

**A CRITICAL ANALYSIS OF THE PROTECTION AND CONSERVATION OF  
FORESTS IN UGANDA. A CASE STUDY OF MABIRA  
FOREST MUKONO DISTRICT.**

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**DECLARATION**

**I ASIMWE RICHARD** declare that this work is original work of my hands and had never been handed over to any other institution for any purpose.

Signed  .....

## **DEDICATION**

I dedicate this research to my father Bwengye Micheal , mum katushabe Jolly,my uncle Mwesigwa Dan , my brothers Kusiima Edwin and Kwesiga Hillary ,my sisters Atwikiriza Faith and Agumenitwe Macbeth for their encouragement through my academic journey and making me who I am today, thank you and may God bless you abundantly.


**APPROVAL**

This dissertation has been submitted for examination to the school of law with my approval as the student supervisor.

Supervisor: Prof. Magnus.N. Chima

Date:.....

Signature:.....13-6-2014

  
Hoo Pub/Comp Law  
13/6/14

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## **ABSTRACT**

Deforestation in Uganda is a major set back to environmental protection program different estimates have been done by different scholars on the rate at which human activities are leading to forest clearance. However one thing that lacks in these researchers was a look at the role of the law.

All developmental programs need to be protected by law so that destructors and those who go contrary to it may be brought to justice. This seems not to be the case in Uganda where the law does not protect many government programs and the forest sector is no exception. Well one many say that the existence of the forest Act Cap 146 and the environmental Act Cap 153 are enough laws to protect our forests but would like to differ from this due to the findings in this research.

This research was carried out in the counties of Buikwe and Nakifuma in the administrative district of Mukono and its major focus was on Mabira forest as opposed to degazetted forest researches. Majorly the research was both qualitative and quantitative using observation and in-depth interviews/focus group discussions and structured interviews/were used for the former and questionnaire for the later.

The law on deforestation seems not to exist. This is because Mabira forest is ever destroyed and it's on the verge of being destroyed more by Mehta group of companies for sugarcane growing as it was seen by March 2007 demonstration, protesting the move by the government to degazette Mabira forest to the above named company.



The changes in Uganda today no longer allow us for such, this is because the rationale of such laws is to prevent encroachers and destructors from forests through a strict penal system of punishments given under the forest Act which has lived beyond its time and can no longer deter any encroachers. Another oversight in the law is the lack of it in covering forests both natural and artificial on private land. Such forests need to be protected if we are to maintain a relatively big forest cover.

Whereas the act has its shortcomings, government agents also leave a lot to be desired in the way these laws are being implemented. For example none of the respondents interviewed knew anything in this Act, even some forest rangers and police officers could not name any offence under this Act. One wonders if these don't know who will know the law then.

This calls for an overhaul of the law and its implementers most sections of the Act need to be reviewed, new mechanism of arresting offenders established and the implementers for law such as police and forest rangers be trained and equipped with both the knowledge about the law and the skills to detect, arrest and convict offenders this will serve to reduce most of the problems faced today.

## **LIST OF STATUTES/ACTS**

The Constitution of the Republic of Uganda 1995

The Local Government Act — laws of Uganda

The Land Act, Cap 227 laws of Uganda

The Forest Act Cap 146 laws of Uganda

National Forestry And Tree planting Act 8/2003

The Timber Export Act cap 151.

The National Environment Act cap 153

The Tree Planting Act

The National Environmental (wetlands, river banks and lake shore management) Regulations 2000

## **LIST OF CASES**

Rwabitontoli and Kinyanyi Vs Uganda (1995) HCB 2

Yosia Musoke Vs R (1958) EA 751

ACODE vs. Attorney General in the High Court of Uganda Miscellaneous  
Cause No.0100 of 2004.

