insecure Africa, see a new chance to capture investment that has so far generally eluded them.

The New Investments in Context: The international community has seen Africa lose ground in food production and in overall agricultural production. Accordingly, there have for a very long time been appeals for greater public and private investment in agriculture in Africa. African governments have tended to allocate

[1] *Mafa E. Chipeta FAO Subregional Coordinator for Eastern Africa & FAO Representative in Ethiopia, to the African Union and UN Economic Commission for Africa P.O. Box 5536 Addis Ababa Ethiopia Telephone: + 251 11 551 72 – 30; +251 11 551 30 – 49*
Email: Mafa.Chipeta@fao.org

little of their budgets to the sector; donor aid has declined over time (there is now the beginning of a reversal); and private capital has been wary of major commitments in that region, which has been considered risky. Much foreign direct investment in Africa has instead focused on exploitation of high-value or strategic commodities (oil, selected minerals etc) rather than agriculture; local private capital has followed suit.

The net result is that in a normal year Africa now consumes over a third of international food aid and is a major net importer of commercial foods. Fast-increasing agricultural imports have reached some US$33 billion annually while exports have stagnated at around US$14-15 billion.

Notwithstanding this dire picture of African dependence, poverty and food insecurity, the international community has not welcomed the new surge in land-intensive farm investments. Instead, there have been charges that the phenomenon amounts to new colonialism. Other alarmist terms have been used and activists have mobilised civil society, developed country governments and multilateral agencies to look deeper at what is going on and whether (given the asymmetry of economic power of the negotiating parties to such land/agriculture agreements), the interests of the poorer countries are well enough protected, especially the interests of local communities.

Among the countries being targeted for investment are many in the Horn of Africa, an "icon" zone for hunger and food desperation. This being the case, surprise - even alarm - has been raised at the fact that these poor countries, which are themselves dependent on charitable food from others, should be getting asked to produce food for export to feed the rich while they themselves remain food-aid dependent.

Is the International Reaction Fair to Africa?: In many ways I work in the "epicentre" of these new land deals. I initially listened uncritically to international opinion. I have also come to sense that an attitude prevails of disapproving such deals before even assessing the local reality and the provisions made for renegotiation and betterment of benefit-sharing. I could not help feeling that the international community (as reflected in the media which largely belong there) often gave the appearance of wishing to have more perfection and higher standards in such land investments than it seeks for other investments such as in oil and mineral exploitation; often, it appears that outsiders have the apparent ambition to "make omelettes without breaking eggs" and wishes to take all risk out of entrepreneurship.

Over time, I have been driven partly by this sense of prejudgement being made by international observes to also listen more to the governments of poor countries and what drives them. I have begun to see that the adoption by the international community of a "precautionary principle" applied in extreme forms; and the communication to poor-country governments of a sense of censure and severe disapproval may be counter-productive. It is beyond question that Africa needs a massive increase in agricultural investment to raise productivity and so uplift its people out of poverty and hunger.

Increasingly, I cannot help sensing that a siege mentality can creep in as poor-country governments only hear criticism and no encouragement coming their way; they will be tempted to become secretive. If this happens, they will be reluctant to seek external advice or to learn from international best practice. Land deals could then worsen rather than improve; the room to influence the deals or to provide technical assistance for negotiation and project implementation capacity could be lost; and the worst case scenarios of abuse and marginalisation of local communities could become more rather than less likely. This would not be due to ill will or venality of governments, but rather to lack of knowing better. The real danger of an unlistening and unsympathetic international community is that the perfection it seeks can unnecessarily frighten away even good investment from Africa, because the process of satisfying purist expectations will have become too burdensome to comply with.

With time, I also believe I am also learning a number of things that perhaps we should collectively recognise and accept, while remaining open to adjustment as the investments mature and yield new lessons for us. I summarise them as follows:

1. Investment is important, especially for African agriculture, and all parties need to act in such a manner that they communicate a sense of welcoming rather than discouraging it;

2. It is important to focus on the overall investment package and not just on the land deals associated with it – land is only one element in successful agriculture;

3. Asymmetries in the capacities of the destination and investor countries (both in the negotiations and in subsequent capacity to manage development) are at the root of potentially unbalanced outcomes in investment deals: this situation calls for assistance rather than mere condemnation;

4. Some of the investment in Eastern Africa (Ethiopia and Sudan are particularly important destinations) from the oil-rich Middle East is driven by more that the recent soaring food price crisis. There is a longer-term crisis of water shortage – key countries (Saudi Arabia among them) initially expanded irrigated agriculture but for fear of irreversible depletion of groundwater, are now reducing domestic farming. Yet by now they have large processing industry capacity that used to depend on domestically produced farm products. The question is whether it is sustainable for them to tie Eastern Africa into becoming a permanent exporter of only raw materials to feed this processing capacity or if they should pursue co-investment with their poorer neighbours in the full value-chain so that both parties benefit;

5. There is some danger in applying precautionary principles in very extreme ways: some governments can be driven into dangerous secretiveness if they see the international community as "policing" their intentions and negotiations. They resent the international assumption that they will not protect their own peoples' interests in land deal negotiations;

6. No one can defend processes that ignore the rights of local communities. But development is never completely painless and choices may sometimes have to be made in the interest of *the greater overall societal good* rather than that of specific local communities – there are tradeoffs. The countries that are developed and industrialised today made many such choices in the past and their success is partly a result of this.

Working Together: Africa has ambitions to develop, including in agriculture. All its partners claim to support such ambition. What is lacking is a clear sense of how best to do this – to the extent aid has been given (and there has been much of it), the successes are few and far between. Lack of investment (to accompany endless capacity building and technical assistance) delivered in isolation may be part of the reason for failure.

Now that the investment is flowing – should it be the turn of technical assistance to dry up and thereby condemn Africa to another failure? Should international technical support not be increased in order to synergise with the new-found investment and so ensure "win-win" outcomes for the poor countries, for the investors, and for the local communities too?

The debate (sometimes "preaching" would be more correct) about land deals/"landgrabs" has so far tended to be one way – criticism of the greed of the investor countries and of the assumed venality and corruption of recipient governments. Is it not time to stop assuming the worst? Is it not time to stop preaching to the stakeholders and instead to invite both the key destination and investor countries governments into international dialogue? At present, they may have reason to feel that they are being studied from the outside and are being watched with potential or real ill-intent by external parties; yet success demands that they be placed at the centre of finding ways to do things better.

Lessons From History: The international community may also wish to draw upon history – what are now being called "landgrabs" occurred before on all continents as settlers (colonialist or otherwise) moved in. Many such landgrabs have become the basis for the prosperous agriculture we see today; some started with atrocious dislocation of local economies and offered few, if any community benefits. But by now, they have become the keys to permanent rural and national prosperity. It took willingness to learn, to improve, and to desist from extremes. This should and will be possible also in Africa but it will not happen by accident: the international community and the directly concerned parties need to work at it with solidarity and in partnership.

Land tenure in Africa: A Private Sector Perspective in Côte d'Ivoire

Jean Louis Billion[1]

Summary
In most African countries, land tenure is a crucial issue, particularly in Côte d'Ivoire where it was one of the main causes of the socio-political crisis that has been persisting since September 19, 2002. We also know that land carries a social, cultural or political importance, but also that it is an economic, income-generating asset. For economic operators, land is therefore an agricultural production challenge which imposes rights guaranteed and/or controlled by Public Authorities.

Sustainable development and the rural land tenure issue

Initiated by the United Nations, the notion of sustainable development aims at reinstating disrupted balances. Sustainable development was defined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (Brundtland Report, United Nations, 1987). The challenge is to meet our own needs without endangering or threatening the welfare or survival of future generations.

This definition implies a multi-dimensional action: an economic dimension, a social dimension, an environmental or ecological dimension. Each dimension includes a number of challenges. At economic level, the sustainable development challenge is first and foremost trade-related; to ensure fair trade, enforce fair prices and income distribution, and improve competitivity. At social level, a great challenge for sustainable development consists in alleviating poverty, social inequalities and unemployment. At environmental level, there is a need to preserve ecosystems and diversity, reduce pollution rates and control climate changes. Therefore, sustainable development calls for social progress, economic development and of course environment preservation, compelling us to engage in a collective effort. Actually, it involves the individuals, local authorities, companies and the State.

However, no sustainable development is possible without directly dealing with the issue of the agricultural sector, the implementation of strategies dealing with priorities related to water and energy control, productivity enhancement, sectors organization and financing or the promotion of small and medium enterprises, of small and micro-processing enterprises and consequently their capacity for production, industrialization, wealth creation both at economic and social levels, but particularly the issue of rural land ownership and tenure.

When considering some African countries, especially in Sub-Saharan Africa, it is noted that they have the potential to be real agricultural powers. Following the examples of Brazil or the United States, Côte d'Ivoire is a model in terms of the materials it produces (cocoa, coffee, hevea, cotton, etc.) yet it is unable to process

[1] *Jean-Louis BILLON, Chairman of the Chamber of Commerce and Industry, 6, Avenue Joseph Anoma. BP 1 Poste Entreprise Abidjan Cedex 1. Côte d'Ivoire*
Tel. Office: (225) 2033 1600. Email: bjeanlouis@chamco-ci.org

and export them in optimum conditions due to impediments (tax system, economic infrastructure degradation, road harassment, etc.) that hinder its competitivity. It is clear that Côte d'Ivoire needs to modernize its agriculture, make it more competitive and train farmers who should no longer remain illiterate but rather fully play their social, economic and political role and adapt to the new rules of globalization.

Moreover, if sub-saharan Africa wishes to achieve modern agriculture at national, sub-regional and international levels (including in Côte d'Ivoire and in most other countries) the land tenure issue should be addressed.

Land tenure status

In Côte d'Ivoire as in almost all African countries, the actual issue is not access to land but access to rural land ownership. The question is, what does "*difficult access to rural land ownership" mean*?

A great number of farmers, after developing a land, are faced with customary rights challenges as they are aliens and cannot claim ownership of the land. The author's position is that the Law of 1998 (Law n° 98-750 dated 23 December 1998 on rural land estate as amended by Law n° 2004-412 dated 14 August 2004) does not and cannot work effectively: one cannot argue with a bank or even a company over customary land laws..

At economic level, if a farmer desires to develop and modernize his property, he should be able to cultivate, mortgage his plot and produce, and apply for a long term loan from a bank. If he is faced with customary law, this will further complicate matters and result in an impasse.

Developed countries have succeeded in addressing the land issue. Take as example any Ivoirian who would travel to far away Arizona or Michigan in the United Staes of America to buy a land. There, in compliance with the Laws and their enforcement by the authorities, he can bequeath the land to whomever he wishes. An American from Arizona or Michigan who comes to Côte d'Ivoire, in the same conditions would be met with stiff challenges from prevailing customary law.

It is an acknowledged fact that in 1960, only 3.8 million people lived in Côte d'Ivoire and there were pristine land areas (land uninhabited and unexploited by man). At the time, the population density was inferior to that of the United States of America; but today, Côte d'Ivoire has a population density almost equal to that of USA, how then can it put forward the customary law as a hurdle to people who legally come to operate in the country? In the very areas where there never was a living soul or custom for that matter, Ivorians are now conjuring customary law!

One cannot help but be concerned over situations such as those of individuals to whom the government transferred companies during the privatization process. These companies were reassigned along with genuine land titles, yet on the long run they had problems with customary rights. Cases abound where common farmers who after developing the land were faced with the communities appealing to customary rights to rescind ownership of the farmland. Consider the following

aberration: company representatives or farmers are accompanied by a District Officer (a high official representing the state and thereby its laws) to pay customary rights while they are still required to pay property taxes, as if the principle of double taxation of one article did not exist. This is contradicting oneself and contradicting state laws.

If Côte d'Ivoire desires a modern agriculture, it should imperatively obtain modern laws and it should address the issue of rural land tenure. Only the law can bring a lasting solution to these dysfunctions as the country cannot go on juxtaposing customary and modern laws. Côte d'Ivoire as a nation cannot ask one to pay both customary rights and property taxes. Agricultural sector modernization is possible through the reduction of certain customs and traditions. Being able to abandon or readjust certain traditions does not mean that citizens should not respect their customs, rather it underscores the need to realize that customs should also adapt to modern times.

As a Mayor, the author does not take any decision without consulting with traditional chiefs even though, according to the democratic structure of Côte d'Ivoire, they do not hold a specific role. Why is that? Because the author holds the belief that that chiefs should be given a specific role as they, as well as District Officers, devote most of their time solving land disputes; and while doing that they lose out on development.

Enforce the law

From the moment rural land tenure issues will be solved, access to funding will be facilitated, industrial farming projects will emerge and smallscale landowner farmers will be able to mortgage their land without fear of expropriation.

It is detrimental that politicians do not address this issue, because they are convinced that the rural electorate will not vote for them if they are seen as not supportive of customary rights! The result is that in Côte d'Ivoire (and also in neighbouring Liberia), it was noted that rebel factions referred to the issue of rural land ownership and tenure. No one seems to have cared, yet, under the economic importance of this issue lies a real problem of social cohesion and political and economic stability of a country. The first president of Côte d'Ivoire, Felix Houphouët Boigny, addressed the issue by declaring that "the land belongs to the one who works it". It is now high time Ivorians formalized this declaration with laws.

Articles

Legal recognition of sacred forests in Cameroon: giving customary[1] communal ownership rights statutory[2] tenure rights

Chi Augustine MUAM (PhD)[3]

Summary:
Sacred forests or groves are Protected Areas customarily owned and used by rural communities with a mode of conservation auguring well with sustainable natural resource management. Groves (as other natural forest types) provide valuable ecosystem services besides livelihood portfolios. Regrettably, however, because they are not recognised by government through a secured land tenure, sacred groves are threatened with deforestation and degradation. Secured tenure (RRI et ITTO, 2009) is truly a basic building block of economic growth, social cohesion, personal wellbeing and environmental protection. To avert this situation there is need to translate rural communities' communal or collective ownership rights based on immemorial occupation and possession into statutory tenure. Such secured tenure should be accompanied by effective policy measures to prevent any interference with, alienation or encroachment through a process of self-demarcation and mapping. This is the spirit of international human right laws enforceable through title jurisprudence applicable in common law countries such as Cameroon. The article is therefore intended to create awareness of the potentials of a communal[4] tenure right classification requisite for sacred forest groves.

Introduction

Sacred forest can be likened to any other forest defined by Penman *et al* (2003) as "land spanning more than 0.5 hectares trees higher than 5 metres and a canopy cover of more than 10 percent, or trees able to reach these thresholds *in situ.* It does not include land that is predominantly under agricultural or urban land use". In some regions of Cameroon, small patches of forest adjoining palaces of traditional rulers (*chiefs/fons, sultans, lamidos*) can be found. They cannot be touched because tradition and customary law strictly protects them. Such patches of conserved forest do exist in other countries in Africa (Dickson 1969) and the basis for declaring a patch forest as sacred varies and several categories exist. Those that exist are referred to as shrines, ancestral forest, burial grounds or collectively as sacred or fetish groves. Sacred sites are not limited to forest, but may include other natural resources such as water (lakes and streams) as well as animals.

---

[1] *Systems determined at the local level often based on oral agreements*
[2] *Systems applied by governments and are codified in state law*
[3] *Chi Augustine Muam (PhD),University of Douala, Faculty of Law and Political Sciences, P.O. Box 4982, Douala, Republic of Cameroon Email: chimuam@yahoo.com Cellular phone: +237 7770 5357*
[4] *The term refers to significant group control, reflecting group interest over the resource which is apportioned for the relative exclusive use of the group.*

Whatever their nature and status, sacred groves are subject to use (for rituals, religious or spiritual purposes etc.) by traditional rulers but not by individuals. Customarily, they remain the common or collective property of the local community to which the resource belongs. Local communities in this context refer to traditional communities under the leadership of traditional rulers (e.g. *chiefs/fons etc.*) regulated by traditional or indigenous institutions. Where leadership or power is inherited it could be widely respected and rarely contested. Traditional institutions come with many cultural values, norms and customs as well as indigenous knowledge (practices) that could be of great significance in forest conservation. The clarification and determination of ownership is important in the continued conservation of sacred forest, and will also be important when determining eligibility for incentives e.g. in the context of United Nations collaborative programme on Reducing Emissions from Deforestation and Forest Degradation in developing countries (REDD) schemes.

Management regulated by indigenous institutions

In many countries in Africa a forest area may be considered 'sacred', and is venerated as the abode of the gods and the area cannot be entered into freely nor cultivated or farmed, hunted or fished. The myths may describe frightening diseases (like madness) likely to befall whoever violates any of the rules. The threat of such supernatural sanctions always take the form of an incapacitating illness leading to death, or death itself, if an offending person fails to subject him/herself to ritual cleansing following encroachment. A living example by Chi (1999) is the case of some villagers who were said to have become mad because they, without permission, entered the sanctuary to see the shrines in *Bafu*t Sacred Forests. Because of real fears of sanctions among members of local communities, beliefs and myths function as *de facto* forest conservation assets or incentives.

