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THE NATIONAL LEGAL AND POLICY FRAMEWORKS GOVERNING THE MANAGEMENT OF FOREST RESOURCES IN UGANDA: THE CASE OF MABIRA FOREST

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Abstract

Uganda is experiencing a high rate of deforestation. Tropical High Forests in Uganda are degrading at a rate on 30%. If this is not addressed Uganda is likely to see a 40% growth of semi-desert space in the country¹as reported by the National Forestry Authority. This paper analyses the national legal and policy framework governing forests in Uganda with specific reference to Mabira forest. Using doctrinal legal research method, the paper analyses a string of laws and policies enacted to protect forest resources in Uganda and how efficient these laws have been applied.

Introduction

This paper analyses the efficiency of the legal and policy frameworks in governing the utilization of forest resources in Uganda with specific reference to Mabira forest. The paper also identifies the strengths and weaknesses therein. A number of laws and regulations have been put in place to protect the Ugandan environment, including the conservation and sustainable utilization of forest biodiversity. The government of Uganda just like most of civilized governments in the world appreciates that forest biodiversity is a very important component and contributor of a conducive human environment and that is why many laws and regulations have been adopted in addition to the ratification of international instruments for its protection and conservation. This paper is aimed at establishing a better understanding of the provisions and gaps within the national legal and policy frameworks, with a view to strengthen harmonized utilization of forest resources in Uganda.

Review of the Legislative Framework

1. The 1995 Constitution of the Republic of Uganda

The constitution of Uganda lists environmental and natural resource protection as one of the fundamental human rights and freedoms Ugandans are entitled to by Law. The National Objective and Directive Principle of State Policy XIII asserts that the State shall protect important natural resources, including land, water, wetlands,

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¹ NFA Conservation Report 2009.

minerals, oil, fauna and flora on behalf of the people of Uganda.² Further, the Constitution clearly stipulates the legal protection of the Uganda's environmental resources like Mabira forest. Article 39 provides that every Ugandan has a right to a clean and healthy environment. Parliament is mandated by law, to provide for measures intended to protect and preserve and (2) of the Constitution and Rule 3 (1) of the Fundamental Rights, and Freedoms (Enforcement Procedure Rules 65 and sought to regulate the manufacture, use, distribution and sale of plastic bags and bring about a restoration of the environment to the state it was in before the menace caused by the plastic bags. Counsel for the respondents raised a preliminary objection that the applicant had no cause of action since he brought the application under Article 50 of the Constitution instead of the Civil Procedure Rules. The court overruled the objection and held that Article 50 does not require the applicant to have the same interest as the parties he seeks to represent or for whose benefit the action is brought. The judge stated:

There is limited public awareness of the fundamental rights or freedoms provided for in the Constitution, let alone legal rights and how the same can be enforced. Such illiteracy of legal rights is even evident among the elites ... It is just appropriate that a body like the applicant, comes to discharge the constitutional duty cast upon every Ugandan to promote the constitutional rights of the citizens of Uganda and the institution of suit of this nature is one of the ways of discharging that duty.

The Constitution generally centralized all powers of natural resources management in the government. This is understandable given the limited perception of the range of values of natural resources and lack of capacity to handle the management issues under decentralization.³ Although it is still too early to assess the impact of the 1995 Constitution on environmental management, it is clear that it backs environmental management more strongly than previous Constitutions.⁴

Further, the Constitution requires the state to hold in trust for the people and protect natural resources-land, water, forest, wetland, mineral, oil, fauna and flora, wildlife on behalf of the people of Uganda.⁵ It thus, provides a concrete basis for the

² Article 245 of the Constitution of the Republic Of Uganda

³ E. Kasimbazi, (2005) "Review Of Policy And Legal Framework And Its Implications For Natural Resource Management And Investment In Agriculture In Uganda –PRIME WEST And USAID |

⁴ S. Okwaare, (2004) "The Fight For Land Rights Of A Minority People: The Case Of The Benets Of Mountain Elgon In Eastern Uganda," In Innovative Methodologies For Assessing The Impact Of Advocacy, No. 4, March 2004, Nairobi Action Aid.

