

INTRODUCTION

The Institute for Law and Environmental Governance (ILEG) was established in 2002 as an independent Kenyan organization for policy research, advocacy and training on legal and policy issues linking environment, governance and sustainable development. ILEG seeks to enlarge policy choices for sustainable development in Kenya. The Institute is committed to using governance tools and principles to foster sustainable and equitable management of natural resources. ILEG subscribes to the view that laws and policies must be developed and implemented with the active participation of those who will be most directly affected. Thus to achieve sustainability in environmental quality and equity, it is imperative that the existing institutional, administrative, legal and policy framework concerning natural resources be reformed and restructured so as to promote the wellbeing of all of Kenya's citizens, especially the rural poor most directly dependent on those resources.

ILEG has also established close working relationships with the Centre for Advanced Studies in Environmental Law and Policy (CASELAP), University of Nairobi; Maseno University; the United Nations Environment Programme (UNEP); the National Council for Law Reporting (NCLR); National Environmental Tribunal (NET), National Environmental Management Authority (NEMA); and Public Complaints Committee (PCC). These relationships provide a strategic intellectual, moral, financial, and human resource base for environmental governance in Kenya.

SUSTAINABLE FOREST GOVERNANCE PROJECT

ILEG with the support from Sida/Act! under the Changieni Rasili Mali (CRM) Facility is implementing a 3 year project aimed at **Promoting Sustainable Forest Governance for Climate Change Adaptation and Improved Livelihoods in Kenya**. This project is being implemented in Kwale and Kilifi Counties in the coastal region of Kenya. The specific objectives of this project include:

- i. Promote sustainable forest management and climate change adaptation to improve the livelihoods of the local communities in Kenya.
- ii. Increase awareness and enhance the capacity of the local communities on climate change adaptation and mitigation challenges and opportunities, laws relating to forest management and the impacts of the devolved system of governance in promoting citizens participation in natural resource management.
- iii. Promote the development and implementation of strategies of streamlining climate change adaptation and mitigation within the coastal forests and devolved government.
- iv. Contribute towards the formulation of legislations, policies, rules and regulations relating to climate change adaptation and forest governance within the devolved government.

The following are the desired results:

- i. Enhanced capacity of the local communities on sustainable forest governance and climate change issues
- ii. Increased public participation in forest management and addressing issues of climate change adaptation and mitigation within their counties.
- iii. Formulation of sound legal, policy and institutional framework that enhance sustainable forest management and climate change adaptation and mitigation both at the county and national level.

BACKGROUND

Kenya is endowed with a wealth of natural resources and environmental ecosystems which contributes directly and indirectly to the livelihoods of the population and national economy through revenue generation and wealth creation. The natural resource-based sectors of the economy such as agriculture, forestry, tourism, water, energy and mining contribute approximately 42% of the Gross Domestic Product (GDP) (G.o.K, 2008). Forests are an important source of livelihood, environmental services, and economic growth in Kenya. It contributes approximately 1.1% to the GDP, and these only factors in the commercial, marketed output of timber products, disregarding other services necessary to support human existence like ecosystem service, biodiversity and intrinsic values.

The forestry sector is one of the sectors in Kenya that is facing serious degradation and challenges in its governance. In the last three decades, Kenya has seen her forest cover reduced drastically from 12% to barely 2% (NCCRS, 2010). The Kenyan coastal forests which form part of the Eastern Africa Coastal Forests found in Kwale, Mombasa, Kilifi, Malindi, Tana River and Lamu form part of the rich biodiversity within the country. They are recognized as an area of global importance for their concentration of narrowly endemic plants and animals. However, over time these ecosystems have been facing serious degradation compounded with the impacts of climate change. The high level of poverty in the coastal region means that the population is vulnerable to climate change and also they are highly dependent on forest resources for their livelihood which may be destructive to the environment.

Kenya Coastal forests along with other forests in the region have faced and continue to face a range of threats. All along the coast, forest habitats are shrinking as land is taken up for subsistence agriculture, settlement and infrastructure. Inappropriate land use practices however, result in degradation and loss of land productivity leading to widespread encroachment on forest land to grow more food and extract resources at rates that are not sustainable.

A number of factors have contributed to the degradation of coastal forests including policy and legislative deficiencies, weak forest enforcement and compliance mechanisms, lack of adequate participation in the management of the natural resources by the communities living adjacent to the forests, overlapping institutional mandates and conflicting laws governing the forests causing lack of a coordinated approach in its management, inappropriate measures and

strategies of streamlining climate change adaptation and mitigation within the forestry sector especially the coastal forests, market failure and incentives to promote sustainable forest management and lastly, inadequate capacity by the institutions charged with the mandate of managing the resource.