Sacred groves to which access is strictly restricted undoubtedly play the same role as formally declared Protected Areas or Reserves and can be seen as one category of a government 'integral ecological reserve' defined as "an area in which given natural renewable resources are given full protection, and human activities of all kinds are strictly forbidden" (see Article 2(6) of 1995 Decree). As protected areas or closed forest, groves have the capacity to store carbon than open forest and woodlands; as undisturbed forests, they store more carbon than degraded forests; as humid or tropical forests, they store more carbon than those found in dry or semi-arid areas and as mature forest, they store greater quantifies of carbon than do young forests. Consequently they are carbon reservoirs but not necessarily net carbon sinks (FAO, 1995). As undisturbed sites, when most of the surrounding areas are severely deforested, groves can become the main living 'on site' demonstration to populations/governments of exactly what the vegetation/forest could be if the land were managed in a particular way as discussed.

Good examples of sacred groves include the *Ntraw-Firloo* sanctuary at Mbebli (5.58 ha), the *Ntaw-Ntah* groves at Njibujang (5 ha), and the *Niko-Mankaha* Mountain grove (515 ha), found in Bafut village in the North West Region and the *Mbing Mekoup* (100 ha) in the Western Region of Cameroon (Tchouamo, 1998). These

groves have not suffered from any deforestation or degradation; hence have continued to maintain their original surface areas from inception. The small size or areas of some groves may not be important in terms of conserving overall biological diversity of the region or area, but can still be of great value when, for example a given tree in a grove may be several hundred of years old, and may be the only source of reproductive material, to be used as a component in safeguarding future ecosystem services.

The total number of sacred forest/groves in Cameroon is unknown, while reportedly a questionnaire survey by the Ghana Forestry Commission recorded 1,904 such groves in Ghana of which 79.1% were in the southern parts of the country (Ntiamoa-Baidu in prep). Because of the preoccupying debate on climate change, the role that such a significant number of areas (which are *de facto* protected) can play in carbon sequestration from the atmosphere, and/or storing carbon dioxide, should not be underestimated. For instance, it has been proposed (Katerere, *et al,* 2009) that mature humid forest in Africa can sequester 630 kilograms of carbon dioxide per hectare per year, thus providing a critical buffer against global climate change. What is disheartening is that a number of existing groves have been destroyed and others are today seriously threatened not only by an increase in population but also by government urban and infrastructure policy (roads and urbanisation). An example given by Tchouamo (1998) is the *Mbing Mekoup* sacred forest mentioned above that has been heavily encroached upon by the growing population of *Meletu* village, lying barely 2km from the area. Perhaps it is for this reason that WWF et al (1993) strongly recommended that Sacred Forest protection is encouraged and that such forests are given an official status.

Defining Tenure Rights:

The 13th Conference of Parties of the United Nations Convention on Climate Change (UNFCCC) held in December 2007 put forward a concept in which developing countries would be provided financial incentives for Reducing Emissions from Deforestation and forest Degradation (REDD). One of the key challenges of REDD is who should be paid for protecting a specific forested area. Is it the national governments, local forest communities or logging companies? It is argued that unless tenure rights are clarified, secured payment for carbon dioxide capture and storage services could tempt government officials, private companies or local elites to take this new forest value away from local communities who actually own (and protect) the forest. In this regard the recognition of sacred forests as private forests, that is private property communally held by a group of people under the control of traditional authorities should not be confused with 'Community Forest' (see section 37) and 'Private Forest' (section 39) provided for in the Cameroon 1994 Forestry Law. Whereas the creation of Community Forest is an object of an agreement between a village community and the Service in charge of forestry (see article 3(11) Private forest is established or managed by individuals or corporate bodies, and are subject to a formal management plan (see Article 33(3) of 1995 Decree.

Private communal property ownership theoretically will provide rural communities with the assurance that their lands cannot be taken over by government or other parties without due process of law. This is private lands owned by communities where rights can not be unilaterally terminated by a government "without some form of due process and compensation". The 2007 UN Declaration on the Rights of Indigenous People makes it clear that indigenous people 'have the right to lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired' (see Article 26(1). Therefore such lands can only be expropriated by government for public use as Reserves or Parks and not appropriated for private use by economic operators. As one example, in demonstration of commitment to the country's indigenous people, the government of Bolivia adopted the above Declaration *(a soft law*) as a national (*hard)* law instrument in 2007 and implemented a policy known as *saneamiento* which provided titles to many indigenous communities (Keams, R. 2007). Arguably, communities which own forest rights and secured tenure will have much stronger claims to the benefits of potential markets from ecosystem services, and much stronger protections against encroachment than will communities that only have access rights to public lands without statutory tenure rights.

Recognition of Collective/Communal Tenure Rights in relation to sacred groves

A land reform in Cameroon where land is actually granted to communities within the purview of a collective or communal ownership structure through 'titling' for the community or village as a whole is commendable. This would be similar to what obtains in Cambodia where "collective ownership includes all of the rights and protections of ownership as are enjoyed by private owners. But the community does not have the right to dispose of any collective ownership that is state public property to any person or group" (see Brown, S. et al 2005). Another related legislation is the 1999 Constitution of Venezuela which guarantees indigenous peoples the right to their lands and habitats as their "inalienable, un-leasable, un-mortgageable, untransferable collective property". This was followed by a demarcation law passed in 2000 that established a process by which indigenous peoples can demarcate their own lands and have boundaries to them officially recognized. The imperative for recognition and enforcement of such collective or communal tenure right is based on the premise that local communities, as stated earlier, are in effective occupation of these lands, which is considered proof of possession. As affirmed by the Canadian Supreme Court "possession is of itself proof of ownership" (see *Calder v. Attorney-General of British Columbia* 1973). It can not be determined arbitrarily, but only by reference to factual occupation and use of land and resources – what the common law recognises as proof of possession – and indigenous customs, practices, usages and laws. These practices and usages include hunting, fishing, agriculture, gathering, ceremonial and religious functions, extending to coastal and offshore fisheries on their territory.

Procedure of recognition – demarcation and mapping

Self-demarcation and mapping by indigenous communities of their own lands to avert conflicts and encroachment are pro-active initiatives that need to be

encouraged and legitimated. The Philippines Indigenous Peoples Rights Act (IPRA) of 1997 is concern with identifying and delineating the boundaries of ancestral domains and lands, as it has been recognised that most indigenous forest communities in the country do not generally document or register their land property. Recognition preceded by delineation will put outsiders on notice that the area is not available for settlement or the extraction of forest Non-Timber Forest Products (NTFP). Self-demarcation of sacred forest is feasible because many communities have clear ideas about their customary boundaries, including their communal perimeters. Some of them even have village maps drawn during the colonial era with the help of German, French and English officials that colonised Cameroon. Where such evidence of ownership is absent, land delineation activities can be performed by the government in close consultation with the communities concerned. Preferably the most progressive techniques involve training community members in the use of Global Positioning System (GPS) devices so that they are able to precisely 'waymark' locations of cultural, economic and historical significance which could be of 'universal outstanding value' to merit such areas of international status of World Heritage Sites within the context of the 1992 World Heritage Convention.

Conclusions

Sacred forest regulated by indigenous institutions is protected area having the same status as government reserves. Government recognition is imperative in the form of customary communal ownership rights translated into statutory tenure rights. This will enhance sustainable management and guarantee the role of sacred groves in the provision of ecosystem services and livelihood portfolios. It is argued that the value of forest is being realised by allowing governance to be based on the rules of the community in which it is located. And that secured tenure be backed by the right to self-demarcation and mapping and the training in the use of GPS devises. The prospects are that well managed sacred groves, from historical, scientific and cultural perspectives can attain the level of a 'natural heritage' and thus be put on the World Heritage List to benefit from the World Heritage Fund.

References:

Brown, S. *et al* (2005), 'Legal issues related to Registration of Lands of Indigenous Communities in Cambodia', GTZ Cambodia. P.76

Chi, A.M. (1999), Co-management of Forests in Cameroon: The Compatibility of Government Policies with Indigenous Practices, University of Twente/Maastricht, The Netherlands.

Calder v. Attorney-General of British Columbia (1973) 34 DLR (3d) 145, at 190.

Decree No. 95/531/PM of 23/8/95 to determine the conditions of implementation of forestry regulations.

Dickson, K.B. (1969), Historical Geography of Ghana, London, Cambridge University Press

FAO (1995), Climate Change, Forest and Forest Management, An Overview, Rome. P.49

Katerere, Y. et al (2009), Making Sub-Saharan African Forests work for people and nature, Policy approaches in a changing global environment.p.5

Kearns, Rick. (2007). UN Declaration becomes law of the land in Bolivia. Indian Country Today Online. 10 December 2007. Accessed 2 April 2008. http://www.indiancountry.com/content.cfm?id=1096416238

Law N° 94/01 of 20/1/94 to lay down Forest, Wildlife and Fishery Regulation.

Ntiamoa-Baidu (in prep) "Indigenous versus introduced biodiversity conservation strategies:
The case of protected areas in Ghana". A report prepared for the Biodiversity Support Programme, WashingtonDC.

Penman, J. et al (2003), Good Practice Guidance for Land Use, Land-Use Change and Forestry. IPCC National Greenhouse Gas Inventories Programme and Institute for Global Environmental Strategies (IGES), Kanagawa, Japan. Intergovernmental Panel on Climate Change. Available at: http://www.ipcc-ip.iges.or.jp/public/gpglulucf/gpglulucf_contents.htm

Philippines Indigenous Peoples Act 1997

Rights & Resources Initiative *TTO (2009), Tropical Forest Tenure Assessment, Trends Challenges and Opportunities, International Conference on Forest Tenure, Governance and Enterprise, new Opportunities for Central and West Africa, May 25-29, Hotel :onte Febe, Yaounde, Cameroon*

Tchouamo, I.R. (1998), Le Protection de la Biodiversité en Afrique par des Forets Sacrée, *Le Flamboyant No 46*

United Nations Declaration on the Rights of Indigenous Peoples, Resolution adopted by the UN on 2 October, 2007.

WWF et al (1993 :78) African Biodiversity : Foundation for the Future, A framework for integrating biodiversity conservation and sustainable development, Beltsville, Maryland.

Land resources rights and the Millennium Development Goals in some African countries

Isilda Nhantumbo[1]

Summary

In the 1990s and early 2000s, many countries in Africa embarked on reforming their policies and legislative systems to enable devolution of land resources rights to local communities. Secure rights of access, use and management of the resources were considered the necessary and quasi sufficient conditions to capitalize on community engagement towards sustainable management while contributing to poverty reduction. However, practice showed that there were many missing links to achieving these goals. These include: capacity of local institutions (education, access to information and health) that determine the level of engagement and entrepreneurship of the recipients of the devolved resources and how they explore the economic opportunities from the earned rights; and security of tenure to high value forests and other land resources, which has to be combined with access to adequate and affordable technology, financial resources and markets for the goods and services produced. The potential contribution towards the Millennium Development Goals is enormous, but yet to be fully realized. Long term investment, enterprise development, and compensation for both goods and services, are paramount to increasing the value of the resources and providing incentives for sustainable management by local communities. Climate change and potential engagement in carbon credits to address deforestation and degradation of forests will further challenge the security of land resources rights to services and the subsequent benefits. If governments of African countries are indeed committed to achieving the MDGs, they ought to move from the rhetoric to practice and devolve a bundle of resource rights to communities: land, forest products and services among which carbon and water resources for drinking, electricity generation and irrigation.

Land tenure regimes in Africa

The wealth of nations is composed of three essential forms of capital: natural, physical and intangible (natural capital refers to land, forests, minerals, water, etc., while physical capital refers to the human made assets such as roads, buildings… and the intangible capital refers to institutions, knowledge, human capital, etc.). Although Africa is rich in land resources (natural capital) many countries remain poor. The obvious question is whether the constraints to the realization of social and economic benefits from the available land and natural resources are related to the physical and/or to the intangible capital. However, the issue interrogated here focuses on the intangible capital which includes among others, the institutions and capacity to formulate and deliver the development agendas of the African countries. How should the existing institutions create an enabling environment for the

[1] *Isilda Nhantumbo, Natural resources policy analyst. Rua do Rio Matola No 307, Matola F, Maputo, Mozambique. Phone: 258-21 783304 Email: isynhantumbo@yahoo.com.br*

achievement of the Millennium Development Goals (MDGs)[1]? 2015 was set as the target for achieving the various MDG indicators. However, there are scanty indications that the targets will be met.

Countries in Africa have a legacy of a dual land tenure system, skewed toward state ownership in some countries, dominance of private ownership in others and constitutionally entrenched customary rights in few others. The monarchies of Lesotho and Swaziland, and land of stronger traditional authorities such as Ghana and Botswana, customary land tenure is dominant. Angola, Mozambique, Tanzania, Cameroon are examples of countries where the State owns the land and its resources in the quest for greater control in adjudicating rights to third parties. Former British colonies such as in Zimbabwe, Kenya, Namibia and South Africa inherited private proprietorship.

Is there an ideal tenure regime that is more conducive to achieving the MDGs? The State capacity to control the resources adjudication for example to investors and monitor the use is still weak. This results in low benefits due to undervaluation of resources and payment of negligible royalties, processing inefficiencies, limited employment creation, poor corporate social responsibility and maximization of private profits without delivering on equity. The customary tenure also alienates the poorer members of the communities in favor of elites who reap most benefits from the resources; the benefit sharing model in Ghana is an illustrative example. The private tenure rights have resulted in a much skewed resources distribution pattern. The redistribution approach allocates the land to a 'new' private sector. Apparently all tenure regimes fell short of giving significant contribution towards the MDGs. Despite this, the tenure regimes also have merits that should be capitalized on: state controlled land can facilitate equitable allocation to different users and uses ensuring revenue[2] collection and, protection of biodiversity and fragile ecosystems. The customary ownership coupled with democratization of the decision making processes like the case of Botswana, can contribute to collective choices on the use of the resources and subsequent equitable distribution of benefits. Finally, private property is also essential as security of tenure by communities and investors is equally paramount for long term investment in sustainable management.

Reforms to land resources use and management policies have focused over recent years (the 90's in particular) on decentralization and devolution of resources to local communities (Barrow, et al 2007, Nhantumbo 2007, 2009; Adam and Palmer 2007; Willy and Mbaya 2001…). The aim is to achieve two main goals which are to improve the livelihoods of the people and sustainability of the resources, coincidentally also key objectives in the MDGs. However, recent reports by FAO, the Rights and Resources Institute (RRI) and others have indicated that more than 80% of the forests are still state owned in African countries despite the positive trend towards increasing community and individual private ownership. Besides the challenges of

[1] *Reduction poverty and hunger increased access to education, gender equity, access to water and sanitation, reduced mortality, sustainable environment and commitments of development partners to assist in delivering such targets*

[2] From royalties, taxes such as VAT, export tax, employment benefits, etc.

implementing stated policy provisions, there are also deficiencies in information management systems, particularly the compilation and analysis of statistics. For example, rights to harvest 6 million ha of productive forests (concessions) in Mozambique are controlled and administered by the private sector while more than 5 million ha have been delimited as community land. The official statistics still indicate that 100% of forests are under state ownership.

The concept of tenure has to evolve to include both products and services from land, forests and trees only then communities and other users can access additional benefits from compensation of the 'owner' of trees/forests through carbon credits or water taxes included in water or electricity bills.

Land policies reform and resources rights in Africa: plenty of it, but what about the impact?

How can the institutions, in particular the policies and strategies currently in place defining the rights of access, use and management of land, contribute to improving the otherwise gloomy prospects for the natural resources dependent people in terms of lifting them out of poverty while achieving the other MDGs? This calls for concomitant adoption of the human-rights based and sustainable livelihoods approaches. The rights to resources should be granted not as *an end* in itself but *as means* to achieving commonly agreed conservation and development goals. As a result a concept of the "Improved African Hut for Sustainable Development[1]" was developed (Nhantumbo, 2006). Resources devolution has to be done in a larger context of rural development. Education, health and access to information on rights are *foundation*s that define how the recipients of rights seize the economic opportunities from the renewable resources. The *pillars* include secure resources tenure managed by strong local institutions complemented by accessing technologies, financial resources, and markets. These elements combined with partnerships are essential to transforming the rights into economic activities resulting in products and services of high market value. The final outcome, *the roof*, is creation of employment, income and incentive for sustainable management of the renewable resources. These represent the MDGs on poverty reduction and environmental sustainability.

The implementation of community based forest and/or other land resources management throughout the continent has resulted in measurable and verifiable non-monetary benefits including biodiversity conservation and maintenance of ecosystems services such as sequestration of carbon and watershed management. However, the results in terms of direct economic benefits to the engaged communities have been generally low, particularly in the forest-based management areas. Often, communities have secured rights to low value forests and for example the sustainable[2] harvesting charcoal and firewood leads to reduction of income. Invariably, this situation has been exacerbated by the fact that the environmental services were not valued and compensated for. The high opportunity cost of

[1] Resulting from successive analysis of CBNRM evolution in Mozambique in terms of processes and impacts

[2] According to the annual allowable cut

sustainable management by communities resulted in perceived betrayal of the high expectations associated with securing rights and participatory resources management. On the other hand, the few but significant experiences of success were associated with wildlife management which provides high commercial value products (in Botswana, Namibia, Zimbabwe, Kenya), or with high level innovation and value addition on non-timber forest products such as cosmetics or honey, or with ecotourism (some experiences in Ghana, Cameroon, Tanzania, Kenya, Zambia, Zimbabwe, South Africa and Mozambique).