⁵ Article 27 (2) (b) of the Constitution

sustainable management of forest resources and sets a good foundation for other laws that are relevant to the forest management. However, as the supreme law of the country, the Constitution has caused some fundamental inconsistencies in some laws passed in the recent past. For example, under the National Environment Statute 1995, the powers to bring legal action against anyone degrading or polluting the environment is vested in NEMA or local environment committees while the Constitution vests that power in every Ugandan.

2. National Forestry and Tree Planting Act (2003)

The National Forestry and Tree Planting Act is the main law that controls the management of forest in Uganda. The Act provides that all forest biological resources and their derivatives, whether naturally occurring or naturalized within the forest, shall be conserved and managed for the benefit of the people of Uganda. The transfer of biological resources and their derivatives from the territorial jurisdiction of Uganda shall not diminish or extinguish the sovereignty of Uganda over those resources.

The Act provides for the conservation and management of forest by safeguarding the forest ecosystem and its environmental benefits, and thus, making it relevant to Mabira forest ecosystem. It also introduces the aspect of private forests, which an individual is able to own, transfer, mortgage and manage as long as it is managed under a management plan approved by the relevant authorities. Further, it prohibits several illegal activities in forest reserves or community forests⁶ which includes removal of forest; clearing or occupying land; livestock farming; recreational, commercial, residential, industrial or hunting purposes; or construction of infrastructure which if implemented can reduce on the threats impacting on Mabira forest.

As an incentive, the Act provides for collaborative management of forests for the purpose of managing a central or local forest reserve but fails to make provisions for the sharing of benefits derived from the use of forestry resources.⁷ However, it also fails to give vivid incentive measures for the protection of reserved forest biological species on private and communal forest in Uganda which includes Mabira forest.

3. The National Environment Act Cap 153

The National Environment Act provides a framework for environmental management that had hitherto not been deployed, including Environmental Impact Assessments

⁶ Section 38 of the National Forestry And Tree Planting Act 2003

⁷ Ibid, Section 15.

(EIAs). It imposes a mandatory duty on a project developer to have an environmental impact assessment conducted before embarking on a project.⁸ The Third Schedule to the Act specifies the types of projects to be subjected to EIA. A rough guide for the same is that an EIA should be conducted for planned activities that may or are likely to, or will have significant impacts on the environment.⁹ Hence through the use of this tool, the continued survival of species and habitat in Mabira forest can be assured. The Act further provides for the preservation of biological diversity in principle 3 (1)(e), which can be read as covering Mabira forest.

The National Environmental Act empowers NEMA, in consultation with lead agencies, to issue guidelines and prescribe measures and standard for the sustainable management and conservation of natural resources and the environment in general.

This Act was enacted to address the constraint and problems affecting environmental management as identified during the National Environment Action Plan (NEAP) process and create an enabling environment that allows for thorough and holistic amendment to sectoral laws on environmental matters.¹⁰

In addition, the guiding principles of the Act provide for maximum participation by the people of Uganda in issues relating to the management of the environment hence giving the community around Mabira forest a chance to participate in its sustainable management. The local environment committees are responsible for ensuring that the guidelines are complied with. Notably, the Act also protects the traditional use of forests, which are indispensable to the local communities and are compatible with the principles of sustainable development.

Realizing that much of the population is illiterate, both the Act and the Constitution call for general environmental awareness programmes. Whereas the awareness strategies are being developed and implemented, the right of all categories of people to a healthy environment is guaranteed through the provision which empowers NEMA or a local environment committee to bring action on behalf of any other person whether that person has locus standi or not.¹¹ A general legal principle is that a person cannot bring action unless the action complained of

⁸ Section 18 Of The National Environment Statute, No. 4 Of 1995

⁹ Ibid.