## **ACRONYMS AND DEFINITIONS**

NEMA	National Environment Management Authority
NEAP	National Environment Action Plan
SAP (s)	Structural Adjustment Program
UNDP	United Nations Development Program
UNEP	United Nations Environment Program
ETC	Extra I among others
EG	For example
ET-A	And other (referring to Authors)
LC	Local council
MP	Member of Parliament
SCOUL	Sugar Corporation of Uganda Limited

## CHAPTER ONE

### 1.1 AREA OF STUDY

Mabira Forest lies in the counties of Buikwe and Nakifuma in the administrative district of Mukono. It was established under the Buganda agreement in 1900 and occupies an area of 306 km<sup>2</sup> with an altitudinal range of 1070-1340m situated between 32° 52'-33° 07' E and 0° 24'-0° 35' N. It is found in 54 km east of Kampala and 26 km west of Jinja.

Mabira Forest is the largest forest (reserve) in central Uganda (Roberts, 1994) and lies in an area of gently undulating land interrupted by flat-topped hills that are remnants of the ancient African pen plain (Howard 1991) Although the forest lies close to the shores of Lake Victoria the forest drains to the north eventually into Lake Kyoga and the Victoria Nile.

The Mabira vegetation classified as medium altitude moist semi-deciduous forest is considered to be of sub-climax stage a highly disturbed and heavily influenced by man. Given time and limited disturbance the vegetation is expected to reach a climax community of single species dominance. The forest has a number of populated enclaves within its boundaries. The area is covered by the Uganda Department land and surveys.

Like any other area in Uganda, population increase and other human factors have drastically rewarded the forest cover in the area. This study therefore will look at the implementation of forest laws in Uganda in particular Mabira forest problems encountered, what's lacking in the law and channels of conserving forest cover.

## 1.2 GENERAL INTRODUCTION

Uganda has adverse range of forests and forest habitats of which I am taking a particular study on Mabira forest. These are however, increasingly been reduced due to man's activities. Before the signing of the 1900 Buganda agreement, Uganda had approximately 45% (108,450 km<sup>2</sup>) of its land under forest cover and woodland. This has drastically reduced today forest cover only 49,390 square kilometers. This destruction has called for restrictions and reservations of forests in Uganda (Mabira forest).

Forest policies in Uganda dates back to 1898 when the first forestry service was created by the British, but like other sectors created at the time it focused on forest exploitation program initiated for Kampala and Entebbe with the aim of improving forest cover and provision of alternative source of wood fuel and poles for industries. The project was later extended to other parts of the country and these plantations covered approximately 27,500 km.

This project however became dominant, thus many of the planted forests were destroyed. Later laws on forestry and Environmental conservation were enacted as the forest Act (cap, 146) plant protection and the river Act (cap 347) among others. However, these laws focused on exploitation rather than conservation for example the lack of wood report of 1973 (which was based on to enact the forest act) highlighted the monitoring value of forest products. According to the National Environment policy registration framework 1993<sup>1</sup> the laws lacked effective sanctions, effective mechanisms for coordination, conservation ethics and were generally not effective.

The modern institutional Development of environmental conservation and protection began in 1986 when the ministry of environmental protection (as it

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<sup>1</sup> National Environment Policy legislation and institution framework September 1993

was then called) was created to provide institutional framework for the national environmental policy. In 1990<sup>2</sup> the National Environmental coordination center was created and later the National Environment Action Plan (NEAP) incorporated with an aim of reviewing policies and laws on the environment.

In 1995 the National Forestry Action Plan<sup>3</sup> was put in place, which divided the forests into strict natural reserve, 20% of the forest in Uganda were to be no harvest tones, 30% to be low intensity and 50% of the forest for sustainable harvesting. In spite of the efforts, the forest resource is under increased threats from encroachers for farmland, wood fuel, timber and construction among other things most of the laws in place protect forests on government land and do not cater for forests on individual holdings. Fuel consumption has increased more than the national population growth rate.

This rampant increase in consumption indicates failure on the part of the law to policy objectives. It is against this background that the researcher seeks to study the laws governing the protection and conservation of forests in Uganda taking an interest in Mabira forest as a case study.