The main lessons learned for forest dominated areas was that the shift towards sustainable management practices ought to be coupled with long term investment in enterprise development, adoption of a business management approach to community enterprises and, acknowledgement, valuation and payment for ecosystems services. Case studies undertaken in Ghana, Kenya, Namibia and Mozambique indicated that cash income from community management is frequently invested in school fees, construction of classrooms, houses for teachers, clinics, wells, shelter for the elderly, payment for community scouts, providing for day care for HIV/AIDS patients among others. The multiplier effect of secure tenure is significant and contributes to MDGs on health, water and sanitation as well as poverty reduction and environmental sustainability.

Ghana has entrenched in its constitution a benefit sharing mechanism between the State and traditional community leaders for their upkeep. This includes investing in construction or renovation of the palaces and meeting the ostensive life style of the traditional authorities. Mozambique Forest and wildlife Regulation provides for revenue sharing between the State (80%) and the communities (20%). In this latter country, the requisites for accessing the benefits are complex[1] while the potential benefits are small. Hence out of over 1 000 eligible communities only a little over one third has received the 20% share of the revenues. These examples demonstrate the missed prospect of reaching and impacting on the communities in terms of MDGs in absence of more equitable tenure regime which goes beyond the local elites in some cases and takes cognizance of the practical constraints that may hinder realization of the otherwise good policy provisions (Nhantumbo, 2009).

Security of land resources rights and the achievement of the MDGs: challenges and opportunities

The achievement of MDGs requires both the devolution of resources to local communities and creation of a conducive policy environment for attracting private investment. In pursuing rapid economic growth objectives, often the government faces a dilemma in securing resources tenure for the private sector and the communities which plays a role in poverty reduction. Security of tenure should not be a mutually exclusive decision (either private sector or communities, either traditional authorities or communities; either state or communities) but rather an equitable allocation to all key players to fulfill their role in conserving the public goods and services, contributing to economic growth and poverty reduction. The

[1] Registered community association which requires ID that most of community members do not have due to limited registry services; bank account for communities in remote areas, etc.

conflicts of interest of the political elites[1] often limit the will to approve and enforce legislation that will diminish their own greed to control natural resources.

Other challenges to move from policy intentions to delivery of resource devolution in practice include:

- ensuring that communities have access and secure rights to high-value resources[2].
- taking a business approach in the management of resources by communities; equipping them with the right business management skills; developing skills of the beneficiaries in harvesting, adding value to the products and diversify economic opportunities; and integrate analysis of viability of the enterprises developed;
- putting safeguards to reduce the risk of local elite capture in distribution of economic benefits;
- ensuring long-term commitment to support equitable access and security of resources tenure;
- perpetual dependence of communities on external technical and financial support is not desirable, the facilitation by NGOs and support by development agencies should be long[3] enough to consolidate the rights and associated economic activities. Hence the need to define an *EXIT STRATEGY* for the externally facilitated participatory natural resources management.

The compensation for reduction of emissions from deforestation and degradation as well as carbon enhancement (REDD+) brings new impetus to community participation in sustainable management of land and forests. Embarking on REDD+ gives enormous chances for benefiting communities from agroforestry systems, maintenance of trees and forest land, engagement in tree farming. Nonetheless, there are several issues and risks to address: (i) ensure that communities have secure carbon rights and benefit from the credits; (ii) define mechanisms of payment for communities contributing to reducing emission from deforestation and degradation while monitoring leakages; (iii) define mechanisms to prevent the land grabbers from claiming carbon payments from the *idle* forest land under their control. The private investors are already acquiring large areas of land for establishing commercial forest plantations most also aiming at taking advantage of the carbon credits. Simultaneously in countries like Mozambique where the legislation permit delimitation of large extensions of community land, the government retracted from this provision[4]. Notwithstanding the challenges[5]

[1] as simultaneously public office bears and private investors
[2] With high value timber and non timber forest products, which value wildlife resources, carbon stocks, etc
[3] Ideally should be informed by financial and or economic viability of the enterprises explored.
[4] The article providing the rights was reviewed limiting the land area and demanding that land use plans should be developed by communities prior to request of land.
[5] Such as loss of natural vegetation and its biodiversity

associated with large scale forest plantations, the communities should be part of the mainstream of the economy producing commercial softwood timber for construction, pulp and paper and also establish conservation plantations accessing carbon credits. Public-community-private partnerships (PCPP) may offer a chance for joint exploration of economic and conservation endeavours and contribute to the MDGs.

Conclusions

The three regimes of resources tenure (State, Customary and Private) prevalent in Africa have merits and demerits in regards facilitating economic growth and contributing to the MDGs. Most African countries have been pursuing policy reforms to include recognition and security of rights to natural renewable resources by communities. These still need external facilitation to access information on their rights and obligations, develop the resources and adopt sustainable management practices. Among others, the technical and financial support, access to technologies and markets through state or private extension services and access to markets are paramount to providing the means for impacting on livelihoods and wellbeing of the resources. However, it is important to establish beforehand the technical and financial viability of the enterprises. Sustainable management often has a high opportunity cost for the communities. The valuation of both the products and services such as purification of water for human consumption or for wildlife and carbon sequestration is also important. Although climate change threatens[1] economies and livelihoods, it also represents a renewed prospect to meeting the MDGs through the payment of carbon credits. Adoption of agroforestry, conservation agriculture and alternative sources of energy contribute to reducing deforestation and qualify to carbon payments. Several countries in Africa qualify for the pilot phases of the UN-REDD and the Forest Carbon Partnership of the World Bank. REDD strategies should inform a common African framework for rights to land resource services.

References

Adams, M. and R. Palmer (2006/7). 'Eastern and southern Africa.' *Independent Review of Land Issues*, Volume III 2006–2007.

FAO (2009). Tenure Security for better forestry. Understanding the forest tenure in Africa. Rome. ftp://ftp.fao.org/docrep/fao/011/i0352e/i0352e00.pdf

Nhantumbo, I.(2006). Maneio Comunitário em Moçambique: evolução e desafios para o futuro. In: Nhantumbo, I. M. Foloma and N. Puna (2006) (eds). Memórias da III Conferência de Maneio Comunitário. DNFFB/IUCN. Maputo.

Nhantumbo, I. (2007). 'Forest tenure in southern Africa.' A contribution to the Listening, Learning and Sharing Launch of Rights and Resources Initiative (RRI). Rights and Resources Institute and International Union for Conservation of Nature and Natural Resources (IUCN): Nairobi, Kenya.

[1] With extreme and more frequent events of floods, droughts and others

Nhantumbo, I. (2009). Land Policy, Resources Rights and the MDGs in Africa. United Nations Development Programm – Drylands Development Center. Kenya.

RRI and ITTO (2009). Tropical Forest Tenure Assessment -Trends, Challenges and Opportunities Rights and Resources Initiative/International Tropical Timber Organization. Prepared for the International Conference on Forest Tenure, Governance and Enterprise: New Opportunities for Central & West Africa. Yaoundé, Cameroon.

Wily, L. A. & S. Mbaya (2001). Land, People and Forests in eastern and southern Africa at the beginning of the 21st century. The impact of relations on the role of communities in forest future. IUCN Eastern Africa Regional Office. Nairobi. Kenya

Resource tenure systems and poverty alleviation

Sue Mbaya[1]

This paper explores the relationship between poverty alleviation and systems of natural resources tenure. It recalls the extent to which the world's poorest citizens depend on natural resources for their livelihoods; and examines the tenurial and governance social factors that affect the exploitation of these resources and which thus determine the relationship between natural resources, poverty and its alleviation.

21ST CENTURY POVERTY FACTS

- Almost half the world — over three billion people — live on less than $2.50 a day.
- Rural areas account for three in every four people living on less than US$1 a day and a similar share of the world population suffering from malnutrition. However, urbanization is not synonymous with human progress. Urban slum growth is outpacing urban growth by a wide margin (UNDP 2007)
- Approximately half the world's population now lives in cities and towns. In 2005, one out of three urban dwellers (approximately 1 billion people) was living in slum conditions (UN, 2007)
- In sub-Saharan Africa, over 80 percent of the population depends on traditional biomass (fuel wood, charcoal and animal dung) for cooking, as do over half of the populations of India and China
- Indoor air pollution resulting from the use of solid fuels [by poorer segments of society] is a major killer. It claims the lives of 1.5 million people each year, more than half of them below the age of five: that is 4000 deaths a day. This exceeds total deaths from malaria and rivals the number of deaths from tuberculosis.
- In 2005, the wealthiest 20% of the world accounted for 76.6% of total private consumption. The poorest fifth just 1.5%:

Adapted from Shah, 2010

1. The face of poverty in the 21st century

Poverty has log been associated with the rural, agrarian communities. In these contexts natural resources are critical factors in production systems and social and economic development. Further, all human societies are linked to natural resources and ecological processes in one way or another with natural resources occupying a significant place in national development, trans-boundary cooperation and regional integration. Never before has this reliance on the natural resource base been more apparent than it is now – in the face of the potentially devastating consequences of global climate change. However, the poor, and in particular – the rural poor who represent the greater majority of the 1.3 billion living under conditions of poverty – rely disproportionately on natural resources including land, forests and water as their main sources of livelihood and household security. For these rural poor the significance of natural resources extends beyond the livelihood recourse component, to encompass elements of shared spirituality and social cohesion.

In the 21st Century the urban dimension of poverty is now well acknowledged, although not as well understood and documented as the rural dimension. The rapid rate of urban expansion[2] has important consequences for natural resource management and consumption. Although urban areas account for just two per cent of the land surface of countries, they currently consume approximately

[1] *Sue Mbaya, Africa Director, Advocacy & Justice for Children, World Vision International Mailing: Lower Ground, Gateview House A2, Constantia Office Park, Corner of Hendrik Potgieter Road and Fourteenth Avenue, Weltevreden Park M/S P O Box 1715, Johannesburg, Gauteng 1715 South Africa. Phone: +27 11 375 4600, Cell +27 72 561 3308; Fax: +27 11 475 0334 E-mail: sue_mbaya@wvi.org*

[2] *Resulting from growing urban populations; the combination of three trends – the long recognised rural –urban migration, together with the increasing transformation of rural areas into cities and, natural population growth in existing urban areas.*

75 per cent of the natural resources used every year including land, water and energy.

A characteristic of urban poverty is insecurity of tenure over housing settlements and the land on which these settlements are located, since security of tenure is usually tied to the legality of the housing structures and legal ownership of the land. Poor urban dwellers with insecurity of tenure over their dwellings are therefore vulnerable to eviction. As a result, land policy reforms with a progressive poverty alleviation agenda must incorporate urban tenure considerations. Poor urban dwellers are also increasingly more vulnerable to natural disasters due to the often marginal location of their dwellings and generally poor state of housing.

The world's slum population will double in the next 30 years.[1] This unprecedented growth in the urban population is placing a huge strain on the ability of central governments and municipalities to manage the interaction between these populations and the environment. This has negative implications for poverty alleviation efforts. Clearly then, at the beginning of the 21st Century, the systems under which natural resources are held and used has an impact on poverty alleviation in both rural and urban areas. The importance of natural resources to sustainable development and ultimately poverty alleviation is reflected in the inclusion of this issue in key global developmental frameworks including the Millennium Development Goals and the Paris Declaration on Aid Effectiveness.

2. Renewable natural resources and poverty eradication

Systems of Tenure

The relationship between communities and the natural renewable resources around them offers communities the opportunity to strengthen their livelihoods and therefore to break the cycle of poverty. The prevailing ownership and tenure regimes determine the extent to which communities are able to extract livelihoods from the natural resources around them. The administration of Africa's forest resources offers insights to the trend to date. Generally speaking, the core function of determining the future of forests is reserved for the state. In turn, the state has generally created forest reserves and parks, access and use of which is prescribed by the state itself using forest law as the basic instrument of authority. Clearly then, in many countries and in many areas forest reserves are not tenured to communities. Under such tenure regimes the extent of communities' involvement with the forests around them has been generally from a conservationist approach. This approach to resource tenure has largely failed to sustain and preserve forests in the manner intended.

A central theme to the wave of forest administration reform experienced over the last decade in many countries in Africa, has been the paradigm shift from the emphasis on protecting forests from local communities, to acknowledging local communities as key stakeholders and involving them in the management of forests.

[1] Tebbal and Augustinus, 2003

Unfortunately, the involvement of communities is largely on a benefit sharing rather than a power-sharing basis, and generally does not transfer full responsibility and authority for forests to communities.[1] In the view of Alden Wily and Mbaya the greater the tenurial control over the forest, the greater the potential for community based management authority. Assuming that communities are the best drivers of their own development, one might further postulate that tenure systems which afford communities control over the forests in their vicinity will facilitate improved community based management and will ultimately improve the prospects for sustainable resource use and alleviation of poverty.

Countries in post-colonial Africa have been characterized by a hierarchical perception of existing tenure regimes. This is aptly demonstrated by considering land tenure systems under which forms of tenure in place (primarily freehold and leasehold) have traditionally been viewed as superior and affording the most secure tenure over land. Poorly understood customary forms of tenure were often not perceived as capable of delivering individual property interests, in spite of the fact that the majority of citizens held their land under customary forms of tenure. State laws and constitutions generally failed to give recognition to customary tenure system, ultimately contributing to much of the insecurity of livelihoods currently prevailing in much of rural Africa.

Lands and resources owned in common were most affected by land reforms and reformed legislation. The most productive resources were expropriated and reallocated to the state and, in many cases, ultimately, to outsiders. Key in this regard has been the failure of modern land tenure systems to recognise communally owned lands as lands actually owned by these communities, hence paving the way for the dispossession of communities of the 'commons' they customarily held – and the livelihood which accrued from them. It is important to recognise the disproportionate impact of these losses on the poor, recalling that in many African contexts, a household's landholding is the aggregate of individually held land and land held communally. In the case of poor people with very small individual landholdings, the 'commons' are of comparatively higher value to the household than for those with larger ones. Consequently, land tenure systems which protect the security of lands held communally have tended to promote the livelihood security of poor households.

Recent trends in resource tenure systems

Over the past two decades, as understanding of resource tenure has evolved, a global shift in sentiment towards favouring customary land ownership and communally held lands has become evident. Emphasis has shifted from glorifying specific forms of tenure to focusing on the extent of security afforded to land users under various forms of tenure, including under customary forms of tenure. Hence, more recently, the focus of tenure reforms which have been sweeping the continent has ostensibly been on making land holdings more secure under various forms of tenure.

[1] Alden Wily & Mbaya 2001

After an initial "false start", it is now widely accepted that tenure reform through registration of freehold or leasehold title, does not automatically promote smallholder security, investment and agricultural growth. Experiences from several countries including Mozambique and Ethiopia have demonstrated that the land holdings of the poor can be protected and productive, and sustainable agricultural activity promoted, by making land tenure more secure. In these instances, tenure has been made more secure by clarifying the exact bundle of rights available to land holders or users, acknowledging the legitimacy of those who hold those rights, and devising simple approaches to recording the manner in which rights are held.

Unfortunately the laws, policies and experimental projects established with the intention of reforming tenure regimes have frequently not delivered secure tenure at scale. In effect, prevailing land governance frameworks have generally not provided secure tenure for the poor. In Zimbabwe, the country in which the most comprehensive reforms have been made, the emerging frameworks under the land reform programme tended to focus on the redistributive aspect at the expense of tenure reform. As a result, land allocations to the poor have remained insecure post the land reform exercise. Similarly, in South Africa, the African country with arguably the most extensive experience with land reforms, there is still debate over the extent to which legal reforms of the 1990s and early 2000's can really deliver security of tenure for the rural poor and hence support the alleviation of the poverty which, to date, appears to be deepening.

In some countries and areas, insecurity of tenure of productive resources is also deepening. This is particularly the case in relation to some customary lands that are held in common. In the context of 'the new scramble for Africa'[1]', lands under customary tenure which are held in common have been largely perceived as being 'un-owned', and have been unfortunately targeted for productive activities by managers outside of the community which originally held such rights. Such threats to the land holdings and possibly the livelihoods of local communities are evident in countries such as Zambia (agricultural farming land by dispossessed commercial farmers from Zimbabwe), Malawi (by multi-national firms) and Mozambique (by commercial interests which 'partner' with local communities as is allowed under the Land Law).

The experience of Mozambique exemplifies how systems of tenure can respond to pressures to safeguard the interests of indigenous communities in the face of external, profit orientated interests. Under Land Law of 1997, communities in Mozambique are able to delimit those land resources which cannot be exploited by new, outside commercial interests. It is ironic that while emerging systems of tenure are experiencing modest success in making resource tenure of the poor more secure, the same systems often continue to entrench the privileged position of the wealthy and landed.