¹⁰ Ibid, Section 70

¹¹ E. Kasimabzi, (1998) "The Environment as Human Right: Lessons from Uganda." *In Power of Human Rights international standards and Domestic Norms*. Cambridge: Cambridge University Press

has caused him or her personal injury. This is another novelty of this Act which greatly protects those who are not aware of their rights in such Cases.¹²

4. The National Environment (Wetlands, River Banks and Lake Shores Management) Regulations, 2000

These Regulations stipulate that a developer who desires to conduct a project, which may have adverse impacts on a wetland, riverbank or lakeshore shall carry out an environmental impact assessment in accordance with the provisions of the Environment Act.¹³

The regulations are relevant to Mabira forest because they empower various categories of people and the general public. For example, it is a legal requirement to incorporate environmental education into the school curriculum¹⁴ and indeed steps are already being taken with the National Curriculum Development Centre to implement this.

4. Uganda Wildlife Act Cap 200

This Act seeks to promote the conservation of wildlife with the intention that the abundance and diversity of their species are maintained at optimum levels commensurate with other forms of land use, in order to support sustainable utilization of wildlife for the benefit of the people of Uganda.¹⁵ The objective of this Act is to provide for sustainable management of wildlife, to consolidate the law relating to wildlife management, establish a coordinating, monitoring and supervisory body for that purpose. The Act upholds wildlife as a sustainable resource and provides for the means of management and sustainable use of the resource.¹⁶ Another innovation is the intention to involve Ugandans as widely as possible in the conservation of the nation's wildlife. However, the management of wildlife, especially the wild animals which are not confined to protected areas, was and is still a problem for the relevant authorities.

The functions of the Uganda Wildlife Authority include the identification and recommendation of the area to be declared wildlife conservation areas and for the

¹² Ibid

¹³ Regulation 34 of the National Environment (Wetlands, River Banks and Lake Shores Management) Regulations; Such developer is required in terms of regulation 34(2) to carry out annual audits and monitoring on such activities. Similarly, provision is made in The National Environment (Waste Management) Regulations, 1999, for management of all waste, hazardous and non-hazardous, in an environmentally sound manner. The duty to manage waste in accordance with the provisions of the law is placed on the owner of an installation or premise.

¹⁴ Ibid

¹⁵ Section 2 of the Uganda Wildlife Act.

¹⁶ Wildlife Policy of Uganda.

revocation of such declaration.¹⁷ Significantly, the Act provides for greater protection of wildlife outside protected areas by encouraging greater participation by the local community in their management through the introduction of wildlife use-rights. If this provision is properly implemented, it will be possible for an individual to manage the wildlife on his land and derive benefits from it in a sustainable manner.

This is a departure from the earlier arrangement where the community mostly suffered from having wildlife on their land, for example, through the destruction of their crops, other properties, and threat to the life of domestic animals and human beings.

The relevance of the Act to Mabira forest ecosystem is portrayed by the fact that it provides for sustainable management of wildlife and consolidates the law relating to wildlife management. Participation of local communities in the conservation of wildlife is guaranteed by the requirement that one third of the Uganda Wildlife Authority Board Members should be representatives of the local communities.¹⁸ The Act also introduces the concept of planning, environmental impact assessment and monitoring as veritable instruments for the management of wildlife resources.¹⁹

Community rights to property around the protected areas are also provided for in the Act since it guarantees for historical rights of individuals and communities which were recognized in previous laws such as the Forest Act thereby reducing land clashes amongst the communities living around Mabira forest.

5. The Water Act Cap 150

The Water Act was enacted in 1995 to provide the legal basis for the water resources management in Uganda. It provides for the use, protection and management of water resources and supply. The objectives of the Act are to promote the rational management and use of waters in Uganda through the introduction and application of standards and techniques, the coordination of all public and private activities that may influence water quality and quantity and to allow for the orderly development and use of water resources for such activities as generation of hydro-electric or geothermal energy. Promotion of the provision of a clean, safe and sufficient supply of water for domestic purposes to all persons is a major objective of the Act.²⁰

At the outset, the Act confirms that all water in Uganda is vested in the government and that rights to use water; to construct or operate any works; or to pollute water can

¹⁷ Section 5 of the Uganda Wildlife Act.

¹⁸ Section 12 of the Uganda Wildlife Act Cap 200.

¹⁹ Section 15 and 16 of The Uganda Wildlife Act Cap 200.

