

# REDD in Kenya

## *An Independent Monitoring Report by the Dorobo Trust*

### **Deforestation and forest degradation trends**

Although Kenya's forests only cover 1.7% of its total land area, and it is thus considered a low forest cover country<sup>1</sup>, it is still experiencing high rates of deforestation and forest degradation. According to FAO,<sup>2</sup> Kenya lost 5% of its forests and other wooded land between 1990 and 2005. Deforestation occurred at a rate of 12,000 ha/year during the period 2000-2005, and other wooded land was lost at an even higher rate of 40,000 ha/year during the same period. The key drivers of deforestation and forest degradation include poor, uncoordinated policies; agricultural expansion; and logging and energy needs.<sup>3</sup>

FAO estimates that Kenya's forests store carbon at an average rate of 348 tCO<sub>2</sub>/ha in the combined above-ground and below-ground biomass: this carbon would otherwise be released by deforestation and subsequent land conversion for agriculture or pasture. As such, an annual deforestation rate of 12,000 hectares would result in the release of some 4,176,000 tons of CO<sub>2</sub> into the atmosphere every year (which equates to 1,138,800 tons of carbon).

### **Managing Kenya's forests**

The 2005 Forest Act No 7 provides for the establishment, development and sustainable management of Kenya's forest resources, including through their conservation and rational utilization, particularly as a means of promoting socio-economic development. The Act recognises the vital role that forests play in stabilizing soils and ground water, enhancing biological biodiversity, and providing fuel wood, non-wood forest products, and raw materials for wood-based industries.

Under the Act, Kenya is committed to the inter-sectoral development and sustainable use of the country's forest resources, and to relevant international conventions and other agreements to promote the sustainable management, conservation and utilization of forests and biological diversity generally.

The 2005 Forest Act brought about significant reforms in Kenya's forest sector, including the creation of a new organizational structure aimed at ensuring sustainable forest management across the entire country. Key components are the Kenya Forest Service (KFS), the lead agency,<sup>4</sup> which is mandated to oversee the management of all types of forests, and the Forest Conservation Committees (FCC), which oversee the regional management of forests in individual conservancies across the country.

Though the Act does not itself define 'forests' the KFS defines forests as "land spanning more than 0.5 hectares with trees higher than 5 metres and a canopy of more than 10 percent."<sup>5</sup> The main forest types in Kenya are natural high forests, dryland forests referred to as woodlands, and forest plantations. Woodlands, bush lands and wooded grasslands in Arid and Semi Arid Lands (ASALs) cover 37.59 million hectares.

About 1.7 million hectares (2.9 % of Kenya's total land area) are gazetted as protected forest, and demarcated into 258 forest blocks. A further 684,000 hectares of forests fall outside these protected areas but are managed as trust lands by local authorities. Farmlands and settlements also contain reasonably extensive tree and forest cover, of around 9.54 million hectares.<sup>6</sup> Plantation forests accounted for some 200,000 hectares in 2005.<sup>7</sup>

---

<sup>1</sup> Looked at against FAO's definition of forests and recommended forest area.

<sup>2</sup> Forest Resources Assessment 2005, Food and Agricultural Organization, <http://www.fao.org/forestry/fra/fra2005/en/>

<sup>3</sup> Dorobo Trust, Global Forest Coalition-supported Underlying Causes of Deforestation and Forest Degradation initiative in Kenya, 2008.

<sup>4</sup> KFS was established in February 2007.

<sup>5</sup> KFS brochure.

<sup>6</sup> The Kenya Forestry Masterplan of 1994.

<sup>7</sup> Kenya's R-pin to the Forest Carbon Partnership Facility.

The Forest Act 2005 introduces stringent measures concerning the formal or informal degazetting of forest lands, and their conversion into private ownership (a significant cause of forest loss in Kenya). The Kenya Forest Service can only recommend degazetting or a change to forest boundaries after consulting the relevant Forest Conservation Committee, which should include at least four people from the local forest community.<sup>8</sup>

### **Kenya: existing policies to protect Indigenous rights and national initiatives to implement UNDRIP**

Officially, Kenya has 42 communities. But the number may be as high as 90<sup>9</sup> if all communities are recognized. The social and economic backgrounds of these communities range from agriculture and pastoralism, through to hunting and gathering, and fishing.

The pastoralists, hunter-gatherers and a small number of fisher folk have been claiming recognition as Indigenous People in Kenya. They are not claiming superiority over other communities: rather they ask to be treated fairly as citizens, with rights equal to those of Kenya's other citizens, and equal and guaranteed access to opportunities within the country.