[1] the recent, heightened demand by multinationals for land for mineral and energy production

Resource tenure and governance

The extent to which communities have control over the natural renewable resources upon which they depend is an important governance issue. Trends worldwide indicate that while the poor tend to rely more on such resources for their livelihoods, they tend to have relatively little control over those resources in African countries. It is the rich who tend to have political influence and thus control over natural resources. In view of the importance of natural renewable resources to the alleviation of poverty, the governance of these resources has gained prominence in developing countries. The trend has been towards the democratisation and decentralisation of natural resource management by transforming the patterns of ownership. The trend has also been towards the reforming of the local institutional infrastructure underpinning the management of these resources. *Democratisation* has involved addressing the unequal treatment of indigenous and non-indigenous forms of tenure and attempting to develop tenure systems that give fair and equitable treatment to stakeholders, except when deemed to be detrimental in some way. *Decentralization* proposes to change the kinds of authorities that make decisions over ownership, tenure and management of natural resources; the kinds of decisions that these authorities are empowered to make; and the relations of accountability between the central state, local government, other local institutions, and the local population.[1] Unfortunately, progress towards the realisation of good and inclusive governance over natural renewable resources has been slow in most countries in Africa. With very few exceptions what has been achieved to date is the *participation* of stakeholders rather than devolution of the *control* over the natural resources on which they depend for their livelihoods.

The imperative to address the inequitability of land holding has been an important driver of land reforms in the interests of poverty alleviation. Gender inequality has also been held firmly in place in matters of property ownership and inheritance in many African countries by the widespread denial of women's right to property together with the subtle but resilient unequal perceptions about property ownership and inheritance. Women are often restricted through laws or traditional practices which do not allow land to be registered in their names, which hamper or deny them the right to make independent decisions about the use of the land that they utilise, and enter into land transactions. With women's rights relegated to the level of usufruct only, almost as a matter of course, women can be dispossessed of their land holdings as a by-product of the failure of their relationships with the men in their lives (through divorce or death of the spouse). Yet women are widely recognised as being more effective in channeling the proceeds of agricultural activity towards household well-being and livelihood. Hence, central to the step up poverty alleviation efforts will be a call for women's secure tenure over land and resources. To this end, various new solutions to ensure security of tenure for women have emerged. These include family title over land, the requirement for all adult family members to give consent for land transactions – and – perhaps most prominently, spousal co-ownership. These emerging solutions have been tested, sometimes successfully – including for example co-ownership by spouses in Tanzania; other times as was the case in Uganda such attempts have not been successful.

[1] Ribot, 2004

Corruption is another governance related issue which can have severe impacts on natural resource tenure and the role of resource ownership, tenure and management in the alleviation of poverty. Administrative corruption and state capture - ccorruption which transfers economic resources from the state to private interests, are both frequent occurrences in countries in Africa. Corrupt practices can lead to the degradation of natural resources that the rural poor depend on for their livelihoods. Corruption may also divert money from the natural resource sector to elite groups, thereby depriving governments and local people of critical revenue.[1] The absence of accountability, including downward accountability to communities, is a contributing factor to corrupt land practices. Most offices and bodies are only accountable upwards to their appointees; departmental heads, commissioners or Ministers.[2] Such lack of accountability of land administrators and/or policymakers can have long term impacts on the governance of land. In Zimbabwe, lack of accountability enabled the government to progressively change the course of the land reform process, shifting the objective from poverty alleviation to a political imperative and expanding the targeted land from underutilised land to include even agriculturally productive land.[3] Conversely, the adoption of good governance principles in the management of land resources (e.g. downward accountability, as outlined above) can counter land-related corruption. This is the basis of calls for greater participation by a broader stakeholder base in the governance of land and other natural resources. To date the best case scenarios with a positive outcome are those where the institutions administering land resources are not only based locally, but also operate as an elected local government. This is the case in Tanzania.

3. Conclusions

The manner in which natural renewable resources are held, used and managed, has an important bearing on the contribution of such resources to national and local poverty alleviation efforts. Success requires further shifts in the systems on tenure and the governance of natural resources in most countries in Africa. This will include:

Firstly - the recognition of the importance of land tenure in poverty alleviation. This must be accompanied by the acceptance and recognition of the rights of local communities in the management and use of their natural resources and the proper vesting of title over these resources in these communities. This will encourage interest in managing natural renewable resources in a sustainable manner, as long-term assets.

Secondly - devolving power and control over natural renewable resources from the state to local communities living adjacent to the resources and traditionally deriving outcome and livelihood from them.

[1] USAID, 2006
[2] Alden Wily, 2005; Adams et. al, 2003
[3] Mbaya, 2003

Thirdly - improved governance of natural renewable resources, underpinned by widespread participation, transparency and full accountability, including downward accountability over resource use.

References

Adams, M. 2003. Land Tenure Policy and Practice in Zambia: Issues relating to the development of the agricultural sector *Draft.* 13 January 2003

Alden Wily, L. 2006. Land Rights Reform and Governance in Africa – How to make it work in the 21st Century? Discussion Paper. United Nations Development Programme. February 2006

Alden Wily, L. 2005. Formalising the Informal: Is there a way to safely secure majority rural land rights? A review of decentralisation in land administration in Africa.

Alden Wily, L., 2003. Governance and Land Relations: A Review Of Decentralisation Of Land Administration and Management In Africa. International Institute for Environment and Development, London.

Alden Wily, L. and Mbaya, S. 2001. Land, People and Forests in Eastern & Southern Africa at the beginning of the 21st Century. The impact of land relations of the role of communities in forest future. IUCN-EARO (monograph). 2001.

Global Issues, 2009. Poverty Facts and Stats.
http://www.globalissues.org/TradeRelated/Facts.asp

Mbaya, S. 2003 Land Reform In Zimbabwe: What Can Be Learnt From Her Experiences? A Paper Presented at the Conference for Land Reform in Namibia and Zimbabwe Organised by GTZ in Berlin, 8th December, 2003

Ribot, J, 2004. Waiting for Democracy – The Politics of Choice in Natural Resources Decentralisation. The World Resources Institute

Shah, A. 2010. Global Issues: Poverty Facts and Stats. http://www.globalissues.org/article/26/poverty-facts-and-stats

Tebbal, F. and Augustinus, C. 2003. The Millennium Development Goals and Security of Tenure. 2nd FIG Regional Conference Marrakech, Morocco, December 2-5, 2003

United Nations, 2007. Millennium Development Goals Report

United Nations Development Program 2007 Human Development Report (HDR), United Nations Development Program, November 27, 2007, p.25.

USAID, 2006 Issues In Poverty Reduction and natural resource Management

Land-use control and fishery management at the Nazinga Game Ranch in Burkina Faso

Vermeulen Cédric[1]

Summary

Created in 1979 in Burkina Faso, the Nazinga Game Ranch (NGR) is a multi-purpose site dedicated to the conservation and economic development of wildlife. This paper offers a first summary of land-use controls applied by local populations over the site and specifically questions the impact of recent fishery management policies over these controls.

Introduction

Created in Burkina Faso in 1979, the Nazinga Game Ranch (NGR) is a management experiment of the unique wildlife in West Africa. As a multi-purpose site, it is dedicated to preserving and developing wildlife (Portier & Lungren, 2007). Renowned as a model of wildlife participatory management, its local real estate aspect has however never been thoroughly studied. This paper offers a primary study on this aspect and specifically questions the impact of fishery management policies on local land-use control.

The Nazinga ranch: in Nuna-Kasséna land

Regarding human populations, the ranch is located exactly at the fuzzy geographical borders between two closely related linguistic sub-groups, the Nunas and the Kassénas, commonly regrouped under the "Gourounsi" group. This group accounts for 6% of the Burkinabe population (Jannin, 2000).

According to Duval (1985), Howorth (1999) and Gomgnimbou (not dated), Nunas and Kassénas are stateless societies organized in animistic social groups ruled by personalities having a 'sacred' relationship with the land and the spirits. Simply put, local politics is primarily based on an hereditary bipolar and inalienable distribution of power between, on the one hand, the land chief (tagatou peh), descendant of the first occupants, and managing all land-related matters, land and plant or animal resources issues, and on the other hand, the Village chief (peh or pio), political chief descending from former conquerors. Among Gourounsis, politics is closely linked to religion since these two main personalities make most of the decisions regarding the village after consulting with the oracles. Lastly, they are the intermediaries between the living and the local god, kwara, which means that Kassénas are basically animistic populations. That bipolar political structure developed with the colonial administration of a 'delegate' liaising with the administration, a particular status since it provides the possibility of temporal mobility within the families of a given village.

[1] *Vermeulen Cédric, Professor at Tropical and subtropical forestry Laboratory, GRFMN Unit, ULG/Gembloux Agro-Bio-Tech, Belgique Passage des déportés, 2, 5030, Gembloux, Belgique Telephone: 0032/81622341 Email: cvermeulen@ulg.ac.be*

Appropriation of Nazinga Game Ranch (NGR) resource areas by the Nunas and Kassénas

The current Nazinga Game Ranch is located on lands fully appropriated by about ten villages made up of Kassena and Nuna speakers and organized in three groups of villages related by blood (Figure 1). These villages claim customary rights and have various controls over the resource-areas.

The Kassena typology identifies the village (*tio*), an anthropized area including houses, household-farm crops (*koudouga*) and domestic animals, as opposed to the bush (*gao*) including trees, ant-hills/termite mounds, wild animals … and farms. The village finage (administrative area) is physically delimited by known points, places corresponding to low grounds (*bol tega*), marigots (*bouga*) big trees, lateritic indurations (*dia*) or old villages (*nédouin*). Within the village finage, Kassénas still acknowledge the *pangas* or mountains (some are worshiped), the *poù* or riparian forests, the *boussaga* (valley heads).

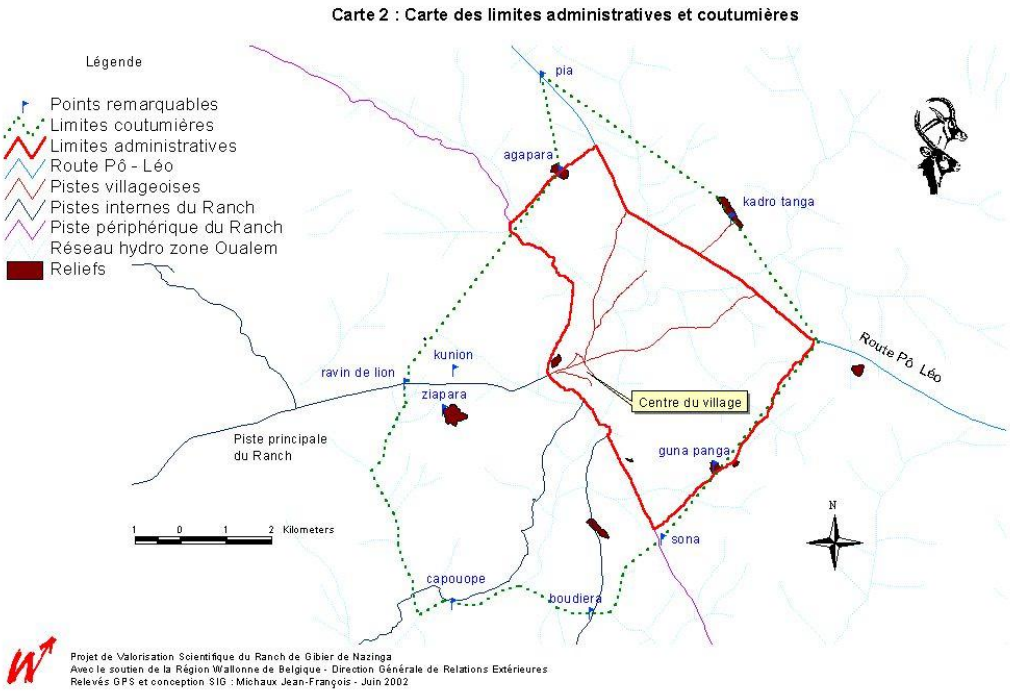

Figure 1.: Administrative and customary limits of the Oualem village, on the outskirt of Nazinga Game Ranch (NGR). Note that almost two thirds of the village's customary area is included in the NGR's surface area.

Land tenure encompasses several levels:

- The remote farm (*kara*) appropriated at the nuclear family level;
- The fallow (*kabanou*) also appropriated at the nuclear family level;
- The old village (*nédouin*) appropriated at village level.

The Kassénas particularly identify unfarmed bushes (*kagoua*), wild lands (*sauri*), new farms (*kuardounga*), old farms (*kardonga*), young fallows (*kapro dounga*) and old fallows (*kapro dongno*).

In the Nazinga Game Ranch (NGR), the areas usually appropriated are precisely delimited, most often, a set of *marigots* or backwaters used for fishing. However, the claiming of a *marigot* (a body of stagnant water connected to a river) as a fishing site by a village is not a customary appropriation of the site per se. Actually, several villages fish on certain sites appropriated by other villages through numerous blood relations, friendships or political affiliations. On the other hand, some marigots do not belong to given villages; however these villages exercise the prerogative to call for fishing (thereby marking their political domination rather than the appropriation of the resource).

It should be emphasized that control over marigots rather than over the river itself, suggests that people are more interested in the resource (fish caught during the dry season- lean period) than in the geographical boundary per se. Deeply rooted in the old Kassena and Nuna mode of production, fishing is closely linked with politics and religion. Preceded by sacrifices to the spirits, collective fishing activities are an annual display of solidarity, family and domination networks between the various villages.

Fishery management policy at NGR

Within the NGR, fishing is mainly done in water bodies formed downstream from several dams. These constructions across a water course created to water wildlife, were designed to increase the natural tendency of streams to form natural ponds during the dry season. They constitute areas on which land control mentioned earlier pre-existed. In view of its peculiar legal status, NGR defines its own policy regarding fishing areas exploitation. It is characterized by a local population-oriented approach: these can claim free access to water bodies and dams. Supervised individual and collective fishing are also authorized and organized (Lungren and Ouédraogo, 1985, Compaoré, 1988).

This situation changed some years ago (from the 2000s). From then until 2006, the NGR policy consisted in prohibiting fishing for local communities and to sub-contract fishing on big dams to private companies who subsequently resell the fish both to the villages and to the city.

Discussion

This recent fishery policy deeply shocked residents from surrounding villages, deprived of their customary rights and compelled to now buy a resource (fish) they used to have free access to. The banning and prohibition of collective fishing is a disadvantage to local populations at nutritional (protein intake during lean periods) and economic level (possible loss of income). It has disrupted the political and religious systems which are now deprived of one of its main avenues of expression, information as well as a meeting platform. It was perceived as particularly unfair by neighboring populations and undoubtedly contributed in part to the worsening of

poaching. This type of concession system has come under severe criticsm since it excludes the people, even if it might include 'compensatory' provisions.

Recommendations

For local populations, access to protected areas is often multi-dimensional (land-related, symbolic, political, and economic). To the extent that this access does not harm biodiversity conservation (in the case of fishery, it is enough to organize an annual rotation of fished areas and completely forbid certain ponds) it should be authorized under appropriate supervision. Access days will be opportunities for joint activities, mutual understanding, basis for participatory and shared management of protected areas. A complementary participatory cartography of fishing areas and aquatic controls should be a prerequisite to the supervised access policy.

Bibliography

CAMPAORE, E. (1988). *Rapport Trimestriel des activités des mois d'octobre Novembre décembre 1987.* Ranch de Gibier de Nazinga, Direction provinciale de l'environnement et du tourisme, Ministère de l'Environnement et du Tourisme, 11p.

DUVAL, E. (1985). *Un totalitarisme sans état. Essai d'anthropologie politique à partir d'un village Burkinabé*. L'Harmattan eds, Collection anthropologie, 182 p.

GOMGNIMBOU, M.(non daté) La mise en place du peuplement Kasséna. In *Bonds and Boundaries in Northern Ghana and Southern Burkina Faso*, Uppsala studies. Cultural Antropology, **N°30**, Acta Universitatis Upsaliensis, Hadberg & Tengan eds, pp53-70

HOWORTH, C. (1999). *Rebuilding the local landscape. Environnemental management in Burkina Faso*. Ashgate Publisching Ltd, England, 172 p.

JANNIN, S. (2000). *Burkina Faso, pays des hommes intègres*. Editions Olizane, Genève, Suisse, 319 p.

LUNGREN, C.G., OUEDRAOGO, J.T.V.P. (1985). *Bilan sommaire des réalisations de 1985 du projet Ranch de Gibier de Nazinga*. ADEFA, Projet pilote pour l'utilisation de la faune à Nazinga, MET, Burkina-Faso, 10 p.

PORTIER, B., LUNGREN, C. (2007). La faune et le ranching au Burkina Faso. In *Nazinga*, Delvingt et Vermeulen eds scientifiques, pp 33-44.

Spatial planning of forest lands for land tenure security

Bernard FOAHOM[1]

Summary

Forests are special in that they have various functions (ecological, economic and social) which call for managing conflicting interests. In effect, it has been established that the operation of one function could compromise the forest's ability to fulfill another. Thus, land tenure security is at the heart of the management of forest resources which are fortunately renewable.

