IUCN Academy of Environmental Law
eJournal
ISSUE 2010 (1)

A Case for Policy and Legal Regulation of Forest Ecosystems in Uganda: A Contribution Toward the Reduction of Climate Change Variability

Godard Busingye*

Introduction

Globally, forest ecosystems contain about 80 percent of the world's terrestrial biodiversity and provide wood fibre and biomass energy, as well as being critical components of global cycles of water, energy, and nutrients. The many forest ecosystems situated in Uganda serve to mitigate climatic change by storing thousands of tonnes of carbon. They also contribute to the livelihoods of many people in the developing world by providing subsistence and market income, and insurance in times of need. Despite their economic and ecological importance, forest ecosystems are faced with a rapid rate of conversion to competing land uses.[1] Overall, the unsustainable exploitation of forest ecosystems in Uganda include loss of ecological services (biodiversity, carbon sequestration and

* Lecturer, Faculty of Law, Uganda Christian University, Uganda (email: gbusingye@ucu.ac.ug).

[1] R. Watson, S. Hamburg, A. Janetos and R. Moss, *Protecting Our Planet Securing Our Future Linkages Among Global Environmental Issues and Human Needs*, (1998) United Nations Environment Programme, U.S. National Aeronautics and Space Administration and The World Bank, Washington, at p.18.

watershed protection), the loss of timber and non-timber forest products, and the loss of a means of existence for forest-dependant rural people.[2]

The survival of forests in Uganda, however, depends on how the Government, developers and the general public contribute to their sustenance; one avenue could be conducting and adhering to Environmental Impact Assessments (EIAs) for proposed projects in forested areas. This is a key government constitutional, policy and legal commitment in the protection of the forest ecosystems.

Much as the policy and law makes it mandatory that any activity that may be out of character with existing environment must be preceded by an EIA, nonetheless the parameters set in the EIAs for the forestry sector in Uganda are difficult to realise. In most cases, developers use EIAs as a tool for soliciting public approval of their proposed projects, and acquisition of government licences. Once these have been obtained, developers tend to start their projects and ignore the commitments made, particularly in respect of mitigating or eliminating the adverse impacts on resources and ecosystems resulting in environmental degradation. The in-built reporting mechanisms in the EIA process appear to be inadequate to warrant serious adherence to commitments by developers. Furthermore, relevant government departments, the public and private EIA practitioners have been unable to monitor the life cycles of these projects. Thus the value and viability of EIAs for the forestry sector in Uganda as currently practiced becomes untenable, yet a workable system is necessary order to guarantee the survival and sustainable utilisation of the forest ecosystems.

[2] F. Babweteera, *Preparing for Change Adaptive Strategies for Climate Change and Disaster Management in the Commonwealth: Plantation Forest Development As A Mitigation For Loss Of Biodiversity In Tropical Forests.Masindi: Budongo Forest Project, the Commonwealth Forestry Association,Seychelles,*(2006) (available at http://www.google.co.ug/#hl=en&source=hp&q=F.+Babweteera+Preparing+for+Change+Adaptive+Strategies+for+Climate+Change+and+Disaster+Management+in+the+Commonwealth%3A+Plantation+Forest+Development+As+A+Mitigation+For+Loss+Of+Biodiversity+In+Tropical+Forests.Masindi%3A+Budongo+Forest+Project+%282006%29.&btnG=Google+Search&aq=f&aqi=&aql=&oq=&gs_rfai=&fp=9709bc48ddd68345).