### **1.3 STATEMENT OF THE PROBLEM**

Deforestation is one of Uganda's biggest threats to the natural resource and environment. The annual cost of deforestation in Uganda is estimated at between 3 million US Dollars annually

In the colonial era, Uganda's forests were abundant, rich and were therefore gazetted in accordance with the law, for revenue generation, tourism and

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<sup>2</sup> National Environmental Coordination centers (1990)

<sup>3</sup> National Forestry Action Plan (1995)

Biodiversity conservation. Today the majority forest is on the public land that is 70%. The remainder is what is held in trust by the government for the people and yet this limited resource suffers evils; that include degazettement and encroachment, forest clearance for agriculture, infrastructure development and over-grazing, these being the direct factors affecting the resource base.

The indirect factors include policy deficiencies relating to the private sector and the local communities over land tenure, access rights and responsibilities for resource management.

FAO estimated the forest cover to have been as much as 10.8 million hectares or 52% in 1890; this has shrunk to only 5 million hectares or 24%. In comparison, forest loss in the whole of Africa stands at 0.6%, while forest loss in the world stands at 0.10. At this rate, Uganda's forests will have gone in 50 years time. The research therefore examines the extent and nature of the impending danger if not a catastrophe, that is likely to befall this natural resource.

Today's Uganda forest cover is estimated at 3% of the total area compared to 12.7% in 1990. This rate is alarming and needs to be controlled in spite of the existence of protection of forest; it has not been easy to prevent illegal activities in forests. There have been many complaints about forestry management in particular Mabira forest which is to be degazetted to Mehta for purposes of sugarcane growing as one of the problem issues confronting Ugandans and its generating concern and revolutionary changes in many areas of public concern.

This has created many complaints thus leading to a problem of the study to examine the role of law in protection, conservation and management of Mabira forest by agencies like NEMA and NFA employed by law to protect and conserve forests and the weaknesses faced by the agencies entrusted with the enforcement of the laws.



During the past 20 years Uganda has experienced extreme environmental; degradation, which is most notable in the decrease and degradation of forested land, the increase in pollution affecting wetlands and the reduction in protection afforded to fauna, flora and natural areas.

#### **1.4 OBJECTIVES OF THE STUDY**

1. To examine the legal and institutional framework in place in Uganda for the protection of the environment and how effective it has been in protecting the management of forests with specific emphasis on Mabira forest.
2. To assess the role of education and literacy as well as government enacted laws to conserve forests and the protection of environment.
3. To analyze the extent to which environmental laws and institutions have been effective in the protection of the environment.
4. To suggest appropriate recommendations to the above findings specially looking at degazetting of Mabira forest.

#### **1.5 SIGNIFICANCE OF THE STUDY**

The study will add to the existing literature, which has been criticized for being little and mainly based on outside studies that may not apply to Uganda. Most existing research is too old and may not apply to today's situation.

Related to this, is the fact that the researcher intends to use this study as a partial requirement for the fulfillment of Bachelor of Laws at Kampala International University.

On the part of legislatures, policy makers and implementers the study results will be a useful tool in giving a comprehensive view of what it is and what it

ought to be by establishing the gaps missing in the implementation of the law and the law itself. By use of these results the law enforcers can make adjustments or new legislations that can see implements in foresting management and environment.

The results of the study can be used as a basis for future researchers in the field of forestry and move generally in matters of environmental protection. This will help develop a well-informed society.

It is also hoped that the findings of this study will help rise awareness on issues pertaining the conservation and protection of forests particularly Mabira forest.

## **1.6 SYNOPSIS**

The researcher divided the final report into five chapters; chapter 1 is the area of study which will include background to the study that introduces the study. Statement of problem which is a description of what it is and what it should be. study objectives to be achieved. Significance or benefits of the study are also highlighted in this chapter. The chapter also includes a review of related literature and the methodology through which data will be collected analyzed and a final report written.

Chapter 2 discusses the law on forestry in Uganda. It tracks the background of the law, offences created by the law and looks at the loopholes in the law.

Chapter 3 discusses the law in relation to result from the field, establish the gaps in the law, its implementation and factors leading to deforestation are also highlighted in this chapter.

Chapter 4 is general recommendations that the researcher came up with after analyzing the field results and giving possible ways in which it can be solved. And chapter 5 explains the conclusion that the researcher came up with as regards the study.