This paper highlights the fact that to ensure land tenure security, there should necessarily be a spatial planning of forest lands in order to fully use their potential. It reviews the main lines of that planning resulting in the production of operational tools among which land allocation types (LAT), defined on the basis of land use types (LUT) through forest lands inventory and assessment. The process is completed with the mediation which enables stakeholders, on the basis of available options, to jointly find the best informed solutions.

Access to forest resources will be better managed, and forest potential better developed as long as forest lands are used in accordance with what they can produce optimally, for the benefit of all stakeholders.

Background

Land as a solid structure supporting living animals and plants, constitutes the key element supporting life. Forest resources encompass both the physical dimension of environment and plants, used by humans to meet their various needs.

Among ancient communities, forest use was agreed upon in its simplest form: these peoples were satisfied with plucking and hunting for their subsistence needs, without having to design a particularly ingenious transformation of their environment. Man enjoyed other benefits from the forest, sometimes unknowingly, as long as his activities were not interfering with the other dimensions of that forest's functions, particularly the ecological dimension.

Human activities are increasingly aggressive towards the environment. Thus, tropical forests have been losing hundreds of thousands of hectares every year, to the extent of becoming a cause for concern at a global scale during recent years, the reason being their fundamental role in fighting climate change and the resilience of neighboring populations to its consequences, thanks to the easy access to their abundant resources, including through use rights. Cameroon did not fail to respond to the numerous efforts initiated in that regards by the international community (ratification of international and regional Conventions and Agreements), even if its present land tenure does not guarantee an easy access to resources for the majority. Its commitment vis-à-vis the international community is the background of a new forest policy aiming at ensuring a sustainable forest management (MINEF, 2003).

[1] *Bernard FOAHOM. Institute of Agricultural Research for Development (IRAD) B.P. 2123 Yaoundé. Cameroon Telephone: +237 99926105; +237 77519996 Email : foasipowa@yahoo.fr*

Meanwhile the multifunctional character of forests calls for managing conflicting interests. The guarantee of secure land tenure in compliance with a sustainable land and biological resources management requires a spatial planning of these lands to their fullest potential (Foahom, 1998, Foahom & Jonkers, 2005).

Potential and conflict over access to farms

The current perception of sustainable forest management concept is linked to its use, considering all its real and potential functions. Thus, the benefits derived from it will be preserved for current and future generations. Therefore, conflicts of interest regarding access to resources emerge. Each stakeholder wants to exploit a function of the forest, unfortunately to the detriment of the other functions, since the requirements are inevitably conflicting (Ros-Tonen et al., 2005). Moreover, the fear of running out of lands (all lands belong to the State until a title bestows private ownership) compromises not only the idea of sustainable management, but also the possibilities of long term investments (case of forest plantations). Therefore, the use of forest, biotic and abiotic resources to their fullest potential requires the integration of the various forest functions, while making sure that the methods adopted are environmentally friendly, economically viable and socially acceptable, and that a compromise is agreed on between the current land tenure and the customary law (van den Berg & Briesbrouck, 2000).

The different interests are reconcilable provided there is an effort to that effect. The possibility of a compromise exists since the current design of forest management is a far cry from the ideal outlet and is actually confined to the limited function of timber production. It is henceforth possible to better develop the rural space through a better integration of agro-silvo-pastoral activities, taking into account both ecological and social concerns.

Need for planning: Forest lands inventory and assessment

Cameroon is equipped with a zone plan for the southern part of its forest region. The plan could be amended to include information obtained from careful studies on the ground. It is a national plan and constitutes the starting point of the subsequent planning phases, from the master management plan to micro-zoning, through the production or protection forest management plan (permanent forest in the forest law sense) and simpler management plans (Figure. 1).

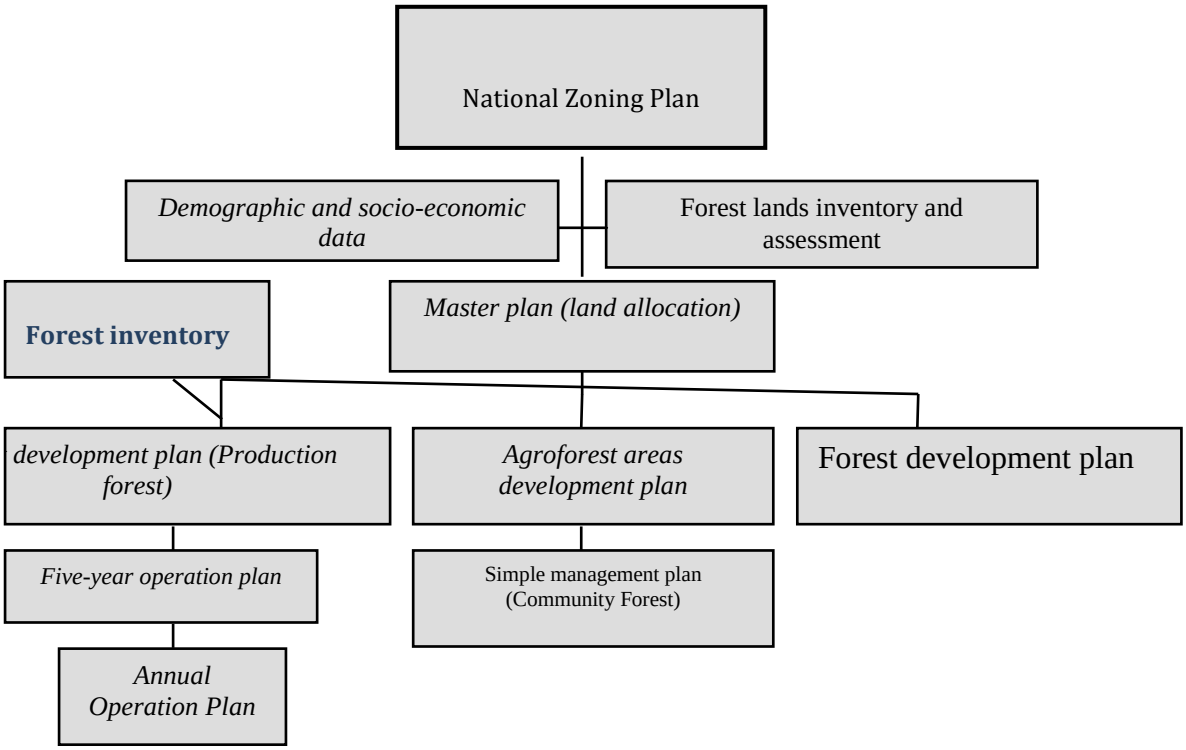

Figure 1: Formulation procedure for the optimum forest resources management plan (Foahom & Jonkers, 2005)

The formulation of the master management plan is the tactical phase of the process, generating operational planning and implementing tools, that is, management plans for the various land use types (LUT). This is the reason why, community forests established in agroforest areas (non-permanent forest areas) require a simple management plan, while more complex management plans should be formulated for the types of allocation belonging to the category of Permanent forests. Hence the crucial need for inventory and assessment of forest lands. The inventory gives indications on the abiotic and biotic environment and on land use. The LUTs can be designed for the protection of biodiversity, extraction of Non-Wood Forest Products (NWFP), timber production and farming. Therefore, the purpose of planning influences the scope of data to be collected and analyzed. The method is all the more complex, given that the allocation would include the maximum of parameters for choosing the type of use.

The assessment enables to ascertain the level of compatibility between the current form of use of the space and the actual potential of that space. Beside the physical and biological factors of the designated environment, other factors equally important are considered, such as the distance from the village to the site, and therefore the ability for a type of use to become a constraint for another. For example, a protection or production forest would be all the more viable given that it will be bordered so as to allow sufficient agroforest areas around villages, considering the potential for population increase in the neighboring villages. The Land Allocation Types (LAT) are defined on the basis of the LUTs, according to the

type of resources one will have access to. Their introduction enables to face situations where a space meets allocation criteria to several types of use, of which the final allocation should be decided upon by the implementation of the mediation process (Fines *et al.,* 2001). Even if they do not guarantee (as yet) access to resources and land for neighboring communities, they however enable to mitigate the scope of the conflict between customary law and modern law regulating access to resources and land. Mediation clearly implies the participation of neighboring communities. They have an important role to play as they have their own perception of forest resources management. This involvement is justified as it guarantees the shape of the allocations decided and enables to develop indigenous knowledge that have proven relevant.

Inventory and assessment procedures provide managers with objective indicators to better resolve conflict issues related to access and exploitation of forest lands. They will be more useful and advisable as there will be a need for crop diversification, a lack of farming lands or a risk for conflict in managing forest resources. They are applicable even in the areas of low population density but with a high pressure on resources as compared to the various forest functions.

The role of mediation

Planning necessarily implies a discussion between stakeholders who should accept it not only in accordance with the forest law prescriptions but also for the sake of efficiency of measures. It prepares the ground for the access to resources, taking into account the different functions of the forest. The procedure, the development of which is based on the various forms of forest land use, the possible options and their actual potential, is based on the mediation strategy in order to guarantee participatory management and the inclusion of the interests of all stakeholders, particularly, those of local populations living near these resources, deriving most of their livelihoods and an great part of their income from them. Mediation uses appropriate tools such as Strategic Environmental Evaluation (SEE), an adaptation of the Environmental Impacts Evaluation (EIE) applicable to a decision making process prior to projects and at a regional or national scale (Lescuyer, 2002).

Mediation enables to highlight possible options and conjointly find the best informed solutions accepted by stakeholders. Subsequently, all parties commit to avoid taking any action likely to impede the implementation of the solution agreed on. As an example, the preservation of a protection forest as well as the compliance with its management prescriptions will be strengthened when neighboring populations are involved in setting up the permanent forest.

Conclusion

The planning process is required to fully use the potential of forest resources. Use rights are better defined on this basis as they should not interfere with any other forest function. Forest activities are not advisable on wastelands or sloppy lands. Neither is it advisable to develop infrastructures on fragile ecology sites at the risk of creating problems while trying to solve one. The issue of planning access to fertile lands for farming and preserving areas for ecotourism, pertain to that concern. Forest resources will be better managed and the potential of forests better

developed as long as forest lands are used according to what they can produce for the benefit of all stakeholders.

Bibliography

van den Berg , J. and Briesbrouck, K., 2000 – *The social dimension of rainforest management in Cameroon. Issues of co-management.* Tropenbos Series 4. TCP, Kribi, Cameroon.

Fines J.P., Lescuyer G. and Tchatat M., 2001 – *Master management plan for the Tropenbos-Cameroon research site. Pre-mediation version*. Tropenbos-Cameroon Documents 5. TCP, Kribi Cameroon.

Foahom B., 1998 – The scientific approach to sustainable forest management, with particular attention to land-use planning and social aspects. *In:* Tropenbos (Ed): Seminar Proceedings *"Research in tropical rain forests".* The Tropenbos Foundation, Wageningen, The Netherlands. 115 – 124.

Foahom B. and Jonkers, W.B.J., 2005 – The role of science in reconciling multiple forest uses: A multidisciplinary experiences in Cameroon. *In:* Ros-Tonen M.A.F. and Dietz T. (eds): *African forests between nature and livelihood resource.* The Edwin Mellen Press, Wales, UK: 319-341.

Lescuyer G., 2002 – *Environmental assessment as a new tool for sustainable management? An application in south-Cameroon rain forest region*. Tropenbos-Cameroon Documents 13. TCP, Kribi Cameroon

MINEF, 2003 – Programme Sectoriel Forêts et Environnement (PSFE). MINEF, Yaoundé, Cameroun.

Ros-Tonen M.A.F., Zaal F. and Dietz T., 2005 – Reconciling conservation goals and livelihood needs: New forest management perspectives in the 21st century. *In:* Ros-Tonen M.A.F. and Dietz T. (eds): *African forests between nature and livelihood resource.* The Edwin Mellen Press, Wales, UK: 3-29.

The importance of secure land tenure systems in coping with Climate Change: the case of some countries in Africa

Wale Adeleke[1]

Summary

There is no doubt that one of the most burning international environmental discussions going on presently is climate change and its impacts on livelihoods and worldwide existence. One of the mitigation and adaptation measures that have been touted is the REDD (United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries). This is more so considering that forests are the most significant terrestrial carbon reservoir. However, for a successful REDD the issue of land and tree tenure need to be adequately addresses. This piece highlights the importance of tenure in REDD and discusses the possible challenges if adequate tenure arrangements are not taken into consideration.

Introduction

Land or forest tenure refers to the terms under which land and natural resources are held by individuals, households or social groups – including governments for the purpose of Africa. Climate Change, on the other hand, refers to on-going changes in the global climatic system resulting primarily from the anthropogenic global warming as a consequence of the increased and continuous emissions of greenhouse gases due to energy production and consumption, industry, agriculture and loss of vegetation cover and other carbon sinks.

The direct impacts of climate change on human land use systems and land occupation could potentially have a range of impacts on land access and tenure, with both direct and indirect negative repercussions on human livelihoods, welfare and prosperity. Yet despite the wide publicity given to climate change, there is still very limited understanding of the relationships between the impacts of climate change, and land tenure.

The linkages between issues of climate change and variability and questions of land tenure are multiple, complex and indirect. However, the effects of climate change and variability are felt through changes in natural ecosystems, land capability and land use systems. In some instances, these changes might place diminishing supplies of land under greater pressure, for both productive use and human settlement. As a result land issues and policies are key considerations for climate change mitigation and adaptation planning, which will involve clarification of land tenure and management arrangements.

Given the increases in mobility, migration and land competition that are likely to result from climate change, and the fact that the poor will be disproportionately affected - especially because they might not have the capacity or the resources to compete for land, there is a general need to strengthen the governance

[1] *Wale Adeleke, IUCN Project Office, c/o Forest Services Division, P.O. Box 527, Accra. Ghana.*
Telephone: (233) 24 224 9678; (233) 24 435 8076
Email: yaadeleke53@yahoo.co.uk ; Adewale.Adeleke@iucn.org

arrangements over land based natural resources on which the poor and vulnerable depend. This means, not only paying attention to land issues in climate change mitigation planning, but ensuring that land tenure and land use management have central places in sustained efforts to improve the governance frameworks for both rural and urban development.

Forest Tenure - the real issues

As mentioned above, land and forest tenure in Africa is complex and the approach to which it is dealt with will largely determine the achievement of one of the mitigation agenda for climate change under the United Nations Framework Convention on Climate Change (UNFCCC) termed the UN-REDD (United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries). Tenure rights influence attitudes to forests in almost all the countries in Africa. Strong tenure rights invokes tendency for safeguarding sustainability of resource usage whereas weak or lack of tenure rights induces resource mining tendencies leading to degradation and eventual depletion. For REDD to be successful in Africa, especially in West Africa, there is a great urgency for identifying existing trees and forest tenures, determining prevailing inequalities, undertaking revisions where necessary; properly documenting emerging tenure rights, determining loss of rights due to pursuit of REDD practices and devising appropriate compensatory packages for the loss of rights.

Land and forest tenures can be categorized based on the principles of acquisition. Some of the prevailing land titles include: (a) the allodial title holders of land which usually are the traditional chiefs. In the past, allodial title was derived from conquest or occupation. The chief holds the land in trust on behalf of the subjects (e.g. most countries of West Africa) ; (b) land tenure for the individual or group of persons which is guided by accruing bundle of rights over the use of the land by virtue of belonging to the ruling class or tenancy contracted from the usufructuary holders (e.g. Ghana, Nigeria, etc); (c) within the clan or family where an individual's capability to clear forests bestows rights of use in perpetuity whereas apparent abandonment revert the land back into the communal pool for re-allocation; (d) users are entitled to benefits accruing from expended labour or investments whereas minerals and naturally originating endowments such as timber are vested in the state (e.g. Ghana, Nigeria, Cameroon and DRC) ; (e) Modern investment schemes which are regulated by statutory laws and these appear stronger than indigenous arrangements (e.g. the community forest concept and rights in Cameroon); (f) the state exercising the right to appropriate land for national purposes in return for compensation payment as in wildlife reserves or take over management functions without changing ownership for offer of specified rights as is the case of forest reserves. This is very much the practice in most of African countries especially East and West African countries apart from Tanzania.

In Ghana for example, land ownership of forests under reservation remain with the land owners but management rights are lodged with the state acting as the management agency. The landowners are compensated through the sharing of revenue accruing from forest reserves. In addition they are entitled to domestic use rights of NTFPs (Non Timber Forest Products), access to deities, certain number of

timber trees per annum and agreed customary practices. In reality apart from the domestic use rights, the other rights are rarely exercised thus becoming obsolete over the years.

In off-reserve areas, although the state exercises regulatory functions over the allocation and harvesting of timber trees, landowners have the right to convert forests and fell trees to pave way for the use of the land. Apart from chiefs, land users do not have direct benefits from naturally regenerated timber trees save compensation due to crop destruction in the course exploitation. Evidence reveals that over the years, farmers have routinely been destroying timber trees due to the lack of benefit from accruing revenue and the prospect of crop destruction. Land users, however, have the right to establish forest plantations and enjoy the benefits thereof as exists with agricultural crops. To date several woodlots dotted around country have been established under the latter regime.

