

POLICY BRIEF

April 2014

Decentralizing Forest Eco-System Management in Marsabit and Samburu Counties

This brief focuses on creating an enabling policy, legislation and established systems for improved, effective decentralized governance and partnerships that foster sustainable forest conservation and management.

Introduction

Developments in forest management over the past decade have focused on progress towards Sustainable Forest Management (SFM), an approach that balances environmental, socio-cultural and economic objectives of management in line with the “Forest Principles” adopted at the United Nations Conference on Environment and Development (UNCED) in 1992.

In line with these Principles, all types of forests embody complex and unique ecological processes, which are the basis for their present and potential capacity to provide resources to satisfy human needs to communities living near them as well as environmental values, and as such their sound management and conservation is of concern to the Governments of the countries to which they belong and are of value to local communities and to the environment as a whole. Some of the responsibilities in forest management, by virtue of the new constitution, have been allocated to the County government, and the greatest concern among communities living around forests in Samburu and Marsabit Counties remain how to pursue these



Principles. The National government, under Article 69, and the 4th Schedule, part 1 Function 22, is tasked with protecting the environment and natural resources with a view of establishing a durable and sustainable system of development including in particular- fishing, hunting, gathering, protection of animals and wildlife, water protection, securing sufficient residual water, hydraulic engineering and the safety of dams, and energy policy. In the same constitution, the functions devolved to County governments are contained in 4th Schedule, Part 2 Function No. 10, 8, 12, 14 as follows:- Implementation of specific national government policies on natural resources and environmental conservation including soil and water conservation and forestry among others, and coordinating the participation of communities and locations in governance and capacity development.



Members of a community forest group gather to discuss forest management issues

This therefore means that the national government shall make national laws and the County government shall implement them and organise the communities to participate in the governance mechanisms. The critical challenge, however, remains on how to build coordination among stakeholders and to get community participation in the decentralised governance mechanisms.

Need for coordination

Forest resources and forest lands should be sustainably managed to meet the social, economic, ecological, cultural and spiritual needs of present and future generations¹. The community is therefore a critical stakeholder in forest ecosystem management. This policy brief, therefore, has the following objectives: To build coordination among stakeholders in forest ecosystem management in Samburu and Marsabit counties, and to develop and rally support of those stakeholders to the recommendations on forest ecosystem management frameworks.

What is the problem?

Efforts to enhance county government's capacity to implement the laws and to organize communities to participate in the governance of forests ecosystems have been overshadowed by lack of awareness among communities on their responsibilities in forest ecosystem management as provided by the law; declining forest cover due to poor management; increasing demand for forest products, especially wood fuel, timber etc; undervaluation of forest resources for their services; unsustainable exploitation practices, especially forest plantations; competing land use; and demand for community participation in the conservation and management of forest resources. The existence of the Kenya Forest Service (KFS) whose role is to conserve, develop and sustainably manage forestry resources nationally, has not helped much due to lack of synergy in the existing forest ecosystem management structures in the devolved system and insufficient stakeholder participation in forest management. For example, while benefit sharing is critical to the sustainable management of forest ecosystems, the existing

¹FAO 2003. Sustainable forest management and the ecosystem approach: two concepts, one goal. By Wilkie M. L., Holmgren, P. and F. Castañeda. Forest Management Working Papers, Working Paper FM 25. Forest Resources Development Service, Forest Resources Division. FAO, Rome (unpublished).

legislation and policies are yet to transfer the administration of such an arrangement to the devolved system of government. Communities living around forests have felt left out in the management and in sharing the benefits of forest resources. This has often led to conflicts. At times this discourages communities from taking part in sustainable forestry ecosystem management. Also, the constitution puts the responsibility of implementing the law and organizing the communities to participate in the forest governance mechanisms in the hands of the county government.

The Forest Act 2005 states that a member of a forest community may, together with other members or persons living in the same area, register a community forest association under the Societies Act. An association registered as such may apply to the Director of Forestry for permission to participate in the conservation and management of a state forest or local authority forest in accordance with the provisions of this Act. This law limits the participation and inclusion of the community in the forest ecosystem resources management. This is because the registration is done by a different arm of the government, outside the ministry in charge of forestry. Also, community's participation is left at the discretion of the Director of Forestry. It is therefore critical to increase the capacity of the county governments, state corporations, partners, communities and all stakeholders to make them deliver on this responsibility.

Current efforts to address the problem

In its effort to address the challenges of involving stakeholders and devolving structures in forest ecosystem management, the Ministry of Forest and Wildlife has drafted a Forest Bill. However, the Ministry and the Kenya Forest Service are yet to collect inputs for the Forest Bill, and to subject the Forest Bill to national and county stakeholders' consultative processes. The Forest Policy 2005 proposes a number of actions to tackle the challenges in the forest sector including promoting the sustainable management of forests as well as empowering local communities to manage forests through community forest associations. The County governments can negotiate agreements with the national government to devolve functions in forestry and wildlife management to County governments as provided for under Article 187 of the Constitution. Since the Constitution became operational in 2010, the period within which Parliament was to create new laws in forestry and wildlife management was until year 2014. Opportunities to bring potential partners on board at County level already exist, as other stakeholders are likewise developing and advocating for change management in natural resources management. For example, in Samburu the active NGOs and Community user groups could be used as potential partners.



The case study of devolution of wildlife management in Samburu County (Samburu National Wildlife Reserve and Community Forest Conservancies) is a good indicator that the County government is capable of successfully managing natural resources at county level and receiving technical support from the KWS and KFS. Also, the Constitution provides the County government with planning control mandates, and the County is therefore already endowed with a zoning function of forest and wildlife reserves.

Policy Recommendations

1. Advocate for the registration of community groups as a function of the Ministry of Forest and Wildlife as opposed to Registrar of Societies.
2. Strengthen the capacity of County governments to debate and negotiate agreements with the national government to devolve functions in forestry and wildlife management to County governments of Marsabit and Samburu as provided for under Article 187 of the Constitution.
3. Prepare inputs that the County governments shall present to the national government on devolution.
4. Lobby parliament to create new laws in forestry and wildlife management in line with the constitution.
5. Address the Ministry of Forest & Wildlife and Kenya Wildlife Service to subject the Wildlife Conservation & Management Bill, 2013 to further stakeholder consultative process for another one year period.
6. Bring potential partners and stakeholders, including active NGOs and community user groups, on board at County level to advocate for change management in natural resources management.
7. Mobilize funding from government agencies, donors and stakeholders to support policy reform in this transitional phase.
8. Integrate cross-cutting issues (biodiversity, climate change, endangered species, desertification) in policy and management tools at county level.
9. Advocate for and support the inclusion of international law, principles procedures and mechanisms in biodiversity management in the Forest Bill.
10. Develop evidence-based methodologies to assess and develop the policy, legislation and institutions to support country level work in areas of: donor funding and technical cooperation; participation and leadership of youth, women and informal settlement dwellers in urban governance; multi-level collaborative governance; and transparency and anticorruption.