## **1.7 LITERATURE REVIEW**

This contains a review of literature relating to forest and national parks in Uganda. It will start by introducing some key terms.

### **Conservation**

This term has very contrasting meanings for different stakeholders. International conservation initiatives use abstract concepts such as biodiversity, goals of species preservation and 'an emphasis on the intrinsic and aesthetic values of wildlife' whereas 'rural Africans goal being the maintenance or enhancement of their livelihoods' (Barrow & Murphree 2000)<sup>4</sup>.

Hartwick & Olewiler (1998:3)<sup>5</sup> explain the importance and value of the environment and the reason why it needs to be conserved; our natural environment contains the natural resources essential to life on earth. These include water, the atmosphere, and land (their italics). The form that conservation takes is open to interpretation. For example the term 'forest conservation' can mean anything from intensive timber production to total

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<sup>4</sup> Barrow, Edmund, Healen Gichohi & Mark INFIELD (200B, FORTHCOMING). THE Evolution of Community Conservation Policy and Practice in East Africa' pp 85-105 in David Hulme & Marshall Murphree, eds African Wildlife & African Livelihoods: The Promise and Performance of Community Conservation. Oxford: James Currey.

<sup>5</sup> Hartick, John M. & Nancy D. Olewiler (1998). The Economics of Natural Resource Use, 2<sup>nd</sup> Edn.

preservation (Elliot 1996: 8)<sup>6</sup>. In this dissertation the term will broadly refer to the protection of natural resources.

### **The Environmental Impact Assessment (EIA)**

This process is defined in the NEA to mean a systematic examination conducted to determine whether or not a project will have any diverse impact on the environment.<sup>7</sup> EIA is a mandatory requirement before major alterations of wetlands are permitted.<sup>8</sup> EIA is a legal requirement in projects that may affect wetlands. This is under three circumstances; first are projects that may have an impact on the environment, secondly that is likely to have a significant impact on the environment and finally are projects which will have a significant impact on the environment.<sup>9</sup>

**According to section 43 of the Land Act**<sup>10</sup> utilization of land should be according to the relevant environmental laws. Thus a person who owns or occupies land that has a wetland has to manage it in accordance with all the relevant laws such Forests Act<sup>11</sup>, the Mining Act<sup>12</sup>, the National Environment Act<sup>13</sup>, Water Act<sup>14</sup>, the Uganda Wildlife Act<sup>15</sup> and any other law.

To ensure sustainable development, public participation is a requirement in the EIA process in Uganda. One of the principles of NEA is to encourage the maximum participation by the people of Uganda in the development of policies,

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<sup>6</sup> Elliot C, (1996), Paragigms of forest conservation: Unasykva, Vol 187

<sup>7</sup> National Environmental Act, Section 1

<sup>8</sup> This is a mandatory requirement under sections 2, 19 and 20 of the National Environmental Act

<sup>9</sup> National Environmental Act Section 19(3)

<sup>10</sup> The Land Act section 44(4)

<sup>11</sup> The Mining Act 9/2003

<sup>12</sup> The National Environmental Act, section 2(c)

<sup>13</sup> The Water Act

<sup>14</sup> The Uganda Wildlife Act Chapter 200 Laws of Uganda 2000

<sup>15</sup> National Environmental Act, Section 2(b)

plans and processes for the management of the environment.<sup>16</sup> NEA requires participation of the public especially of the people most affected by the project.<sup>17</sup> The developer is required to take all measures necessary to seek the views of the people in the communities which may be affected by the project during the process of conducting the study.<sup>18</sup> In seeking the views of the people the developer has to publicize the intended project, its anticipated effects and benefits through the mass media in a language understood by the affected communities for a period of not less than fourteen days and after the expiration of the period of fourteen days hold meetings with the affected communities to explain the project and its effects. He/she has to ensure that the venues and times of the meetings are convenient to the affected persons and shall be agreed with the leaders of local councils.<sup>19</sup>

The NEA provides three categories of projects to be considered for EIA.<sup>20</sup> The first category involves projects of a general nature which include: an activity out of a character with its surroundings, any structure of a scale not in keeping with its surroundings, and major changes in land use. The second category includes urban development; third category involves transportation related projects; the fourth includes dams, rivers and water resources; the fifth is on aerial spraying; mining is the sixth; seventh concerns forestry-related activities; under category eight are agriculture related projects; the ninth category includes processing and manufacturing industries; the tenth category has electrical infrastructures projects; management of hydrocarbons is the eleventh; in the twelfth category are waste disposal projects; and finally are projects related to natural conservation areas.