These challenges can be addressed through the development of a framework for community and key institutions (especially within the devolved government) to engage in coastal forest conservation and implementation of climate change strategies; advocating for policies and legislations that promote both community participation in forest management; strengthening the local communities organizations to undertake forest conservation and implementation of climate change development initiatives; development and implementation of effective participatory management strategies, rules and regulations that factors in climate change issues; engaging both the public and policy makers interests, awareness and enhancing their capacity on forest conservation, climate change adaptation and mitigation and implications of the devolved government in the management of the resource.

SCOPE AND RELEVANCE

The forestry sector plays a pivotal role in the country, given the many functions it plays like supporting livelihoods of the local communities living adjacent to the resource who are mostly the rural poor, its contribution to the economy at 1.1% of the GDP, its support to the other sectors such as wildlife and tourism, water, energy, agriculture among other, and also its significant role in climate change mitigation. With the current forest cover barely at 2%, it cannot be gainsaid that there is need for urgent action to address the issues affecting the sector by going beyond planting trees.

The project is aimed at addressing the following:

i. Policy development

The project aims at addressing fundamental issues within the forestry sector through influencing policy development related to the sector from the community level, to the county government and national level. This is to be achieved by, first, enhancing public participation in decision making within the forestry sector and having their voices heard in policy formulation. Secondly, engagement with state agencies with a mandate over the management of forest towards the harmonization of the forest laws and policies in order to improve on coordination in forest management and also improve enforcement and compliance on forest laws through training sessions and publications.

Thirdly, engagement with county governments and parliamentary committee on natural resources to lobby and advocate for the formulation of laws and policies that promote sustainable natural resource management. Fourthly, undertake research from which policy paper will be developed and used to address the legislative and policy gaps within the sector that hinder sustainable forest management. Fifthly, engage the media for advocacy to create

awareness, empower the public and also target policy makers. Lastly, the project believes in networking and partnership in advocating for policy development in order to draw from expertise from the different organizations and enhance sharing and exchange of information.

ii. *Strengthen local/national advocacy capacities and partnership to ensure sustainable forest governance*

The project aims at building the capacity of the local communities, the Community Forest Associations (CFAs) and Forest Conservation Committees (FCCs) to enhance their participation in advocating for policy development by having their voices heard. Its approach is a bottom-up approach in influencing policy and this is meant to make use of the opportunities presented by the provisions in the Constitution of Kenya 2010 on participation at all relevant levels in decision making. The communities are empowered to be able to engage effectively with the county governments.

It is envisaged that the national advocacy capacities will be strengthened through the continuous lobbying for formulation of legislations and policies informed by research. The research will inform the scope, target thematic areas of engagement and level of advocacy within the forestry sector. This level of advocacy aims at engaging with state agencies/institutions, county governments, private sector and national parliamentary committees.

ILEG has therefore so far developed strategic partnerships with institutions in advocating for project interventions. At the grassroot level, the project aims to promote networking amongst the different CFA's and FCC's to ensure there is enough momentum to be able to engage in advocacy. There will be engagement with other civil society organizations at different stages in project implementation e.g. while engaging in lobbying for the formulation of laws and policies, the project will involve other CSOs that have also been working in the bringing reforms within the forest sector e.g. engage with the Kenya Forest working Group and other credible networks in developing strategies of advocating for the much needed changes in the sector.

iii. *Contribution to other ongoing national reform processes*

The project is intended to contribute to the ongoing legislative reforms within the environmental sector that is aimed at streamlining the laws to the Constitution and the much needed reforms in environmental governance in the country. It will also influence the ongoing reforms within the land sector by advocating for public participation in natural resources management and development of proper land use plans/policies/strategies and institutional reforms within the forestry sector. Lastly, the project aims at streaming climate change adaptation and mitigation measures within policies, legislations and even institutions.

TARGET GROUP/BENEFICIARIES

The project aims to influence laws and policies within the forestry sector to promote sustainable forest governance for climate change adaptation and improve the livelihoods of the communities. Therefore, the target group and beneficiaries are at local level, county level and national level. They include local communities, the county government, state agencies/institutions and government departments.

Local communities are first engaged in creating awareness and building their capacities to participate in forest management by developing and/or implementation of forest management plans. State agencies/institutions and government departments are also engaged in enhancing their capacity on forest law enforcement and governance, as well as advocating for harmonization of forest laws among other pertinent thematic areas such as Climate change, REDD+, Payment for Ecosystem Services e.t.c. It is envisaged that the respective County Governments will be engage in formulation of laws, rules, regulations, implementation of national policies, and development of strategies for sustainable forest management.