²⁰ Section 4 of the Water Act Cap 150.

only be conferred under the provisions of the Act. Regarding general right to use water for domestic purposes, fire-fighting, subsistence garden irrigation the Act does not authorize allocation of permanent water rights. Rather, it provides for the issuance of time-bound permits to abstract water, to construct hydraulic works and to discharge waste.²¹ The basic foundation of most of the Act's provisions is the reconciliation between protecting the environment and ensuring the availability to the population of water of sufficient quality and quantity.²²

The Act has provisions for a system of appeals from administrative decisions on water permits and put much more serious penalties for pollution, and enables the government to recover the cost of major environmental damage from polluters.²³ It further establishes a comprehensive framework for issuing permit to use water or construct hydraulic works or discharge waste into water bodies by forming a water policy committee to coordinate national management and use of water and arbitrate disputes between agencies on water management.²⁴

Promising as they may be in view of sustainable management of forest resources, such laws still have some gaps and need to more fully address the particular interests of forest ecosystems and inhabitants. For example, environmental laws should provide for greater participation of forest surrounding communities in decision-making processes affecting them for better coordination with related laws and for the creation of more suitable institutional mechanisms. The Act also provides for a number of activities, which should be implemented in order to protect, manage and sustain water resources and developments as guided by the objectives. The permit system ensures that use of water resources is environmental friendly and promotes sustainable development. These controls also ensure that water is not treated as a free good but as a good with a value to be paid for, and this can only be practical by ensuring compliance with guidelines and standards and preventing degradation of water resources.

Regrettably the Act does not promote an ecosystem approach of the conservation and sustainable management of water resources and thus does not cover all aspect of water use, wetlands management, conservation of aquatic biodiversity and the management of forest water resources.

²¹ Ibid , Section 6.

²² Ibid, Section

²³ E. Kasimbazi, (1999) "Review of the Functional Structures of The Ministry of Water Lands and Environment(MWLE) to Provide for the Management of the Environment in Uganda." Uganda IUCN Publication Services Unit.

²⁴ The Water (Waste Discharge) Regulations, 1998.

6. The Land Act Cap 227

The Act vests the ownership of all land in the hands of the people except for protected areas, lakes, rivers and land under public utility use, where government holds in trust on behalf of the citizens.²⁵ In fact, this law empowers the people to own natural resources such as forests and trees on their private land but requires them to manage their land in accordance with the National Forestry and Tree Planting Act, National Environment Act, Water Act and any other law.

It provides for the tenure, ownership and management of land in Uganda in respect to sustainable utilization of the environment and in a bid to avert the issues of ecosystem degradation.²⁶ The Act empowers the Minister responsible for water to regulate the management and utilization of such water. Under this Act, a person who acquires land is required to manage and utilize it in accordance with the existing environmental laws, and any use of land must conform to the Jaws relating to town and country planning. Further, the Act makes it clear that a person is not allowed to construct or operate any works unless he has a permit granted for that purpose by the Director in the ministry. In this regard, construction is defined to include alteration, improvement, maintenance and repair.²⁷ The detailed provisions regarding acquisition of permits are contained in The Water Resources Regulations, 1998.

In relation to forest ecosystem, the Act allows for reasonable use by the occupier or owner of a piece of land, of water for domestic and small-scale agricultural purposes. The government or local government holds land in trust for the people and protects environmentally sensitive areas such as natural lakes, rivers, groundwater, natural ponds, natural streams, wetlands, forest reserves, and national parks and any other land reserved for ecological and tourist purposes for the common good of the citizens of Uganda.

However, the Act does not provide for community participation in sustainable management of the natural resources, although it encourages conservation of environmentally sensitive area through land use planning and zoning, common land management schemes through communal land associations to be formed by any group of persons and this can spur public interest litigation in the natural management. This does not augur well for sustainable management of forest resources.

²⁵ Section 44 and 45 of the Land Act Cap 22

²⁶ Section 6 of the Water Act Cap 150

²⁷ *Ibid*, Section 18.

7. The Local Governments Act Cap 243

The Act defines roles for different levels of governments in provision and management of water and sanitation related activities with the intention of giving effect to decentralization and devolution of functions, powers and services so as to ensure good governance and democratic participation.²⁸ In that respect, the Act reiterates the position of the Constitution by providing for the participation of local government in decision making in the management of the ecosystem.