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<sup>16</sup> National Environmental Act, section 19 (c)

<sup>17</sup> The Environmental Impact Assessment

<sup>18</sup> Regulations 1998, Regulation 12

<sup>19</sup> Regulation 12(2)

<sup>20</sup> National Environmental Act Third Schedule s. 19

The Environmental Impact Statement (EIS) has to provide the description of the following: the environmental effects of the project including the direct, indirect, cumulative, short-term and long-term effects and possible alternatives; the measures proposed for eliminating, minimizing, or mitigating adverse impacts; an identification of gaps in knowledge and uncertainties which were encountered in compiling the required information; an indication of whether the environment of any other State is likely to be affected and the available alternatives and mitigating measures.<sup>21</sup>

It is an offence for a person who fails to prepare and submit a project brief to the Executive Director of NEMA or fails to prepare and submit an environmental impact statement contrary to regulations or who fails in the development of a project, to abide by the conditions of approval under regulation. It is also an offence for a person to fraudulently make a false statement in a project brief or impact statement contrary to these regulations or who fraudulently alters project brief, or an environmental impact statement contrary to these regulations.

EIA is very fundamental in sustainable management of wetlands; however its implementation in Uganda is still below the required standards. Several reasons cause its limited application the major ones include: lack of interagency coordination due to overlapping and fragmented authority for example when multiple agencies/departments are responsible for implementing environmental safeguard laws; the process of EIA is still lengthy and costly for developers; some new developers still claim not to be aware about the EIA requirement; there is limited capacity and lack of appropriate EIA skills at District and Sectoral levels

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<sup>21</sup> Environmental Impact Assessment Regulation 14

and in some cases there is political influence which hampers production of objective EIA reports.

### **Public trust doctrines**

The public trust doctrine is a body of common and statutory law that provides that the state holds title to the natural resource in trust for public purposes. The public trust doctrine is contained in various policies and laws. Wetlands resources are one of the resources that are placed under the trust of central and local governments of Uganda for the citizens. The constitution in its preamble provides that the State shall protect important natural resources, including inter alia wetlands on behalf of the people of Uganda.<sup>22</sup> The principle is further emphasized by **article 237 (1) b** which states that the Government of Uganda or a Local Government as determined by Parliament laws, shall hold in trust for the people and protect, natural lakes, rivers, wetlands<sup>23</sup>, forest reserves, game reserves, national parks and any land to be reserved for ecological and touristic purposes for the common good of all citizens.<sup>24</sup> The state is prohibited from leasing out or otherwise alienating wetlands, it can only grant concessions, licenses or permits in respect of wetland<sup>25</sup>. The application of the doctrine of public trust has faced challenges in Uganda because the decision makers do not seem to appreciate its importance, as a result important resources such as forests and wetlands have been allocated to investors under the disguise of economic development.<sup>26</sup> For example the Government decided to allocate 7,100 hectares (approximately 25%) of Mabira forest land to the Sugar Corporation of Uganda Limited.

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<sup>22</sup> The Constitution of the Republic of Uganda, 1995 principle xiii

<sup>23</sup> Emphasis provided

<sup>24</sup> The Public Trust Doctrine is also emphasized that under the Land Act, chapter 227 of the laws of Uganda, section 44 and the Wetlands Regulation, supra, note 2, Regulation 3 and the National Forestry and Tree Planting Act, No. 8 of 2003 section 5

<sup>25</sup> Section 44 (2) Land Act Cap 227

<sup>26</sup> The Daily Monitor of Uganda, April 5, 2007 , pg 1

## **Sustainable development**

The Brundtland Report first popularized the concept of sustainable development: 'development that meets the needs of the present without compromising the ability of future generation to meet their needs' World Commission on Environment and Development<sup>27</sup>. This World Commission on Environment and Development (WCED) definition is broad and open to interpretation. However Robert Chambers (1997:10) is more specific in describing an evolving consensus whereby the end of development is (responsible) well being for all. Capabilities and (livelihood) security are the means to achieve this end and the underlying principles are equity and sustainability.