However, the Kenyan government does not formally recognise any community as Indigenous, choosing instead to recognise *all* Kenyans as Indigenous.<sup>10</sup> Kenya was even one of the four African countries that abstained from voting during the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>11</sup> Kenya, like other African countries, is not comfortable with the concepts of self-determination and free, prior, and informed consent, which are enshrined in UNDRIP. Consequently, there are no formal policies in place to exclusively protect the rights of Indigenous communities in Kenya, nor are there any initiatives to formally implement UNDRIP.

However, UNDRIP does not introduce new rights for Indigenous Peoples as such: rather it affirms rights already enshrined in various international instruments including the African Charter on Human and Peoples Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESR), the Convention against Racial Discrimination (CERD) and the Convention on Discrimination Against Women (CEDAW) among others. Similarly UNDRIP itself provides that nothing in it will be seen to contravene the UN Charter or the integrity and sovereignty of states.<sup>12</sup> Kenya therefore has no excuse not to implement UNDRIP.

That said, constitutional safeguards already provide all Kenyans with equality before the law and equal rights to protection through the legal system; citizenship; property; freedom of movement and residence; freedom of speech, assembly and association; and safeguards against discrimination. The draft national land policy (which is currently before the cabinet, awaiting approval) also recognizes communal land ownership – an important component in Indigenous Peoples' human rights struggle.

Other efforts that the government has taken to spur development at the grassroots level include the establishment of the Constituency Development Fund (CDF), in which 2% of the annual national budget is channelled directly and proportionately to all 210 constituencies for development projects on the basis of communities' priorities. A Ministry of Arid and Semi Arid Lands has also been established to address the rights and interests of, mainly, pastoralist communities. In this year's national budget, the Minister of Finance channelled an additional Kshs 1.2 billion to every constituency to spur economic growth at the grassroots level, and thereby stimulate national economic growth. The government has also taken measures to cushion pastoralists against the impacts of droughts by purchasing their livestock during periods of drought.

The 2005 Forest Act No 7 also recognizes forest communities' rights to continue to use the forest produce customarily taken from the forest, so long as these are not to be sold on.<sup>13</sup> The Act also empowers communities to participate in the conservation and management of state or local authority

---

<sup>8</sup> The Forest Act, 2005, S. 28, provides for the inclusion of forest communities in the management of local forests.

<sup>9</sup> Draft Constitution popularly known as the "Bomas Draft" that never saw the light of day.

<sup>10</sup> A view supported by the Kenya National Human Rights Commission for a long time.

<sup>11</sup> 1 September 2007 and the UN General Assembly, New York.

<sup>12</sup> Article 46 of UNDRIP.

<sup>13</sup> Section 21, The Forest Act, 2005.

forests.<sup>14</sup> But to enable this, a forest community, together with other members or persons resident in the same area should register as a Community Forest Association (CFA) under the Societies Act<sup>15</sup>. Communities doing so may also be granted forest user rights relating to the collection of medicinal herbs; harvesting of honey; harvesting of timber or fuel wood; grass harvesting and grazing; collection of forest produce for community based industries; ecotourism; plantation establishment; and other community wood and non-wood forest-based industries (provided that these activities do not conflict with the conservation of biodiversity).<sup>16</sup>

The CFA should however have no existing prior agreement or licence<sup>17</sup>, and should develop a management plan where there is no management plan for that area or if they propose a new management plan<sup>18</sup>. This has enabled the government to include community representatives on various taskforces including the Prime Minister's Taskforce on the Mau forest, whose report will shortly be tabled before the cabinet and parliament; and recognition of Indigenous communities in Kenya's Readiness Plan Information Note (R-PIN),<sup>19</sup> the first step towards developing a national strategy on Reducing Emissions from Deforestation and Degradation (REDD) under the World Bank's Forest Carbon Partnership Facility (FCPF) process.

The issue is not therefore one of lack of policies or initiatives designed to protect the rights of Indigenous Peoples or implement UNDRIP. Rather it is the inability of Indigenous Peoples to use the provisions of existing laws, policies and mechanisms to further their rights and interests on the basis of the UNDRIP. Most Indigenous Peoples do not even know that UNDRIP exists, and Indigenous activists lack the resources to create awareness about it. There is no political will favoring the declaration, and the government has done nothing about creating awareness about it or mainstreaming its provisions.

### **Proposed REDD policies and participation in their development**

So far, Kenya has no comprehensive policy on REDD, though it is in the process of being developed. However, Kenya is an active participant in the UNFCCC discussions, including on REDD, and formally expressed its interest in joining the World Bank's Forest Carbon Partnership Facility (FCPF) in January 2008. From February through to May 2008, Kenya engaged in REDD preparation through several processes, including the appointment of a National REDD focal point.