KEY MILESTONES/ACHIEVEMENTS FOR THE FIRST YEAR OF IMPLEMENTATION

During the first year of the project, the following key achievements have been made:

i. Awareness creation sessions and training workshops to build the capacity of the local communities in Kilifi and Kwale Counties through CFA's, FCC's and community leaders



The sessions with stakeholders were aimed at providing a platform to have an initial discourse on Participatory Forest Management and Climate Change Adaptation and Mitigation within the devolved system of governance in Kenya.

The sessions brought together community representatives from various Community Forests Associations (CFAs) in Kilifi and Kwale, various government departments and civil society

organizations. They provided an opportunity for the research team to conceptualize the research component and the issues that it needs to address.

They also provided a platform for awareness creation amongst community members on forest laws, governance of forests under the devolved governance system, climate change adaptation and mitigation and its linkage to their livelihoods. The need for strengthening public participation in natural resources management especially forests, through networks and partnerships was underscored.

ii. Partnerships

I LEG is partnering with various institutions in Kilifi and Kwale counties, both civil society organizations and government departments. The main institutions we are partnering with in implementing the project activities are Transparency International (TI), WWF, Nature Kenya, Pwani University, KFS, KWS, NEMA, KEMFRI, Department of Geology and the County Commissioners office. The partnerships are strategic and aimed at achieving the objectives of the project.

iii. Support to the establishment and strengthening of Kilifi County Natural Resources Network

ILEG has taken the leading role in the establishment of Kilifi County Natural Resources Network (KCNRN) by mobilizing key stakeholders in the County including Government officials, academia and the local community. The Network has an Interim Steering Committee chaired by Dr. Maarifa Mwakimanya of Pwani University. The Interim Committee comprises of key stakeholders in the County including the Kenya Forest Service (KFS), the Kenya Wildlife Service (KWS), Charcoal Producers Association, CFAs, FCCs, and BMUs among others. It has held several stakeholder consultative sessions to build consensus and assign tasks to members on the need to strengthen the Network. ILEG has developed a draft Constitution awaiting approval by members before registration.

iv. Development of IEC materials

ILEG has developed IEC materials to introduce the broader environmental provisions within the Constitution of Kenya 2010. These materials will enhance aware creation and capacity of the community and other stakeholders on sustainable forest management

The scope of the materials includes:

- Analysis of Climate Change Adaptation and Mitigation Planning within the Devolved System of Governance
- An Assessment of the legal, policy and institutional framework of the current status of the forestry sector in the context of the current developments and emerging issues.
- An analysis of public participation in the forestry sector within the devolved system of governance

v. Development of the status of Natural Resources in Kilifi County

A draft report has been developed documenting the natural resources found in Kilifi. The report also highlights the key conservation issues particularly in relation to forest management in the County. It is intended to create awareness of the communities for the need to sustainably management the natural resources particularly the forest ecosystems.

vi. Support to key stakeholder meetings



Some of the meetings ILEG has supported that would influence the implementation of the project include facilitation of the Kwale County Natural Resource Network to meet with the County Commissioner and the various Heads of Departments within Kwale County with the aim of promoting public participation. This provided an initial engagement with the devolved system of governance and has the potential of having some of their members nominated to work with the Kwale County government.

This arrangement has the potential to create an enabling environment for the government both the national and county to work with communities thus enhancing public participation in natural resource management. ILEG also facilitated a team of ix members led by the Chairman of Kwale County Natural Resources Network, Dr. Muhammed Pakia on a courtesy call to the Geologist in the County. The Courtesy call generated a lot of interest from the Geologist on the need to work with the Network. Some of the issues discussed included the controversies on the mining project in Mrima Hills.

vii. Development of Gede Forest Management Plan and Agreement

Support to the development of Gede Forest Management Plan and review of Gede Forest Management Agreement. ILEG has support the development of Gede Forest Management Plan and organized a review meeting for the community on the Management Agreement. The Management Plan has since been launched. A meeting was held by the community and KFS to review the Management Agreement on 21-22 May before signing.



viii. Workshop on legislative support on legal preparedness for REDD+ in Kenya.

With support from strategic partners such as FAO, and as part of REDD+ readiness process, the Kenyan government through the Ministry of Forestry and Wildlife initiated a process to examine and comprehensively analyze the legal framework related to REDD+. This process entails identifying and analyzing the provisions in these laws related to land, forests, carbon rights and benefit sharing mechanisms in place. This research was supported by the Institute for Law and Environmental Governance (ILEG).

Arising from the above, ILEG with support from Act! and in collaboration with the Ministry of Forestry and Wildlife organized for a workshop on the legislative support on legal preparedness for REDD+ in Kenya. This was the second meeting after the Ministry of forestry and wildlife/ REDD+ focal point and ILEG organized a REDD+ inception meeting earlier in January 2013.