Geographical and Demographic Features of Uganda

Uganda is a landlocked country in East Africa, bordered by Kenya in the east, the United Republic of Tanzania in the South, Rwanda in the south west, Democratic Republic of Congo in the West and the Sudan in the North. It has an area of 241,551 km^2 of which 37,000 Km^2 is occupied by open water and the rest is dry land. It lies at an altitude ranging from 620 in the Albertine Nile Basin to 5,111 meters above sea level at the peak of Mountain Rwenzori.[3] By virtue of its location at the equator, Uganda experiences two rainy seasons annually. These merge into one as they shift from the equator northwards. Mean annual rainfall ranges between 750mm to 2000mm. The majority of farmers practice rain-fed agriculture, which is sensitive to fluctuations in weather conditions. Decline and unreliability of rainfall may lead to crop failure in some parts of the country. Annual average surface temperature in Uganda ranges from about 15 to 35^oC. Changes in climate are the result of internal variability within climate systems and external factors, both natural and anthropogenic.[4] Over 90% of Uganda's 27m people depend on wood and wood products for their energy, most of which is derived from woodlands and natural rain forests.[5]

Historical Perspective of Forest Ecosystems in Uganda

By the turn of the century, 45 percent of the country, approximately 108,450km^2 was covered with forests or woodlands. Nonetheless deforestation was a significant problem, for example, it is estimated that between 1973 and 1986, Uganda lost a net acreage of 256km^2 of natural vegetation to agriculture, exposing the land to agents of soil degradation. In order to cater for the loss of natural forest cover, a peri-urban plantation forest programme had been introduced in the country in 1941 and by

[3] GoU. (2008). *State of Environment Report 2008*. Kampala: The National Environment Management Authority (NEMA), at p.135.
[4] GoU. (2006/7). *State of Environment Report for Uganda 2006/2007*. Kampala: National Environment Management Authority (NEMA), at pp. 232-233.
[5] Babweteera (n.2) and Ministry of Finance, P.A.E.D.M. (2005) *Poverty Eradication Action Plan (PEAP)*.

1968, forest plantations in Uganda covered 27,500km[26] By 1990 Uganda's forest cover was at 5 million hectares but now stands at approximately 3.5 million hectares. Currently it is estimated that 38 per cent of the existing natural forest in Uganda could be lost by 2021.[7]

In terms of geographical spread, deforestation affects the whole country, but the central and northern regions are the most affected. For instance, in the central district of Mayuge, deforestation rates have been as high as 99.8% since 1990 when the Butamira forest reserve was seriously encroached upon. Destruction of the forest ecosystems is also marked in the Wakiso district where as much as 86% of the natural forest cover has been destroyed. In the northern part of the country, the Amuru district has the highest forest cover at 3.3%. In the western and eastern parts of the country the forest cover is high in Kabarole in the western part of the country at 22.6% and 33.3% in Bukwo in the eastern part. The general decline of forest ecosystems in the country is attributed to human practices such as agriculture, rapid urbanization and a fast growing population[8] and failure of the Government to ensure that the regulatory mechanisms are adhered to by everybody in the country with respect to utilization of forest ecosystems. Predators on the forest ecosystems continue to take a toll on the country's natural resources, due to lack of observance of policy and legal requirements in the environmental sector.

Policy and Legal Frameworks for Sustainable Forest Ecosystems Management in Uganda

Under Objective XIII of the Constitution of the Republic of Uganda 1995 the Government is enjoined to protect important resources in the country. Under objective XXVII (ii), the Constitution requires that the utilisation of natural resources of Uganda should be managed in such a way so as to meet the development needs

[6] GoU (1991). *The National Environment Action Plan for Uganda (NEAP)*. Kampala: Ministry of Water, Lands and Environment.

[7] T. Kihumuro, '38% of Uganda's forests could be lost by 2021' (2010) *Sunrise* (available at http://www.sunrise.ug/features/enviroment/435-38-percent-of-ugandas-forest-cover-could-be-lost-by-2021.html).

[8] Ibid.

of the present and future generations. Under paragraph iv (b) of the same objective, the Constitution enjoins the Government to promote rational use of natural resources so as to safeguard and protect the biodiversity of Uganda. Under article 245, the Government undertakes to protect and preserve the natural environment from (amongst other things) degradation. These constitutional provisions are operationalised by a number of Acts of Parliament including (the National Environment Act (1995) section 45), the Land Act (Cap. 227 (1998)) and (The National Forestry and Tree Planting Act (2003)).