Cameroon has for example, devolved rights to communities in some instances under the community forestry concept. Management rights were transferred to community based organizations on the basis of an agreed management plan. The devolved rights are limited to management whilst the land and tree ownership still lies with the government. The government has the right to unilaterally terminate the agreement if they so wish. The Tanzania case is that of devolution of management right to local authorities who have both the management and ownership rights under the "ujama".

So what does this mean for the current REDD debate?

It is becoming increasingly clear that REDD will not accomplish most of its objectives without sorting out the land and forest tenure issues. Clarifying rights and responsibilities of local resources tenure regimes is essential for establishing payment for environmental services – for example carbon ownership. Informal land tenure in Africa may serve as a prohibitive obstacle to the enhancement of carbon stock and so an obstacle to REDD. Poor tenure arrangements always lead to lack of incentives to conserve and replant trees, and without adequate policy and legal structures supporting small-scale and community-based resource management, the forest resources base will continue to be depleted and degraded.

Options for Success

The options, therefore, available to most African countries for REDD to achieve its desired goals will include: (a) getting the right balance between states' land ownership and management and the recognition of informal tenure zones (e.g. community forests ownership and management); (b) making adequate provisions for documenting tree and carbon rights on land titles (e.g. through tree registrations during plantings); (c) reviewing existing tree tenure arrangements so as to optimize the incentives for tree conservation and replanting (this is a priority from the perspectives of both timber production and the enhancement of carbon stock); (d) sorting out how carbon rights will relate to the underlying land rights (this will be expected to play a determinant role in conditioning public attitudes to carbon payments); (e) reviewing forestry practices on resource conservation, development and exploitation and devise strategies to align them to REDD objectives; (f) involving

grassroots civil society organizations in tenure revision processes; and (g) mobilizing and building the capacity of forest fringe communities to adequately participate in REDD activities.

References

K.S. Nketiah, Paul Osei-Tutu, and Alex Asare: Background Paper for REDDplus Readiness Field Dialogue in Ghana.
Lorenzo Cotula, and James Meyers: Tenure in REDD – Start Point or Afterthought

Land and tree tenure types and effectiveness of natural resources management projects

Afio Zannou[1]

Summary
This paper gives a brief overview of local practices in the area of land and tree ownership systems in West Africa where land tenure systems remain key factors in determining the effectiveness of natural resources management. Considering these issues during the launching phase of projects would increase the participation of local populations and ensure actual positive impacts.

Introduction

It is no news for each one of us that land tenure in West Africa is a key issue for the sustainability of natural resources management projects. Actually, land tenure affects those who are willing to get involved in the projects and those who benefit from them. Consequently, identifying who owns what tree tenure rights will help project designers and managers avoid the unintended destruction of existing rights, the exclusion of certain groups from project benefits or the capture of the project by an elite for its own purposes (Fortmann, 1985). Landholding rights are different from tree ownership rights even though they are closely linked. Ignoring these rights and the use regulations of these resources could have a negative impact on the success and effectiveness of projects. This paper will further analyze the main characteristics of land and tree tenures and the demands regarding the behavior of the implementers of natural resources management projects.

Land tenure

Traditionally, land can be acquired through first occupancy, passed on from father to son, donated or purchased; other tenure systems include borrowed fields, share-cropping or pledge. Land access rights vary according to social status, gender, age or resident status. The complex array of land rights and their variability from one village to another, can diversely affect project activities. Thus, for a successful project implementation, local populations should get involved in the process of choosing land, particularly regarding the places and conditions in which specific activities will be carried out. In order to avoid the mistaken perception according to which projects could consider seizing the lands on which they plan to carry out their activities, project managers should avoid taking unilateral measures or decisions that would only increase the population's fear of losing their lands (Fischer, 1995). In the specific case of gender, to improve sustainable security for women and encourage them to invest more time and money in the land, each land transaction involving women should be openly discussed before implementing the projects in order to inform each party of its rights and obligations.

[1] *Afio Zannou, Agro-economist/ Natural Resources Management.*
African Union Commission – Fouta Djallon Highlands Programme. BP 1386 Conakry, Guinea.
Telephone: (224) 3043 5365 ; (224) 6252 0845 ; (224) 6444 3085.
Fax : (224)3043 4170 Email: afiozannou@yahoo.com

Tree tenure types

Tree tenure is a property right every bit as complex and variable as land tenure (Fortmann and Bruce, 1988). The type of tree tenure differs depending on whether the lands are owned or not, or whether the trees are planted or naturally regenerated.

Tree tenure is closely related to land tenure. Planting trees strengthens one's property rights over the land. As such, tree planting confirms and reinforces land claims. McLain (1990a) argues that the primary factor governing rights to plant and use trees is the tenure status of the land on which they are found, specifically whether farmers have permanent or temporary landholding rights. Under customary tenure rules, rights to trees are usually vested with holders of lineage or inherited land. Landowner control over the land includes rights to inherit, plant, cut, prune or gather tree products (McLain, 1990a and b; Boffa 1999).

The other factors bearing on the type of tree tenure include plant species and their commercial value, the parts and amount of trees used, and the links between right holders. Today, demographic pressures on natural resources tend to increase the commercial value of trees and their users' claims (Boffa, 1999). Various forms of tree tenure are practiced in West Africa, among which: leasing, pledging, and sharecropping.

In some Sahelian regions for example, farmers have exercised the right to cut or prune trees and thus minimize their interference with agricultural production and fruit harvesting, both through inheritance and lease (McLain, 1990b). In this assisted regeneration system, the contribution of borrowers to the maintenance of the farm and trees is acknowledged. The system also offers affordable related benefits, technical efficiency, facility and convenience (Boffa, 1999).

Elsewhere, as in Guinea, in the Diaforé watershed, the land owner holds exclusive rights to plant, fell, cut or prune trees and harvest crops on his property. The enforcement of the rights to cut or prune and harvest, varies according to species and the number of trees on the ground, and the amount of fruits born by these trees (Fischer, 1995). Different species have different values. The enforcement of one's rights over a tree varies according to that value. While land owners holding transfer rights are entitled to plant trees, simple land users and land borrowers are not.

In most villages, tree planting is strictly regulated to prevent non-owners from undertaking such an operation. Having the status entitling one to plant trees is linked to the principle that trees planted belong to the planter and planting trees can bestow on that person rights to the land on which they have been planted (Fortmann, 1985).

Conditions surrounding tree planting are specific to each given site and should be studied individually in order to improve the success of natural resources management initiatives. To increase the participation of land borrowers in plantation activities, agreements between the borrower and the owner can be negotiated to ensure that the borrower enjoys the benefits offered by the planted

trees, while preserving the permanent rights of land owners. Fischer (1995) suggested that projects operate in such a way that the tenure of trees planted with their assistance be explicitly and totally accepted by local populations. The mode of distribution of benefits should also be clearly established before implementing projects. Users could come from one or several villages. Some villages might not have the authority to make certain decisions regarding tree planting or cutting without consulting with the villages holding tenure rights. Thus, a failure to explicitly address tree tenure issues could impact natural resources management actions involving tree plantations.

Conclusion

This review shows that access rights to resources and the socio-economic background of these rights can affect the involvement of local populations in projects. Projects regarding natural resources management should be harmonized with local land tenure practices and tree tenure types. It is the duty of policy makers and project managers to consider this aspect in order to guarantee a greater positive and sustainable impact on local communities.

References

Boffa J.-M. (1999). Agroforestry parklands in sub-Saharan Africa. *FAO Conservation 34*

Fischer J.E. (1995). Report on natural-resource management practices and tenure constraints and opportunities in Diaforè Watershed, Fouta Jalon, Guinea. Land Tenure Center, University of Wisconson-Madison; *LTC Research Paper* 122.

Fortmann L. (1985). The tree tenure factor in agroforestry with particular reference to Africa. *Agroforestry Systems*, 2: 229–251.

Fortmann L., Bruce J.W. (1988). Whose trees? Proprietary dimensions of forestry. Boulder, Colo.: Westview Press.

McLain R. (1990a). *Report 1: Tenure and tree management on the Dogon Plateau: Three case studies in Bandiagara, Mali*. Madison, USA, Land Tenure Center, University of Wisconsin-Madison. 43 pp.

McLain R. (1990b). *Report 2: Tenure and agroforestry: Village and household studies in central Mali*. Madison, USA, Land Tenure Center, University of Wisconsin-Madison. 97 pp.

COUNTRY FOCUS: The Gambia

The Gambia is the smallest country on mainland Africa. Small is beautiful, most Gambians will chorus! This nation State is bordered to the north, east, and south by Senegal, with a small coast on the Atlantic Ocean in the west. Its borders roughly correspond to the path of the Gambia River, the nation's namesake, which flows through the country's center and empties into the Atlantic Ocean. Its size is almost 10,500 km^2 with an estimated population of 1,700,000.

Kanimang Camara[1] *talks about the key issues of access and security of rights to land, water, forest and other renewable natural resources at the community and national levels in The Gambia. He focuses the discourse on the practical applications and implications of tenurial rights for sustainable nature conservation and their implications for extreme poverty alleviation, food security and gender equality in this West African nation state.*

[1] *Kanimang Camara, Director, National Consultancy on Rural Extension Services and Training (NACO), The Gambia. PO Box 1959, Banjul, The Gambia*
Telephone: 220 9902140; Email: nacogambia@yahoo.co.uk

Nature & Faune: The Gambia in the early 1990s was regarded as the headquarters for renewable natural resources management and environmental protection. Tell us the genesis of this laudable perception.

Kanimang Camara: Before the country gained independence in 1965, the Gambian Forest was classified as thick forest. This natural resource has been in a constant state of depletion. The depletion rate of the resource was so alarming owing to large destruction of vast forest land through forest fires, the unsustainable exploitation of forest resources and conversion of forest to other land uses. Consequently many of the forests have undergone changes, more often to secondary succession, resulting to lesser dense forests, poor regeneration potential, lower growth, undesirable grass occupation and lower plant species diversity.

The underlying causes of Forest Resource Degradation was attributed to State-Controlled top- down forest management approach administered by the Government, which alienated the local population in resource management. Recognizing the importance of collaboration with the local communities, Forestry Department in the 1990s re-oriented towards developing Participatory Forest Management (PFM) Approaches. The goals and objectives of these new approaches are to promote the active participation of the population in forest management and to allocate ownership and exclusive user rights to stakeholders in order to build trust, gain their interest in resource protection, thus giving them an investment opportunities and stake in protecting the forest.

The ownership of each forest category carries corresponding rights and responsibilities. The Forest Act and Regulations, Local Government Act, Community Forest Agreements, Private Forest Management Agreements and the Joint Forest Park Management Agreements describe the rights and responsibilities due to the owner of a particular forest category. These pieces of legislations and regulations complemented with Gambian Forest Management Concept (GFMC) designed to promote the sustained management of The Gambia's forests all contributed to successes gained so far.

To enhance the operational modalities of the GFMC, additional strategies were conceptualised and developed. Foremost amongst these new concepts are the Gambia Forest Communication Concept (GFCC), the Market Analysis and Development (MA&D) approach and the Regional Fire Management (RFM) initiative. The GFCC aims to improve the flow of communication between stakeholders involved in forestry. Sensitizing appropriate populations on forest protection, utilisation and the enforcement of forestry rules and regulations are key components of the GFCC. The MA&D approach aims to add value to forest management by the creation of small-scale forest based enterprises. The RFM initiative, because forest fires do not follow regional boundaries, strives to develop a holistic approach to fire prevention and control by making the local communities the centre of focus.

How endowed is The Gambia in terms of the quality, abundance and distribution of renewable natural resources such as land, water, forest, fisheries and other natural resources at the community and national levels?

The Gambia is among the smallest countries in Africa, but the population density of about 96 inhabitants per km2 is on the high side and Natural Resources are consequently under great pressure. This fact is not only of national concern but of sub-regional relevance since the country forms a natural barrier to the spread of desertification southwards from the Sahel.

According to the results of the National Forest Inventory of 1998, 43% of the country's total land area or 460,000 hectares is classifies as forest, although 78% of this area falls into the degraded tree and shrub savannah category. In 2001, according to the FAO's State of the Worlds Forest report, The Gambia has gained a net increment of I percent in forest area. This increase is undoubtedly attributable largely to expansion of the Participatory Forestry Program of the Government.

Up to date, in the country, a total forest area covering about 50,000 hectares have been designated as Participatory Forest Management Areas. This includes Community Forest Areas, Private Forests and Jointly Managed Forest Parks. The state still remain the principal owner of the Forest resources managing 85% of the total forest area. The Forest Policy of the Gambia aims to manage a total of 200,000 hectares of forest land with the active participation of the local populations.

The qualities of other Natural Resources such fisheries are increasing in many with improve mangrove ecosystems coupled with responsible fishing practices. The country had been hosting for the past three decades strange fishermen, thereby contributing to the nutrient requirements of the citizenry as well as generating foreign exchange earnings. The availability of vegetation cover also influences the migratory pattern of many animal, bird and marine species.

Most of the land in The Gambia is administered under the customary law except for the Grater Banjul Area which are annex by the state. The customary laws govern land rights and deal with inheritance of the land. Usually the land is used by extended families, where the head of the family distributes among members for agricultural purposes or settlement. User friendly Natural Resource Management policies, acts, regulations, concepts, guidelines and manuals were developed and implemented at local levels and results very promising. Natural Resource Management Committees (Water, Forest, and Artisan Fisheries Committees) are established at local level, trained and functional to manage and administer specific resources on behalf of community (ies).

What are the key issues of access and security of rights to land, water, forest and fisheries in your country, The Gambia?

The legal basis for access and securing rights to forest land is enshrined in the 1998 Forest Act which in Part VII, Section 58 and Local Government Act 2002 mandates that the Minister of Forestry and the Environment with the responsibility to

designate forest areas as Community Forests (CFs), Private Forests and Forest Parks intended to be jointly managed with communities. The Forest Act further specified from sections 59 to 68 and sections 71 and 72 of the Local Government Act the procedures, terms and conditions for designating public forest land. While access and securing rights to Fisheries are prescribed in the Fisheries Act and Regulation.

The principles of the 2006 Water policy of The Gambia, emphasizes that "water is essential for life and a powerful tool for good, which must be valued, conserved and managed, in an appropriate fashion for the benefit of all". This policy too, calls for an integrated and participatory water resource management as outlined in the Dublin Statement 1992.

Considering that you are a professional rural development officer with much experience in the field what are the features/elements that define the Gambian land and tree tenure systems?

There are significant differences between land tenure and tree tenure in The Gambia with the former based on customary law regulated in the Land Act and Regulations and the latter on statutory law regulated in the Forest Act and Regulations. The Land Act recognises customary ownership of land mandating the District and Village head to allocate land. The Forest Act vested the ownership of all naturally grown trees in the Government.

The predominant system of land tenure is still the communal type with all the powers invested on the clan elders. However, according to the statutory law, all lands belong to the state but customary ownership is given recognition and is the principal system of land tenure. The land tenure system and pattern of ownership leaves much to be desired for the rational management and utilisation of natural resources. The system does not provide the necessary incentives for the sustainable management of the land and its associated resources.

Decentralisation in respect to forest resources centres on the gradual transfer of ownership and managerial rights and obligations to the local communities through their Forest Committees. Notwithstanding, forest management is a long-term enterprise. It requires long-term tenure security, covering at the very minimum the period trees need to grow up to harvestable size. For the most valuable indigenous timber trees, this period covers some 80 to 100 years. Therefore, tenure security to local communities participating in community forestry is indefinite according to the law.

Would you want to venture into outlining the overall impacts of forest tenure on livelihoods of local residents in rural communities in the Gambia?

Forests remain very important nation-wide, with over 85 % of the population depending on wood in the form of fuel wood or charcoal as the primary source of domestic energy and although there are serious attempts to diversify domestic energy sources, this scenario is expected to remain for many years to come. The contribution of forestry in the formal sector is marked by uncertain data on trade

involving forest products and the numerous employment opportunities the sector offers (it is currently estimated to be at 2% of the Gross Domestic Product).

Forest tenure has an appreciable impact on encouraging community development and good governance through empowerment. With secured ownership, communities can undertake sustainable forest management activities to generate cash income and develop or modify local institutional arrangements to enhance governance issues at the village level. The income generated is mostly spent on important social infrastructures and created environmental and social benefits. Some direct benefits from proceeds realised from Participatory Forest Management in The Gambia include:

- Investment on learning and teaching material in public schools;
- Construction of school class room and dining blocks;
- Provision of scholarships to the most needy students in the villages;
- Village electrification services;
- Micro- credit schemes among members;
- Training and specific skills development;
- Access to products from the forest as attributed to better management of the resources;
- Investment in road infrastructures, water and transport;

The indirect benefits of Forest Tenure in The Gambia include:

- Improved self – esteem of the local population participating in Participatory Forest Management;
- Increase rights and power of communities on Forest Resources;
- Access to loans and outside support;
- Provision of soft credit to community members; and
- Improved gender dimension on forest product utilization

Environmental benefits include:

- Reduction on conversion of forest land into other land uses;
- Access to water supplies;
- Less occurrence and frequency of bushfires;
- Limited but some investment in forest management activities by other key stakeholders;
- Putting more forest area under sustainable management; and
- Improvement of natural forest regenerations.