It empowers the different levels of local government to plan and implement development interventions according to identified local priorities and provides for the system of local governance which is described as units based at the district with lower local governments and administrative units as well. The chairperson nominates committees of each council and the committees' functions include, initiating and formulating policy for approval of the council, which may include policies with regard to the use of local natural resource reserve areas.²⁹ Additionally, the local government councils are authorized to control hunting and vermin in consultation with the ministry responsible or wildlife and this promotes collective management.³⁰ This Act therefore facilitates the centralization of the management of Mabira ecosystem at local levels which can be a basis for community based natural resource management.

8. The Physical Planning Act, No.8 of 2010

Section 61 of this Act repealed the Town and Country Planning Act, Cap 246. It provides for the establishment of a National Physical Planning Board; the composition, functions and procedure of the Board; establishes district and urban physical planning committees; and provides for the making and approval of physical development plans and for the applications for development permission.³¹

Section 9 of the Act establishes the district physical planning committee which must include the district environment officer and the natural resources officer. The district physical planning committee is mandated to ensure integration of social, economic and environmental plans into the physical development plans.³² Section 37 of the Act provides that where a development application relates to matters that require an environmental impact assessment to be carried out, the approving authority or physical planning committee may grant preliminary approval of the application subject to the applicant obtaining an environmental

²⁸ Ibid, Section 9..

²⁹ Section 3 of the Local Governments Act Cap 243

³⁰ Ibid, Section 9.

³¹ The Physical Planning Act, No. 8 of 2010, long title.

³² Ibid, section 10 (h).

impact assessment certificate in accordance with the National Environment Act.

9. The Agricultural Seeds and Plant Act Cap 29

The Act provides for promotion, regulation and control of plant breeding and variety release, multiplication, conditioning, marketing, importing, and quality assurance of seeds and other planting material and for other matters connected therewith.³³ Under the Act, the Minister may after consultation with the National Seed Industry Authority, make regulations, for the control of breeding, multiplication, marketing and certification of seed and generally for better carrying out the provisions of this Act. There is a need for further collaboration of other nations on appropriate technology generation, standard setting, and regulation and certification of agricultural inputs, and plant products in Mabira forest.

10. Plant Protection Act Cap 31

This is an Act criminalizing the introduction and spread of disease destructive to plants. The Act empowers the Minister to make rules for the purpose of preventing and controlling attacks by or the spread of pests or diseases in Uganda. The Act provides a penalty for deliberate introduction of any pest and/or disease into any cultivated land and makes it punishable.³⁴ This section is significant to Mabira forest which has been invaded by the introduction of alien species.

The Act charges the relevant commissioner and plant inspectors with the duties of prevention of the introduction and spread of diseases to plants. However, the Act does not provide for participation by the local communities who are the culprits.

11. Prohibition of Burning of Grass Act Cap 33

This Act prohibits the burning of grass in Uganda and seeks to prevent undesirable consequences of burning grass,³⁵ but it lacks strong legal enforcement and institutional mechanism to enable its effective implementation of its provisions. In cases where the burning takes place during the dry seasons, environmental degradation is inevitable because it is accelerated by wind and water erosion in the ecosystem. Prolonged drought after extensive lands have been deprived of vegetation cover by burning may also result in belated rains, lowering of water table and modification of the climate.

³³ The Republic of Uganda (2003 and 2004) "Ministerial Policy Statements Financial Years 2003/2004 and 2004/2005, Ministry of Tourism, Trade and Industry" (MTTI), Kampala

³⁴ Section 8 Plant protection Act Cap 39 of 1994

³⁵ Section 3 of the Act.

12. Registration of Titles Act

This was introduced in Uganda in 1922 as the Registration of Titles Ordinance. It introduced the Torrens system of conveyancing in Uganda. The ordinance was to apply to all land owned under mailo, freehold and leasehold tenure. Apart from a few amendments, the Ordinance currently known Registration of Titles Act has remained largely unchanged. It however, does not apply to the registration of customary land unless it is converted to freehold under section 10 of the Land Act. Much of the land under which private forests are found is registered as per this Act.