Firstly equity is intragenerational, which requires 'justice to the socially disadvantaged both within any one country and between countries (at al) given point in time' (Turner & Pearce 1990:24)<sup>28</sup>. Secondly equity is intergenerational, which requires that 'the next generation should have access to at least the same resource base as the previous generation' (Turner & Pearce 1990: 25).

Sustainability requires a long term perspective. It is "the ability to maintain or improve a level of living and quality of life, including managing stress and shocks" (Chambers 1997: 170)<sup>29</sup>. It refers to a system ability to maintain productivity over time.

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<sup>27</sup> (1987), *our common future*. Oxford: Oxford University Press

<sup>28</sup> Turner, R Kerry, David W, Pearce (1990). *The ethical foundations of sustainable economic development*" LEEC Paper 90-01. London; IIED/UCL

<sup>29</sup> Chambers, Robert (1997), *Whose Reality Counts? Putting the first last*. London: Intermediate Technology Publications.



Holling et al (1998:348)<sup>30</sup> lists three imperatives for sustainability.

1. The environmental imperative of living within ecological means
2. The economic imperative of meeting basic material needs.
3. The social imperative of meeting basic needs and cultural sustainability.

In reality these imperatives are usually neither met in theory nor practice but the concept is useful as providing a direction and focus to aim for. Sustainable development is a process, not a final state. The concept of 'sustainable development has promoted the notion that the things to be conserved (species, habitats or biodiversity) should be viewed as exploitable natural resources that can be managed to achieve both developmental and conservation goals' (Hulme & Murphree 2000:3)<sup>31</sup>. The research question presented in chapter 1 examines how park management can best achieve these dual goals.

Sustainable development as principle of environmental law is incorporated in the various laws that relate to wetlands management. Under the Constitution of the Republic of Uganda<sup>32</sup> **principles xxvii** provides that the State shall promote sustainable development and public awareness of the need to manage land, air, water resources in a balanced and sustainable manner for the present and future generations. The principle further provides that the utilization of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of present and future generations of Ugandans and in particular, the State shall take possible measures to prevent or minimize damage and destruction to land, air and water resources resulting

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<sup>30</sup> Holling C.S , Fikert Berkes and Carl Folke (1998): 'Science, sustainability and resource management', pp 342-362 in Firkret Berkes, Carl Folke, and Johan Colding, eds, Linking Social and Ecological Systems; Management Practices and Social Mechanisms for Building Resilience. Cambridge: Cambridge University Press.

<sup>31</sup> Hulme David & Marshall Murphree (2000a, forthcoming). 'community Conservation in Africa: An Introduction, pp 2-14 in David Hulme & Marshall Murphree, eds, African Wildlife & African Livelihoods: The Promise and Performance of Community Conservation. Oxford: James Currey.

<sup>32</sup> The Constitution of the Republic of Uganda, 1995 principle xiii

from pollution or other causes.<sup>33</sup> **Article 245** states that in the protection and preservation of the environment, Parliament shall, by law provide for measures intended to: protect and preserve the environment from abuse, pollution and degradation; manage the environment for sustainable development; and promote environmental awareness.<sup>34</sup>

## **Stakeholders**

The various stakeholders in the management of parks include the communities, conservation bureaucracies, local government authorities, conservation NGOs, aid donors and private business and entrepreneurs (Hulme & Murphree: 404-410)<sup>35</sup>. When evaluating the success of park management all the various stakeholders need to be considered.