If you had a magic wand and your word is law, what measures (policies, institutional and legal frameworks etc) would you recommend to Gambians, in terms of rights of access and security tenure of land, forests, trees and other renewable natural resources of The Gambia.

To maintain the momentum on secured forest tenure reforms, my recommendation to Gambians, in terms of rights of access and security tenure on land, forests, tress and other Natural Resources of The Gambia are:

- Government and donors to continue funding the decentralised forest resource management processes;
- Forestry Department and other law enforcement agents contribute towards eliminating illegal forest products from the markets through rigorously enforcing the Forest Act and Regulation;
- Greater involvement of Non- Governmental Organizations and other Non-State Actors to play the advocacy role of reducing state dominancy in forest tenure, and help in the resolution of the numerous conflicts that are emerging and derailing the course of Participatory Forestry;
- The FD and partners facilitate the setting up of micro-finance facilities through strategic alliances at rural level to increase the social capital of the Target Groups involved in PFM;
- Reduce administrative procedures for handing over forest resources management to community (ies);
- The state to develop management concepts for National Parks and Nature Reserves with focus on involving the peripheral communities in the management of Protected Areas; and
- Strengthen capacity of key stakeholders in order to enhance their participation in the National Forest Program.

At this juncture, we will like to invite you to share with us your views on how best to extend the positive Gambian experience to the rest of Africa, given your personal experience of having worked in many African countries.

The experiences gained in securing resource tenure for the local population in The Gambia are many and extremely vital as it would be of great importance in sustaining the Participatory Forestry Programme. The Gambia Forest Policy and the GFMC have provided an enabling policy environment for the management of the forest lands by the local population, giving them full ownership and rights on the forest lands and their security of long term use and access to the product is one of the key prerequisite requirements for PFM development this policy context is also in favor of small scale forest enterprise development activities.

In my own views, Gambian experiences could be shared with the rest of Africa and elsewhere through national and international workshops/ seminars on Participatory Forest Management and related topics, field visits (technicians and farmers), networking and through publications of good practices from The Gambia. Finally, my advices to African countries are to develop user friendly Natural Resources Management Guidelines and Manuals upon enactment of legislations on community rights on Natural Resources for smooth transition from State centred "top down" resource management to communal.

Thank you, so much Mr. Kanimang Camara, for sharing your insights on key issues and priorities on access to and security of tenure rights on renewable natural resources in your country, The Gambia.

FAO Activities

This section is featuring excerpts from a paper by FAO[1]that presents forest tenure in Africa based on 11 different case studies from the region. The paper is included in a Working Paper: Understanding forest tenure in Africa: opportunities and challenges for forest tenure diversification. Forest Policy and Institutions Working Paper No. 19. FAO, 2008. For the whole paper, please visit our web site: http://www.fao.org/forestry/39658/en/ where all the documents can be downloaded.
ftp://ftp.fao.org/docrep/fao/010/i0161B/i0161B01.pdf

Factors that constrain forest tenure security and diversification in Africa

Francesca Romano[2] and Dominique Reeb[3]

Fragility, lack of clarity and resistance to change

Very often tenure reforms, such as privatization, titling (Uganda) and restitution or redistribution of land (South Africa and Zimbabwe), are not adequately implemented and remain unclear and unknown to most of the potential beneficiaries because of a weak supporting environment. Inevitably, this creates insecurity, mistrust and conflict, increases the fragility of tenure and reduces the interest in proper forest management.

Lack of clarity and transparency may be the result of contradictory or incoherent legislation regulating land and forest ownership and use, as in the case of Mozambique, where local communities can acquire registered use rights (ownership) over the land, but do not automatically obtain use and exploitation rights over the resources. Instead, the government can grant these rights as concessions to private companies, which is another potential source of conflict (Sitoe and Tchaúque, 2007).

Insecurity can also result from massive land reallocation and redistribution schemes over short periods, which fail to reach their objectives of benefiting the poor, especially when the process is not associated with clear procedures for land allocation, sufficiently long leases, and associated rights (see Box 1).

---

[1] *Original source include papers produced by: Forestry Department, Food and Agriculture Organization of the United Nations (FAO) Rome, Italy*
Website: http://www.fao.org/forestry/39658/en/
To download document click: ftp://ftp.fao.org/docrep/fao/010/i0161B/i0161B01.pdf
[2] *Francesca Romano,Forestry Department, Food and Agriculture Organization of the United Nations (FAO)*
[3] *Dominique Reeb, Forestry Department, Food and Agriculture Organization of the United Nations (FAO)*

Box 1. The Fast-Track Land Reform Programme (FTLRP) in Zimbabwe

Since independence in 1980, the Government of Zimbabwe has made concerted efforts to transfer the land held by private commercial farmers back to the former communal area dwellers, as private or communally owned resources. There has been a more dramatic shift of ownership since 2000, when the State took over the remaining 30 to 35 percent of private land through occupation and other forms of dispossession under The Fast-Track Land Reform Programme (FTLRP), with usufruct rights given to those resettled on these lands. Tenure over forest resources has not been secure since then, and the future is uncertain for the occupiers of former private woodlands. Forest resources have been adversely affected by this insecurity, which has resulted in forest clearance for agriculture and the sale of wood and game meat to supplement incomes. The new forms of resettlement that have emerged since 2000 are likely to remain insecure until Zimbabwe's political climate changes. Only a few beneficiaries of FTLRP have been issued with long-term leases on their land, giving them greater security of tenure over the forest resources on that land.

Source: Matose, 2007.

In many of the African countries analysed, particularly where forest resources represent an important source of income for the government, tenure reform meets with strong resistance from forestry authorities. This is illustrated by governments' reluctance to devolve resources and management responsibilities to lower levels, and their slow pace in implementing laws and policies. In some cases, no policies and laws are implemented at all, not only because human and financial resources are missing, but also because there is a degree of fear of loosing power and control on the part of powerful groups, including the wood industry.

The forest law of Gabon foresees the possibility of establishing community forests, but no village has yet officially requested gazettement owing to a scarcity of information and local communities' lack of capacity to follow gazzetement procedures and management requirements. In Cameroon, community forests exist, but are strictly controlled by the State (Bigombe Logo, 2007).

It should be noted that central governments or local authorities are not the only ones using reform mechanisms to retain or increase power; it is not uncommon for the benefits of forest tenure not to reach the poorest and most disadvantaged groups because elite groups within local communities tend to capture most of these advantages, as seen by examples of community forestry in Cameroon and land redistribution and restitution in South Africa (Clarke, 2007).

Weak supporting environment

Difficulties in implementing tenure reform and diversification are often linked to a weak supportive environment, which undermines the potential positive effects of the reform, or at least makes it difficult to assess the efficiency or effectiveness of a specific tenure system. Some common elements identified from the case studies for this regional analysis are described in the following subsections.

Land policies and management requirements

When addressing tenure issues, forest land is often not recognized as being different from agricultural land in terms of service provision, key stakeholders and management requirements, even though it needs a specific approach.

Where countries have recognized the importance of providing stakeholders with secure forest tenure as a means of encouraging Sustainable Forest Management (SFM), overregulation and high costs for management plans have a negative effect on law implementation. For example, excessively complex management requirements have limited the implementation of communal forestry in Cameroon (see Box 2).

Complex regulations, high costs and dependence on external funding and capacity are relevant issues in several countries, for example, in Mozambique's forest concessions to local communities or Senegal's local conventions (*conventions locales*) between administrations and local communities. Only a few countries have introduced (e.g., the Gambia) or are piloting (e.g., Senegal) simple forest management planning tools for local community use. In other cases, monitoring and evaluation systems are not in place because of the lack of data on forest resources, but exploitation through forest concessions continues (e.g., Gabon).

Box 2. Communal forests in Cameroon: limited success for an alternative tenure system

Cameroon's Forest Law of 1994 foresees the possibility for a village represented by its mayor to request the creation of a communal forest (*forêt communale*). So far, the success of this initiative has been limited: not only is the law vague about the use and exploitation rights associated with the land titling, but the procedures are so complex and the costs so high that the advantages are not clear in comparison with the income assured to a local community through sharing the income taxes generated from a concession (40 percent to communes). As a result, even though communal forests have the advantage of being owned in perpetuity by the villages, this alternative tenure system has not yet received adequate support.

Source: Bigombe Logo, 2007.

Incentives and benefit sharing

Obviously, stakeholders require sufficient incentives to engage in agreements that are money- and time-consuming, otherwise they will not see the benefit of bearing

the costs, fulfilling the duties and bearing the responsibility that are associated with forest management. Analysis of the case studies reveals that changes towards tenure diversification are only partially implemented when economic (revenues, infrastructure, etc.) and non-economic incentives (control over customary land, etc.) are not in place.

The quality of the forest resources devolved to or co-managed with local actors is very often poor. In Tanzania, for example, the innovative system of village land forest reserve (VLFRs), which transfers ownership of forests to villages and communities, has so far had only limited impact on livelihoods because of the poor quality of the resources involved (Bloomley and Akida, 2007). Resources of higher quality (production forests) are managed through Joint Forest Management (JFM) agreements, but with very limited legal use allowed to local communities (see Box 3).

Benefit sharing systems are often unclear or not transparent, penalizing the poorest and most vulnerable. This happens, for example, in Cameroon, where local administrations often retain the 10 percent of tax revenues from concessions that should go directly to village communities for social activities.

Vague legislation can be the cause of conflict and inequalities. In Gabon, for example, the absence of clear indications about the financial contributions from concessions to local communities, together with weak representation of communities and lack of support from external third parties such as NGOs, has resulted in situations where many concessionaires do not contribute to the local economy as required (Nyare Essima, 2007).

Box 3. Joint Forest Management (JFM) in Tanzania coastal area

Failure to agree on equitable cost and benefit sharing continues to undermine Joint Forest Management (JFM) arrangements in many coastal villages in Tanzania. According to villagers interviewed, revenue from the utilization zone amounts to just over Tsh 6 million/month (about US$4 600). Before regulated harvesting was introduced under JFM, forest products were collected free of charge, and mangrove poles were an important revenue source for villagers (one villager said that he used to earn about Tsh 90 000, about $70, a month). JFM may therefore have resulted in reduced income and subsistence benefits, leading many villagers to question the rationale for the project. Together with the delayed finalization of regulations and guidelines for benefit sharing, this undermines local communities' continued commitment to JFM.

Source: Akida and Blomley, 2007.

Weak institutional capacities and limited information flow

The limited financial, technical or human capacities of the stakeholders involved in a tenure reform and the limited flow of information about the reform itself are among the most common constraints to tenure diversification and consolidation in Africa.

They also limit the possibility for various key players to either enforce or benefit from provisions foreseen in the legal framework. Inappropriate human and financial resources prevent forestry administrations from managing and protecting forests, as in the case of Senegal's *forêts classées* (Bodian, 2007).

Some potentially successful programmes, such as the acquisition of land-use rights (LURs) in Mozambique, land titling in Uganda and the redistribution and reallocation of land in South Africa (see Box 4), have suffered from a lack of support from extension services and local administrations to the beneficiaries of the reform. Such support is needed in exercising and retaining the rights and responsibilities associated with management agreements and the opportunities offered by the law.

A feature of most of the cases analysed is poor information and communication about laws and reforms, including the use of overly complex language and inappropriate means of communication.

Box 4. The impacts of lacking support

SOUTH AFRICA: LACK OF POST-SETTLEMENT SUPPORT

In 1994, the new Government of South Africa pledged to transfer 30 percent of white-owned land to black owners within five years. Two primary mechanisms for this transfer were put in place: *restitution* of land lost through race-based laws and practices; and *redistribution* of privately owned and public land.

The two programmes have, however, lagged considerably behind their targets for land transfers. In addition, most of the transfers that have taken place, beneficiaries have not been able to establish viable enterprises or even to support themselves from the land. The lack of post-transfer support has been identified as one of the main reasons for the failure of land reform projects. Support to the development and building of local institutions is also particularly important for the sustainable use of forest resources on the transferred land.

Source: Clarke, 2007.

UGANDA: LACK OF SUPPORT FOR THE MOST DISADVANTAGED

Uganda's Land Act (1998) makes provisions for communities to own land legally by forming Community Land Associations, which own the land in their own right. This provision was expected to promote the responsible management of natural assets on the land, reduce land and natural resource degradation, promote SFM and help communities to alleviate poverty. However, no applications have been made to obtain registered landownership certificates. A FAO study found bottlenecks in the implementation of registration, due partly to discouragement from politicians and partly to an absence of proper guidelines. Compared with the success of land titling for individuals and the private sector it can be concluded that a lack of support and difficulties in interpreting and implementing law requirements penalize more heavily the poorer, less educated and generally more marginalized people.

Source: Kigenyi, 2007.

Because of their position and role, local administrations could be expected to be key supporters of tenure reform, but instead they are very often the weakest link. This limitation is particularly severe in countries that are being decentralized without sufficient transfer of authority and capacities.

In Uganda, for example, local governments were given the responsibility for establishing District Forest Services (DFS), charged with issuing permits and licences, collecting fees and forest produce taxes, and developing and enforcing laws. They are also responsible for managing local forest reserves (LFRs) in partnership with communities, the private sector and forest land administrations. Because of their limited human and financial capacity, districts have failed to collect revenues, establish partnerships with local communities and the private sector, and produce management and work plans. This management failure has led to LFRs becoming open-access resources, and most have suffered encroachment (Kigenyi, 2007).

Lacking resources and capacities are not the only issue; local communities' recognition and respect of local administrations' authority is also important. In South Africa, for example, two separate but interlinked programmes aim to reform tenure and governance in the former "homelands", where land is held in trust for its occupants by the State. The Department of Land Affairs is implementing a *tenure reform* aimed at strengthening the rights of black families, groups and communities occupying land under informal systems of land tenure that have no legal or unclear status. The government is also implementing a programme to establish structures and systems for *democratic local government* at the local level and to decentralize responsibility for administrative functions and service provision.

These developments have provoked a storm of protest from traditional authorities, who fear that reformed local governance and land administration would strip them of most of their power and privileges. The current situation is one of considerable chaos regarding systems for managing and allocating land rights and of conflict between new local government structures and traditional authorities. Obviously, so far, implementation of the tenure reform has not achieved the expected results.

Recommendations for forest tenure security and diversification

The case studies show that in Africa there is a wide range of successful forest tenure systems, albeit still limited in terms of area, each of which involves a combination of different stakeholders and different tenure arrangements. There is increasing evidence, from other regions as well, that diversification of forest tenure arrangements contributes to SFM. A secure, balanced and diversified tenure system – that matches the country's socio-economic context and the stakeholders' capacity and where stakeholders share, individually or in common, responsibilities and benefits – helps to mobilize all the available and potential resources and capacities, thus contributing to social as well as environmental sustainability.

Although recognizing that tenure is fundamental and that changes are needed is an important first step, it is certainly not sufficient for dealing with the complexity of

tenure reform, which implies adequate preparation, support and intersectoral approaches. The case studies highlight the following:

> In most African countries, the forestry sector is not yet sufficiently engaged in forest tenure reform to respond adequately to current trends, local needs, capacities and traditional systems. The sector does not fully recognize the importance and role of tenure in SFM, and is therefore not adequately equipped to assess the situation and thus to initiate appropriate reform processes. On the contrary, the forestry sector often resists reforms and, when confronted with deteriorating forest conditions, reacts with drastic changes that are neither applicable to nor supported by local situations.
> Governments and local institutions are often not ready and prepared to support tenure changes, in terms of both finances and capacities.
> Tenure shifts are rarely seen as a possibility, so the forestry sector tends to protect itself through overregulation or constraining laws, or by limiting changes to marginal and less productive land.
> Tenure reforms are bound to fail when adequate support is not provided, in terms of capacity building, information provision or incentives.

Any serious attempt to reform the forestry sector should include the development – preferably based on tested concepts – of mechanisms and supportive legislation that will ensure tenure diversification and consolidation through appropriate processes. Lessons from such countries as the Gambia and Tanzania indicate that a phased approach, based on consecutive steps, pilot areas, progressive devolution of responsibilities and capacity building has proved successful because it responds better to the challenge of implementing complex tenure reform and allows sufficient time for building trust between government administrations and local communities, although it requires substantial investment and time.

There are other issues to be taken into consideration when developing regulations and policy that will enable local communities or individuals to acquire and manage forest land. The following subsections describe some of the priority issues to consider in reform.

Reaching the marginalized

FAO studies show that no single approach to tenure reform is better than others in contributing to poverty alleviation. For example, both formal titling of individual ownership and systems based on customary tenure can respond to the needs of the poorest and marginalized groups. However, none of these systems will reach the poor if insufficient attention is paid to these groups in the process. Under customary tenure systems, allocation and the settlement of disputes tend to be dominated by elite groups. Therefore, as indicated by various authors, allocating decision-making power to communities, customary systems and authorities might have serious negative implications on the access to land and resources of women and the poor (Hobley, 2007).