The main tool envisaged for the protection of forest ecosystems at a policy level and provided for in the legislation is EIA. The general policy of Government, as provided for in all environmental and natural resources policy documents and laws, is that EIA should be conducted for planned policies and projects that are likely to, or will have significant impact on environment so that adverse impacts can be foreseen, eliminated or mitigated.[9] EIAs are expected to cover the whole life cycle of projects in forest ecosystems, yet they are not carried out in all cases and where they are, they are not particularly well adhered to. This has resulted in unprecedented levels of forest ecosystem degradation.

Outcome of policy failures in the forest ecosystems in Uganda

Failure by the Government to sustain the momentum envisaged at the policy, and legislative level in respect to sustainable utilisation of forest ecosystems in Uganda has resulted inland degradation, which is a precursor to climatic and weather patterns variations. It is also a threat to all land resources and agricultural production in particular.[10]

According to the National Environment Action Plan (NEAP) for Uganda[11] deforestation in Uganda may be attributed to several factors, but conversion of forested lands into agricultural areas is the principal among these in contributing to

[9] NEMA Guidlines for Environmental Impact Assessment in Uganda. Kampala: NEMA (1997).
[10] GoU (n.3) at p.146.
[11] GoU (n.6) at p.16.

loss of forests in the country. Deforestation for agricultural purposes, which has a very long history, has to date continued unabated despite government and individual efforts to reverse the situation. This deforestation has occurred both within and outside of formally protected areas.

Two recent events demonstrate the Government's failure to protect forest ecosystems thorough policy and law. First, the Butamira forest saga where the Government sought to permit a company to convert approximately 50 acres of the forest reserve into a sugar cane plantation without consulting the public as required by law.[12] Secondly the BIDCO[13] Oil Palm Project on the Kalangala Islands. Much of the Butamira Forest Reserve has now been turned into both plantation and small scale agricultural units in the same way as much of the tropical forest on Kalanagla Islands has been turned into palm oil plantations.The findings of a survey conducted by the Advocates Coalition for Environment and Development (ACODE) in March 2009 indicated that the palm oil project has destroyed rich habitats threatening biological diversity and disturbing hitherto settled weather and climatic patterns in Kalangala district.[14]

As illustrated by the examples of Kalangala BIDCO Palm Oil Project and the Butamira forest saga, natural forests in the country have been greatly reduced in size. Natural forest ecosystems, when tampered with by human activity become vulnerable to extinction because of their reduced natural adaptive capacities thereafter. The examples of Kalangala and Butamira forests illustrate that when disturbed, forest systems become more sensitive to climate change and their

[12] See the case of Advocates Coalition for Development and Environment v. Attorney General (Misc. Cause No. 0100 of 2004 where the High Court of Uganda ruled that the Applicants were entitled to the remedies sought because the GoU had not followed the right procedures such as carrying out a Project brief and an EIA for the project, which would have involved the applicants and other Ugandans in determining whether or not the 50 acres of the Butamira Forest Reserve could be alienated for sugar cane growing.

[13] BIDCO is an acronym from the name of the project proprietor of the palm oil growing project in Uganda, one Bhimji Depar, with suffix "CO" standing for Company added to "BID" (available at http://www.bidco-oil.com/about/index.php?wwaid=3).

[14] M. Wambi, 'Uganda Palm Project Accused of Environmental Destruction' (2010) IPS News (available at http://ipsnews.net/news.asp?idnew).

reduction contributes to adverse climatic conditions.[15] The trends extend across national boundaries and feeds into global climate change patterns.

Global climate patterns that have a direct impact on Uganda include frequent and prolonged droughts, heavy rains and floods, landslides and outbreaks of water borne diseases.[16]

Conclusion

Degradation of forest ecosystems in Uganda is likely to escalate and reach unprecedented levels if the constitutional, policy and legal requirements in place to ensure the monitoring of activities in these systems are not strictly adhered to. Furthermore, the Government has done little to encourage public participation in the management of forest ecosystems in Uganda: to do so would improve the ability of small scale farmers to understand the value of natural vegetation cover and so encourage them to protect forest ecosystems.

[15] GoU (n.4) at p.233.
[16] GoU (n.3) at p.129.