A property right is 'a bundle of characteristics that convey certain powers to the owner of the right' (Hartwick & Olewiler:7)<sup>36</sup>. However 'while rights confer authority they also confer responsibility authority and responsibility are functionally linked' (Barrow & Murphree 2000: 43)<sup>37</sup>. They must be assigned together.

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<sup>33</sup> Ibid note 17

<sup>34</sup> Environmental Acts and Regulations have been enacted in line with this article

<sup>35</sup> Hulme David & Marshall Murphree (2000a, forthcoming). 'community Conservation in Africa: An Introduction, pp 2-14 in David Hulme & Marshall Murphree, eds, African Wildlife & African Livelihoods: The Promise and Performance of Community Conservation. Oxford: James Currey.

<sup>36</sup> Hartick, John M. & Nancy D. Olewiler (1998). The Economics of Natural Resource Use, 2<sup>nd</sup> Edn

<sup>37</sup> Barrow, Edmund, Healen Gichohi & Mark INFIELD (200B, forthcoming). The Evolution of Community Conservation Policy and Practice in East Africa' pp 85-105 in David Hulme & Marshall Murphree, eds African Wildlife & African Livelihoods: The Promise and Performance of Community Conservation. Oxford: James Currey

There are four main types of property rights. Firstly, there are private property rights that give 'the holder the power to the exclusive use of a natural resource' (Hartwick & Olewiler 1998:8)<sup>38</sup>. Private property is not necessarily individual property; it may incorporate property managed by a corporate, private regime. Secondly, state property, confers property rights to the state. Thirdly, common property rights are 'held by a group of individuals and excludes those not in the group' (Hartwick & Olewiler 1998: 8)<sup>39</sup>. The resulting common property resources are 'a class of resources for which exclusion is difficult and joint use involves subtractability' (Berkes & Folke 1998: 5)<sup>40</sup>. Finally, there is open access representing a lack of property rights or ownership of any kind where there is nothing to stop someone using the natural resource.

Berkes and Folke (1998:6)<sup>41</sup> state that the two fundamental management problems arising from property rights are how to control access to the resources (the exclusion problem), and how to institute rules among users to solve the potential divergence between individual and collective rationality (the sustainability problem). Ownership and tenure are central to park management, as the strength of ownership corelates closely with the strength of collective incentives to make the allocation of time, labour, land and resources necessary to make them work' (Barrow & Murphree 2000:43)<sup>42</sup>. This is very much a political issue as highlighted by Barrow et al 2000: 87), 'ownership, control of,

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<sup>38</sup> Hartick, John M. & Nancy D. Olewiler (1998). *The Economics of Natural Resource Use*, 2<sup>nd</sup> Edn

<sup>39</sup> Supra

<sup>40</sup> Berkes, Friket & Carl Folke (1998), 'Linking social and ecological systems for resilience and sustainability', pp 1-25 in Friket Berkes, Carl Folke & Johan Colding, eds, *Linking Social and Ecological Systems*. Cambridge University Press.

<sup>41</sup> Supra

<sup>42</sup> Barrow, Edmund, Healen Gichohi & Mark Infield (200B, forthcoming). *The Evolution of Community Conservation Policy and Practice in East Africa* pp 85-105 in David Hulme & Marshall Murphree, eds *African Wildlife & African Livelihoods: The Promise and Performance of Community Conservation*. Oxford: James Currey

and access to land and resources is becoming the single most contentious political issue in East Africa.

### **Participation**

**‘Participation** is a process through which stakeholders influence and share control over development initiatives, and the decisions and resources which affect them; (World Bank 1995:3)<sup>43</sup>. Participation is a political process as ‘there are always tensions underlying issues such as who is involved, how and on whose terms’ (White 1996:6)<sup>44</sup>. Participation ‘frequently involves contestation and conflict between different stakeholders with differing interests, values and perceptions’ (Hoben et al 1998:119)<sup>45</sup>. if a stakeholder approach to conservation in East African NPs is adopted then ‘all stakeholders should participate in decisions that affect their interests’ (Hoben et al 1998:112)<sup>46</sup>. The result of increased participation has potential benefits as well as potential risks. These are presented in table 2.1 below;