The preparations also included the development of a Readiness Plan Information Note (R-PIN) in accordance with the requirements of the FCPF. Kenya's R-PIN was developed through a consultative process with key stakeholders that included the KFS, Kenya Wildlife Service, Department of Remote Sensing, Kenya Forestry Research Institute, and Nature Kenya, among others. There was close collaboration with the World Bank's East Africa team leader. The R-PIN was then subjected to a peer review through a Ugandan-based consultancy firm that does work for the World Bank in East Africa.

Kenya submitted its R-PIN to the World Bank in June 2008; it was accepted in July. In October, Kenya participated in the FCPF Participants' Committee meeting and soon after signed its partnership agreement to formally become an FCPF participant country. The process of signing the Participant Agreement was tedious and time consuming, and involved the Ministry of Finance and the Attorney General's office as well as the Ministry of Forestry (which will actually manage REDD).

However, Kenya's request for US\$200,000, which is available to each REDD Participant Country to enable to develop a Readiness Plan Project Proposal (the R-PPP, which was formerly known as R-PLAN), is just a small part of a larger REDD strategy being developed by Kenya; the main priority must be addressing the underlying causes of deforestation and forest degradation.

Kenya envisages the development of the R-PPP as a consultant-led process, which takes away the country's ownership of the process, unless the consultant is a local and working closely with the national REDD committee. The government issued an expression of interest for consultancy services in February 2009. The R-PPP will set out a roadmap of preparation activities, indicating how REDD preparation work will be organized and managed, what capacity-building and financial resources are

---

<sup>14</sup> Section 45

<sup>15</sup> Section 46 (1)

<sup>16</sup> Section 46 (2)

<sup>17</sup> Section 46 (2)

<sup>18</sup> Section 46 (4)

<sup>19</sup> Paragraph 4, Kenya's Readiness Plan Information Note can be found at: <http://www.forestcarbonpartnership.org/fcp/node/70>

needed and who would provide them, and a clear plan, budget and schedule for the identified activities, including the support foreseen from the FCPF.

The first consultative meeting on REDD was held at the Kenya Forest Service Headquarters, on 14 July 2009, and attended by 30 participants, from the government, large international conservation NGOs, civil society and representatives of the Danish and Finnish embassies. Participants discussed and agreed that in addition to the consultative forum that will meet regularly, two operational consultative bodies will also be formed: a REDD Steering Committee of not more than 12 people, to provide policy direction; and a REDD Working Group to provide the technical support and consultations necessary to deliver the required outputs.

The participants also identified key institutions that will be required to participate in the process. These include:

- Government Ministries: Ministry of Environment and Mineral Resources, Ministry of Forestry and Wildlife, Ministry of Local Government, Ministry of State for Provincial Administration and Internal Security, Ministry of Agriculture, Ministry of Livestock, Ministry of Energy, Ministry of Education, Ministry of Northern Kenya and Other Arid Areas.
- Government Agencies: National Environment Management Authority (NEMA), Kenya Forest Service (KFS), Kenya Wildlife Service (KWS), Kenya Meteorological Department (KMD), Department of Resource Surveys and Remote Sensing (DRSRS), Kenya Agricultural Research Institute (KARI) and others.
- Academia and Research Institutes: Kenya Forestry Research Institute (KEFRI), Kenya Agricultural Research Institute (KARI), Universities, ICIPE.
- Civil Society & NGOs- World Wide Fund for Nature, Greenbelt Movement, Forest Action Network FAN, Nature Kenya, Kenya Forest Working Group.
- Development partners- World Bank, International Centre for Research in Agro forestry (ICRAF), United Nations Development Program (UNDP), United Nations Environment Programme (UNEP), Food and Agriculture Organization (FAO), Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), Danida, embassies (from US, European countries and Russia), Japan International Cooperation Agency (JICA), African Development Bank (AfDB).
- Private Sector- the Kenyan Private Sector Alliance (KEPSA), the Kenya Tea Development Agency (KTGA), together with representatives from the charcoal, timber, power and wood carvers' sectors.
- Forest Communities – Community Forest Associations (CFAs), tree farmers, grassroots conservation groups, forest adjacent communities, forest dwellers,
- Faith organizations.
- Politicians- MPs, Councillors.
- Professional Bodies- Forestry Society of Kenya (FSK), Institution of Engineers of Kenya (IEK).
- Micro enterprises.

Participants agreed broadly on the Terms of Reference of the Steering Committee that will include:

- Policy guidance derived from the National Climate Change position and national development goals.
- Co-ordination of (the implementation of) REDD activities.
- Approval of REDD working plans and budgets.
- Resource mobilization .

The Terms of Reference of the Working Group that will include among others:

- Development of the organizational structure for preparation of REDD Readiness activities.
- Implementation of interventions.
- Development of the REDD proposal and strategy.
- Preparation of work plans and budgets (including capacity-building activities).
- Monitoring and evaluation of REDD activities.
- Entrenching stakeholder participation / consultations.
- Communication and awareness.