Review of the Policy Framework

1. The National Environment Management Policy for Uganda, 1994³⁶ (NEMP)

The NEMP is an output of the National Environment Action Plan (NEAP) process. The NEMP gave rise to the National Environment Act. The overall policy goal is to establish sustainable social and economic development, which maintains or enhances environmental quality and resource productivity on a long-term basis that meets the needs of the present generations without compromising the ability of future generations to meet their own needs.³⁷

The policy recognizes that although Uganda is endowed with a rich diversity of forestry resource, these resources are highly threatened by over exploitation and inadequate implementation of policies and laws. One of the objectives of the policy is to manage sustainably forest resources in protected areas, public and private land.³⁸

The guiding principles of the policy are; Uganda's forests provide a wide range of environmental services and value such as stabilization of soil, which are critical to national development; the role of the forestry department should continue to be supervisory and regulatory; local community involvement in the planning and management of protected areas and in sharing benefits derived there from.³⁹ These principles have been incorporated in the National Environment Act and the National Forestry and Tree Planting Act.

It should be noted that despite the existence of this policy, there is still a gap in its implementation as far as Mabira forest is concerned. The policy emphasizes local community participation in the management of forestry resources. However, individuals at the local community level lack technical information and the relevant skills that are required.

³⁶ The Republic of Uganda (1994) The National Environment Management policy for Uganda, The Ministry of Water and Environment, Kampala.

³⁷ Ibid, page 3.

³⁸ Ibid, page 30

³⁹ Ibid, page 33

2. The Uganda Forestry Policy (2001)⁴⁰

The objective of this policy is to establish an integrated forest sector that achieves sustainable increases in the economic, social and environmental benefits from forests and trees by the people of Uganda, especially the poor and the vulnerable.⁴¹ The policy provides for the protection of permanent Forest Estate (PRE) under government trusteeship and the development and sustainable management of natural forests on private land. The policy provides for the participation of the government, the private sector, local communities and farmers in the conservation and sustainable use of forest biodiversity.

This policy, being the leading policy in forest management in Uganda, lays down guidelines for forest management. For instance, that Uganda's forests should be managed to meet the needs of this generation without compromising the rights of future generations, the improvement of livelihoods should be the major goal in all strategies and actions for the development of the forest sector so as to contribute to poverty eradication; forest sector development should safeguard the nation's biodiversity and environmental services through effective conservation strategies.⁴²

The policy also emphasizes partnerships in governance of forestry resources. New institutional relationships should enhance efficiency, transparency, accountability and professionalism, and build confidence in all forest stakeholders. The central government should withdraw from activities that can be carried out more effectively by the private sector or other stakeholders, but develop core functions of policy development and regulation, more forest resources should be managed through devolved responsibility wherever practical and advisable; the public's participation in the management of the country's forests should be actively encouraged; NGOs/CBOs should be encouraged to strengthen the civil society, to build the capacity and grassroots participation and to help develop the rights and responsibilities of forest users.⁴³

The forestry policy is a modern and good policy drafted with the intent to curb exploitation of forest resources. However, its application to Mabira forest is limited due to lack of adequate funding for the implementation of its activities especially the local communities and NFA.

⁴⁰ The Republic of Uganda (2001) The Uganda forestry policy, The Ministry of Water and Environment, Kampala

⁴¹ Ibid, page 1

⁴² Ibid, page 20

⁴³ Ibid, page 10

3. The Uganda Wildlife Policy (1999)⁴⁴

The aim of the wildlife policy is to promote the long term conservation of wildlife and biodiversity in a cost effective manner, which maximizes the benefits for the people.⁴⁵This policy is relevant in the management of forests in the wildlife conservation areas. The policy objectives include conserving the resources within the national parks and other Wildlife areas, and enabling the people of Uganda and the global community to derive ecological, economic, aesthetic, scientific and educational benefits. The policy has important elements towards forest management. It imposes an obligation on UWA to involve local communities and to ensure that conservation contributes towards rural economic. It also requires UWA to share 20% of its entry fees with local government for the development of communities living around the protected areas. One advantage with the policy is that most of these principles have been incorporated into the Uganda wildlife Act.