Tenure reform should thus include provision of the resources necessary to promote stakeholder dialogue and ensure the possibility for disadvantaged groups to gain and retain tenure rights.

Capacity building

This paper has emphasized the importance of and need for developing adequate capacities among all stakeholders. Capacity building should include awareness raising on policies and laws dealing with tenure and tenure reform; exercising rights and responding to acquired responsibilities (e.g., developing simple forest management plans or conducting resource assessment); compliance with the new legal requirements associated with reform (e.g., requests for titling); marketing of forest products; and negotiating with other stakeholders, including local authorities and the private sector.

A key role in these processes should be played not only by government extension services and similar institutions, but also by nongovernmental organisations (NGOs) and the private sector, which have a comparative advantage in terms of efficiency, neutrality (at least for NGOs) and proximity to stakeholders.

Incentives and benefit sharing

It is important to ensure an equitable distribution of benefits from the forest. Tenure arrangements that provide tangible benefits to local managers should be a fundamental component of tenure reform and are key to the success of any tenure system. Ownership rights should be legally recognized, to enable local managers to negotiate and, if necessary, to make claims, receive compensation etc. In Community Based Forest Management (CBFM), it is also important to ensure that benefits reach the village level, for example, by including provisions for benefit sharing in relevant policies and laws and by setting up accountable and transparent systems that can be monitored. Local communities should be empowered to influence the way in which benefits are distributed, for example, by strengthening local village institutions and investing in capacity building in financial and development planning.

Policy, law and governance

A fundamental requisite to guarantee the sustainability and success of a tenure system is to ensure active stakeholder participation in the development of relevant policies and laws, including through strengthening participatory approaches in forest administrations, empowering marginalized groups in policy processes and promoting participatory development of management plans. It is important to use simple language to ensure the distribution and dissemination of policies, laws and regulations to a wide range of stakeholders. Better harmonization of different sector policies and coherence among policies and legislation related to tenure should be ensured, as well as clear definitions of responsibilities and authority at the local, regional and national levels of the ministries involved.

Where possible, simplification of the regulatory framework, including adaptation of management plans to local capacities, conditions and needs, would also improve the performance of tenure holders and allow for better monitoring.

Conclusions

Despite the progress made in diversifying forest tenure, most African forests remain under the overall control of governments. Most initiatives to transfer ownership or management rights to other stakeholders are triggered by the realization of the State's failure to prevent the further degradation of forest resources, rather than by a search for more efficient and socially acceptable management approaches.

Nevertheless, a wide range of innovative and promising forest tenure reforms have been undertaken and are continuing in Africa. In some African countries, diversification of forest ownership and management arrangements have achieved concrete results, when the reform process has included adequate institutional support, a clear legal framework, tangible rights, capacity building and sufficient time. Case studies highlight that although building the capacity of the new managers is of utmost priority, equal attention should also be paid to strengthening the capacity of government units responsible for forestry activities at the local level, as they need to have sufficient understanding, expertise and funding to provide the necessary support to the people who require it (FAO, 2007). In the absence of such support, the most sincere efforts for tenure reform involving local stakeholders have been derailed and have not produced the expected results, in terms of either SFM or poverty alleviation.

The role of the private sector in managing African forests was positively assessed in some of the case studies, and is a potential alternative to State management, when the private sector assumes its responsibilities within a fair tenure system. Private schemes have generated better forest conditions and contributed to improved livelihoods through employment creation or other financial and non-financial benefits.

Review of the various tenure reforms that have taken place in Africa also shows that, in general, more attention is given to the content and the legal implications of tenure arrangements than to the process of implementation. Successful tenure reforms described in this paper clearly indicate that the process of reform is as important as the tenure arrangements themselves. As well as allocating sufficient time, identifying the stakeholders involved and building capacity, establishing a monitoring system that allows for learning by doing has proved instrumental in developing tenure arrangements that work and match stakeholders' needs and capacities. Lessons learned from the case studies also indicate that the successful management of forest resources by stakeholders is linked to a well established sense of ownership over the resources concerned. After a long period of alienation from forest resources, which started during the colonial era, developing such a sense of ownership among local users takes time. It is not necessarily achieved solely by the registration of a property title, or the formalization of a management agreement, but also requires building into the process mechanisms that nurture a sense of

responsibility. This is best achieved by limiting external inputs and promoting local capacity building and stakeholders' own investment. The success of some of the initiatives described in the case studies shows that phased or step-wise approaches to forest tenure reform are better suited because they provide sufficient time to build an understanding of the process, a sense of ownership among stakeholders, confidence between government and local managers, enhanced capacities and improved local governance.

In many African countries, as in other regions, the forestry sector still needs to acknowledge the fundamental importance of in-depth and process-oriented forest tenure reforms that can lead to a broader involvement of stakeholders and increased mobilization of resources. Countries should be prepared to invest and to learn from the experience of other sectors, if their national forestry sectors are to meet the expectations of SFM and to contribute to socio-economic development.

References

Alden Wily, L. 2001. *Forest management and democracy in East and Southern Africa: Lessons from Tanzania.* Gatekeeper Series No. 95. London, IIED.

Bruce, J.W. 1998. *Tenure brief. Review of tenure and terminology.* Madison, Wisconsin, USA, Land Tenure Center.

Bruce, J.W. 2004. Strengthening property rights for the poor. *In* R. Meinzen-Dick and M. Di Gregorio, eds. *Collective action and property rights for sustainable development.* Washington, DC, International Food Policy Research Institute.

CAPRi. 2006. *Land rights for African development: from knowledge to action,* edited by E. Mwangi. Washington, DC, Consultative Group on International Agricultural Research (CGIAR).

FAO. 2001. *How forests can reduce poverty.* Rome, FAO and DFID.

FAO. 2003. *Multilingual thesaurus on land tenure.* Rome.

FAO. 2005. *Best practices for improving law compliance in the forest sector.* FAO Forestry Paper No. 145. Rome, ITTO and FAO.

FAO. 2006a. *Global forest resources assessment 2005.* FAO Forestry Paper No. 147. Rome.

FAO. 2006b. *Understanding forest tenure in South and Southeast Asia.* Forest Policy and Institutions Working Paper No. 14. Rome.

FAO. 2007. *Tenure security for better forestry. Understanding forest tenure in South and Southeast Asia.* Bangkok.

Hobley, M. 2007. *Where in the world is there a pro-poor forest policy and tenure reform?* Washington DC, Right and Resources Initiative.

Knox McCulloch, A., Meinzen-Dick, R. & Hazell, P. 1998. *Property rights, collective action and technologies for natural resource management: a conceptual framework.* SP-PRCA Working Paper No. 1. Washington, DC, International Food Policy Research Institute.

Meinzen-Dick, R.S. & Di Gregorio, M., eds. 2004. *Collective action and property rights for sustainable development.* 2020 Vision Focus 11. Washington, DC, International Food Policy Research Institute. 36 pp.

Molnar, A., Scherr, S.J. & Khare, A. 2004. *Who conserves the world's forests? Community-driven strategies to protect forests and respect rights.* Washington, DC, Forest Trends.

Scherr, S.J., White, A. & Kaimowitz, D. 2003. *A new agenda for forest conservation and poverty reduction. Making markets work for low-income producers.* Washington, DC, Forest Trends, CIFOR.

UNDP/UNEP/World Bank/WRI. 2005. *World resources 2005. The wealth of the poor. Managing ecosystems to fight poverty.* Washington, DC, World Resources Institute (WRI).

White, A. & Martin, A. 2002. *Who owns the world's forests? Forest tenure and public forests in transition.* Washington, DC, Forest Trends.

White, A., Khare, A. & Molnar, A. 2004. *Who owns, who conserves and why it matters.* Washington, DC, Forest Trends.

Wiersum, K.F. & Ros-Tonen, M. 2005. *The role of forests in poverty alleviation: dealing multiple Millennium Development Goals.* North–South policy brief. Wageningen, Netherlands, Wageningen University.

World Bank. 2000. *World development report 2000/2001: attacking poverty.* Washington, DC.

World Bank. 2002. *A revised forest strategy for the World Bank Group.* Washington, DC.

FAO papers

Akida, A. & Blomley, R. 2007. *Trends in forest ownership, forest resources tenure and institutional arrangements: are they contributing to better forest management and poverty reduction? A case study from Tanzania.* Rome, FAO.

Bigombe Logo, P. 2007. *Les régimes de la tenure forestière et leurs incidences. Sur la gestion des forets et la lutte contre la pauvreté au Cameroun.* Rome, FAO.

Boakye, K.A. & Baffoe, K.A. 2007. *Trends in forest ownership, forest resources tenure and institutional arrangements: are they contributing to better forest management and poverty reduction? A case study from Ghana.* Rome, FAO.

Bodian, L. 2007. *Les tendances en matière de propriété forestière de modes de faire-valoir des ressources forestières et d'arrangements institutionnels: Ces systèmes contribuent-ils à l'amélioration de la gestion des forêts et à la lutte contre la pauvreté? Cas du Sénégal.* Rome, FAO.

Camara, K. & Dampha, A. 2007. *Trends in forest ownership, forest resources tenure and institutional arrangements: are they contributing to better forest management and poverty reduction? A case study from the Gambia.* Rome, FAO.

Clarke, J. 2007. *Trends in forest ownership, forest resources tenure and institutional arrangements: are they contributing to better forest management and poverty reduction? A case study from South Africa.* Rome, FAO.

Kigenyi, F.W. 2007. *Trends in forest ownership, forest resources tenure and institutional arrangements: are they contributing to better forest management and poverty reduction? A case study from Uganda.* Rome, FAO.

Matose, F. 2007. *Trends in forest ownership, forest resources tenure and institutional arrangements: are they contributing to better forest management and poverty reduction? A case study from Zimbabwe.* Rome, FAO.

Moufaddal, M. 2007. *Les tendances en matière de propriété forestière, de mode de faire valoir des ressources forestières et d'arrangements institutionnels. Cas du Maroc.* Rome, FAO.

Nyare Essima, N. 2007. *Etude de cas sur les tendances en matière de propriété forestière, de modes de faire-valoir des ressources forestières et d'arrangements institutionnels :ces systèmes contribuent-ils à l'amélioration de la gestion des forêts et à la lutte contre la pauvreté ? Cas du Gabon.* Rome, FAO.

Sitoe, A. & Tchaúque, F.J. 2007. Trends in forest ownership, forest resources tenure and institutional arrangements: are they contributing to better forest management and poverty reduction? A case study from Mozambique. Rome, FAO.

LINK

In its struggle and determination to restore its trees, Armenia is an inspiration for the rest of the planet!

Armenia has learned the hard way what it means for a country to lose its forests -- and the huge backbreaking effort required to replant them. But in its struggle and determination to restore its trees, Armenia is an inspiration for the rest of the planet. *You can access the National Geographic News Watch article, "How Trees Are Restoring Hope to Armenia," at the following link:*
http://blogs.nationalgeographic.com/blogs/news/chiefeditor/2010/03/trees-restore-hope-to-armenia.html

Contacts: Jason Sohigian, Deputy Director, Armenia Tree Project, 65 Main Street Watertown, MA 02472 USA. jason@armeniatree.org http://www.armeniatree.org
Source: National Geographic news editor, David Braun's profile of the NGO, the Armenia Tree Project, on his blog Nat Geo News Watch.

The Year 2011 declared the International Year of Forests by the United Nations
For update on and your contributions to various activities planned please visit the following websites:
http://www.un.org/esa/forests/2011/intlyear2011-resolutionb.html
http://www.un.org/esa/forests/2011/2011.html
http://www.un.org/esa/forests/2011/intlyear2011-inputsb.html
http://en.wikipedia.org/wiki/International_Year_of_Forests
http://www.un.org/News/Press/docs/2006/ga10565.doc.htm
http://www.fao.org/docrep/meeting/018/ak841e.pdf

Understanding forest tenure in Africa: opportunities and challenges for forest tenure diversification.
Forest Policy and Institutions Working Paper No. 19. FAO, 2008. Visit website: http://www.fao.org/forestry/39658/en/
ftp://ftp.fao.org/docrep/fao/010/i0161B/i0161B01.pdf

Tenure security for better forestry - Understanding forest tenure in Africa...
http://www.fao.org/docrep/011/i0352e/i0352e00.htm

Africa's changing landscape: Securing land access for the rural poor
Produced by the FAO Regional Office for Africa
Mailing Address: P.O. Box 1628 Accra, Ghana.
Contacts: Telephone: +233-302-675000; Fax:+233-302-668427
Emails: fao-ro-africa@fao.org ; joan.nimarkoh@fao.org
Website: www.fao.org/africa

African land grab not a cure to Middle East food concerns

As desertification dries up farmland across the Arab world, the region's governments cannot remedy concerns about food security solely by looking to Africa for agricultural production, a regional expert said. Desertification threatens 20 percent of the already dry Middle East and North Africa, pushing many states to invest in African farmland to feed growing populations. Dwindling arable land and mounting food insecurity could exacerbate existing conflicts and deter investment in a region where economic marginalisation has long driven unrest. The question that needs to be asked is whether using African land is a sustainable long-term solution. Climate change, burgeoning populations and poor land management have contributed to accelerating desertification, exacerbating Arab countries' food supply problems. Across Arab states and Africa, investment worth at least $60 billion is needed to secure sufficient food supplies.\

For the whole article visit: af.reuters.com/article/topNews/idAFJOE6360F320100407 http://www.arabianbusiness.com/585621-african-land-grab-not-a-cure-to-arab-food-concerns. Source: Dina Zayed, Reuters Africa - Cairo

Theme and deadline for Next Issue

The theme for the next issue of the Nature & Faune magazine is *"Climate change implications for agricultural development and natural resources conservation in Africa"*. Natural resources conservation, agricultural development, and climate change, will therefore form the tripod on which the next issue of the magazine will be based.

This is certainly a topic on the wave. Africa is endowed with diverse and biologically important ecosystems including tropical savannahs, tropical forests, coral reefs, marine and fresh water habitats, wetlands and mountain ecosystems. On the one hand proper management of natural resources can certainly mitigate carbon-based gas emissions usually called green house gas emissions; and on the other hand African governments and particularly local communities whose livelihoods depend largely on natural resources will certainly need adaptation measures to cope with the effects of climate change.

It is widely acknowledged that climate change is contributing to the acceleration of depletion Sub-Saharan Africa's natural resources and to the genetic erosion of indigenous germplasm. The lack of comprehensive impact assessment and non availability of proven and sustainable adaptation practices compounds the problems, reducing agricultural productivity and exacerbating the prospect of greater food insecurity. To address substantively the impacts of climate change will require international, intercultural and interdisciplinary approaches, communications and cooperation. Many people in Africa live in drought-prone areas and some very large cities in Africa (e.g. Lagos) are located on the coast in areas susceptible to the impacts of climate change such as flooding. There is an urgent need to promote and build capacity for sustainable land management in Africa, integrating land, water, biodiversity, and environmental management as well as input and output externalities to meet rising food and fibre demands while sustaining ecosystem services and livelihoods and protecting infrastructure.

FAO reviewed the current state of knowledge on the vulnerability, impact and adaptation of African agriculture and natural resources to climate change, and presented a synthesis of the work already ongoing in FAO and other key players at the 26th Regional Conference for Africa held in May 2010. The main conclusion from the literature synthesis is that climate change will likely reduce crop yields and exacerbate the risk of food insecurity in Africa. African governments need to prioritize and implement measures to develop agriculture and sustainable natural resources management to ensure food security for their people. The next issue of Nature & Faune magazine therefore seeks to learn about any past, ongoing or planned climate change mitigation/adaptation-related activities in your community, project, academic or research centre regarding these issues at local, national and regional levels.

Nature & Faune invites you to submit manuscript(s) on successes, problems and concerns related to the above theme. In order to facilitate contributions from potential authors, we have created guidelines for the preparation of manuscripts for Nature & Faune. Short and succinct papers are preferred. Please visit our website or send us an email to receive a copy of the *'Guidelines for Authors'*.

Email: nature-faune@fao.org or Ada.Ndesoatanga@fao.org

Website: http://www.fao.org/africa/publications/nature-and-faune-magazine/

Deadline for submission of manuscript(s) and other contributions is 31st August 2010

Guideline for authors, Subscription and Correspondence

For our subscribers, readers and contributors:

- Guidelines for Authors - In order to facilitate contributions from potential authors, we have created guidelines for the preparation of manuscripts for Nature & Faune. Please visit our website or send us an email to receive a copy of the 'Guidelines for Authors'.
- Submission of articles - Send us your articles, news items, announcements and reports. Please know how important and delightful it is to receive your contributions and thank you for the many ways in which you continue to support Nature & Faune magazine as we all work to expand the reach and impact of conservation efforts in Africa.
- Subscribe/unsubscribe - To subscribe or unsubscribe from future mailings, please send an email.

Contact Details:

Nature & Faune
FAO Regional Office for Africa
P.O. Box GP 1628 Accra
Ghana
Tel.: (+233-21) 675000 or (+233-21) 7010930
Fax: (+233-21) 7010943 or (+233-21) 668 427
E-mail : nature-faune@fao.org
Website: http://www.fao.org/africa/publications/nature-and-faune-magazine/