A clear roadmap for developing a national REDD strategy will be discussed at a later meeting but participants were informed that once the initial funding for RPP preparation is released it should be

possible to finalize the document in about six months. Preparation of the strategy will then be taken forward after successful completion and approval of the RPP by the World Bank.

It is clear (from the recently revised Forest Act, and the engagement of communities in REDD discussion to date) that the government is serious about involving Indigenous and forest communities in the national REDD strategy. Indigenous peoples, through GFC and IPACC support, have also been sensitized about REDD and are aware that what is needed is a program that will support their full participation in the processes at the local and national levels.

### **Marginal involvement of women and children**

However women, especially Indigenous women, are only marginally involved in the process though they are the ones that will be most affected by REDD. In Kenya, traditional gender roles have inhibited the participation of women and youth in forestry development. In particular, the role of women and youth in forest and tree resource utilization and management has not been fully recognized, although initiatives by women and youths have convincingly demonstrated the necessary and potential value of their participation in forestry development, especially at the community level. The Government, in recognition of the important role played by women in communities adjacent to forests, made provision for their involvement in the current Forest Policy:<sup>20</sup>

- Policy statement 4.5.1: More opportunities for women and youth will be enhanced in forest training and education.
- Policy statement 4.5.2: The Government will endeavour to deliberately involve women and youth in participatory forest management.
- Policy statement 4.5.3: The youth will be encouraged to take on more responsibility in the management of forest to ensure that future generations are catered for when decisions affecting forests are made.

The Policy informed the Forest Act 2005, which is relevant to the new paradigm shift in forest management, as it dedicates a whole section to community participation<sup>21</sup> (as also discussed above). Under the guidelines established, Community Forest Associations (CFAs) are mandated to form committees comprised of four members, one of whom must be a woman and one a youth representative.

### **Lack of resources for site-specific cost/benefit analyses**

As a way of tackling poverty, some CFAs have now started engaging in income-generating activities, which vary from forest to forest. These include eco-tourism, bee keeping, butterfly farming, silk-worm farming, tree nurseries, cultivating aloe species, and mushroom and fish farming, among others. To enhance the function of CFAs some civil society groups have also been assisting with training on governance and management issues.

However, cost and benefit sharing mechanisms have not been fully established in all the forest sites. This has led to delays in negotiations on management agreements. One particular problem is a lack of adequate resources to carry out comprehensive cost/benefit analyses for each site.<sup>22</sup> This could indicate that similar difficulties will be encountered in the establishment of REDD projects.

### **Conclusion**

It is important to recognize community participation in forest protection and sustainable forest management. An effective consultation process will strengthen community rights while promoting conservation of biodiversity. However, the forest policies already in place in Kenya do recognize that there are benefits arising from the involvement of local communities and other stakeholders in forest management; they also emphasize the importance of forests for water and biodiversity conservation and addresses benefit sharing. It is critical that this approach is carried over into any discussions and decisions about REDD projects, and fully implemented.

---

<sup>20</sup> Sessional Paper No. 4 of 2006 on Forest Policy.

<sup>21</sup> Forest Act 2005: Part IV

<sup>22</sup> Participatory Forest Management experience in Kenya (1996-2007)

Recognizing and safeguarding Indigenous People's territorial rights over their own, often widespread, forest areas has also proven to be a highly effective policy for reducing deforestation in many countries including for example Colombia and Panama. The recognition of their territorial rights forms an important incentive for these peoples to foster their traditional sustainable forest management systems. The speedy adoption of the national land policy by the cabinet would really be a blessing. Though Kenya abstained from voting for the adoption of UNDRIP, it has ratified many other international instruments that already provide for the rights enshrined in the declaration. The declaration does not declare new rights but only affirms the rights enshrined in these international instruments. Kenya therefore has no reason not to support or implement the declaration.

In addition, the historical role and positive contribution of women in the governance and nurturing of forests must be recognised and their full participation in decision-making must be ensured<sup>23</sup>. It should be understood that any program for forest management will have to consider the role of women. A gender sensitive co-management strategy should account for gender differentiated activities, property rights, negotiation and forest resources claims, and place these within the context of social relations.

Finally, any REDD mechanism must provide forest communities with adequate financial resources to compensate them for the economic benefits they forgo by reducing deforestation and degradation, as well as ensuring their ability to properly engage in the technical aspects of REDD (such as monitoring and verification).



*Kenya's forests. Photo Kanyinke Sena / Praxedes Tororey, Dorobo Trust*

---

<sup>23</sup> Recommendations of the Mumbai Initiative in combating forest degradation and forest deforestation under the REDD strategy.