There are several bottlenecks that affect the implementation of the policy in relation to forests: There is limited technical and managerial capacity at the districts to provide adequate advice to deal with forest in these. Revenue sharing policy is not transparent which impacts on the collaborative aspects

4. National Policy for the Conservation and Management of Wetland Resources, 1995⁴⁶

This policy was adopted in 1995 to compliment the goals and objectives of the NEMP and sectoral policies including those of fisheries, forestry, and wildlife. Water, land tenure and soils, among others, as well as the Ramsar Convention on wetlands of international importance especially as waterfowl Habitat. The overall aim of the policy is to promote the conservation of Uganda's wetlands in order to sustain their ecological and socio-economic functions for the present and future generations. One of the goals of the policy is to promote the recognition and integration of wetland function in resource management and economic development decision making with regard to sectoral policies and programs such as forestry, agriculture, fisheries, wildlife and sound environmental management.

The policy also calls for maintaining the biological diversity of natural or semi-natural wetlands, maintain wetlands functions and values and integrating wetlands

⁴⁴ The Republic of Uganda (1999), The Uganda wildlife policy, The Ministry of Water and Environment, Kampala.

⁴⁵ Ibid, page 12.

⁴⁶ The Republic of Uganda (1995) National policy for the conservation and management of wetlands resources, the Ministry of water and environment, Kampala

concerns into the planning the decision making of other sectors. The policy recognizes traditional uses and access rights thus people living adjust to a wetland may derive benefits from that wetland such as cutting of trees, rids, water supply, fishing and fazing. The policy mentions specific activities that may lead to deforestation in wetland areas such as production of bricks from clay soil and instead encourages use of papyrus for smoking fish instead of fuel wood. The policy also has specific guidelines which discourage practices of annual burning of wetlands unless beneficial management is demonstrated with the district authorities and is approved.

The weaknesses of the policy include the following: the policy does not discourage planting of trees in wetlands that drain a lot of water in the wetlands such as eucalyptus trees. Secondly, it does not clearly provide for the lead agency of wetlands management. The policy has not been transformed into a specific act like other resources such as water aspects wildlife and forests. Further, the Policy does not classify types of wetlands and how they can be managed. This Policy is relevant to Mabira forest as some parts of the forest have wetlands.

5 The National Soils Policy for Uganda 1999⁴⁷

This Policy contains Government Policy directives, plan of action and statements of aim and objectives to ensure sound management of the soils of Uganda on a sustainable basis. The objectives of this policy include promotion of optimal land use without unnecessarily compromising the environment through the use of soils and establishing a structure for continuous monitoring and assessment of Uganda's Potential in terms of its soil properties and whether there is soil degradation and then undertaking technical measures required to control it.⁴⁸

The Policy identifies direct causes of soil erosion to include the climate, slope, soil, surface cover and conservation practices. One of the strategies for policy implementation includes land use improvement which requires land resources inventory to provide up-to-date information and reliable data on land resources such as soil, water, climate, vegetation, wildlife and forestry.⁴⁹

The Policy provides the legal strategies to include review of existing legislation with view to enacting a comprehensive soil conversation Act and urging districts to make Ordinances and Bye laws on soil conservation.⁵⁰ However this Policy has not been fully operationalized and therefore the strategies have not been fully implemented. Secondly, there is no Soil Conservation Act in place and Bye laws and Ordinances at the districts have not been made.

⁴⁷ The Republic of Uganda (1999), The National Soils Policy for Uganda, the Ministry of Agriculture.

⁴⁸ Ibid, Page 2.

⁴⁹ Ibid, Page 8.

⁵⁰ Ibid, Page 11.

Conclusion

This paper has reviewed the national legal and policy frameworks of Uganda, and has gone further by identifying the strengths and weaknesses in so far as efficiency in applicability is concerned. This paper reveals that Uganda has a sound legal and policy framework, however, there is a big gap between the existence of these laws and their actual implementation.