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<sup>43</sup> World Bank (1995), ‘World Bank Participation Sourcebook’, Environment Paper No. 019 Washington DC: World Bank

<sup>44</sup> White Sarah C (1996), ‘Depoliticising development: the uses and abuses of participation’, *Development in Practice* 6(1): 6-15

<sup>45</sup> Hoben, Allan, Pauline Peters & Dianne Rochleau (1998). ‘Participation, civil society, and foreign assistance to Africa’, in Peter Veit, ed, *Africa’s Valuable Assets. A reader in natural resource management*. Washington DC: World Resources Institute

<sup>46</sup> *Supra* 30

<b>Potential benefits of participation</b>	<b>Potential risks of participation</b>
It can bring more information and broader experience into decision making processes, contributing to the elaboration of more realistic and effective projects, policies, laws and regulations.	It may entail more time, require modifications of programme schedules, and raise up-front planning costs because of bureaucratic delays
It can help ground new initiatives on existing and legitimate local institutions and in cultural values	It may provide a forum for articulating definitive opposition from stakeholders negatively affected by the project.
It can help build political support for and reduce opposition to policy proposals, projects and other decisions by building in stakeholder concerns and taking account of their interests.	It may raise expectations that are difficult to meet.
It can help build local capacity that assist implementation and future development planning and actions, and it can enhance the prospects that those responsible will be held accountable.	It may trigger latent social or inter-ethnic conflicts.
	It may lead to policies and programs that respond to the short term interests of participating groups at the expense of longer-term sustainability option.
	It can help make the dialogue hostage to special interests that do not necessarily represent a cross-section of the stakeholders.

The benefits and risks of participation. Adapted from Hoben et al (1998) (supra)

What the level of participation should be for the different stakeholders to best achieve conservation and development goals NPs in East Africa is a problem dilemma.

According to the United Nations Food and Agricultural Organization (FAO)<sup>47</sup> Uganda had approximately 45% of its land covered by forests in 1890 by 1967 it was 14%, today it is approximately 4%<sup>48</sup> This rate is alarming where the country is estimated to be losing nearly 0.8% of its forest annually to agriculturalists and other encroachers.

The forest sector review report of 1998<sup>49</sup> indicated that Uganda wood consumption increased from 16 million tons annually in 1988 to 23.115, million tones ten years later an increase above the annual population growth rate.

A sustainable development and forest conservation project in Mukono, Jinja, and Kampala districts designed an awareness campaign to limit forest exploitation through education, law enforcement, forest rehabilitation and agro-forestry. In their research they discovered that much of the literature was not applicable to their areas of operation since it was too old and colonial. The project tried to evict encroachers where they met hostilities, which become political and made it hard to implement the forest and games acts<sup>50</sup>.

A task force was created in June 1989, including the locals in implementing the acts and protection of the forests on top of planting trees as alternative source of fuel between the forest and the settled areas. This to a given extent preserved the forest however, the project has since ended and its achievements may not be

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<sup>47</sup> FAO Report 1972

<sup>48</sup> United Nations Environmental program report 1995

<sup>49</sup> Economic evaluation of the forest sector in Uganda Forestry department 1999

<sup>50</sup> Sustainable development and forest conservation project final report Q90 pp3

sustained since no one is there to continue with this arrangement. This makes these forest exposed to destruction just as before.

Among problems encountered by this project, there was fear of patrols, which would lead to strong resentment by the community, and this deterred their public relations. This loophole made enforcement of the law a failure and it was planned on unclear policies and programs but one can easily note however, that in the development of the project the team of advisors lacked a legal officer this could have worsen the problem.

The World Bank in 1983 estimated Uganda energy resources to the 96% based on wood Fuel. This has since changed. But the project supported by World Bank “social forestry” which encouraged farmers to plant trees and focus on local communities on preservation of their forests and rehabilitating them failed and among issues raised for the Failures were, use of foreign species and overlooking the legal aspects of Forestry.

Erick Tamale Et-al 1995 five examples of the problems met for example in Uganda it was found out that Muvule trees are owned by government and one needs a permit to harvest them be it on private or government owned land. This is one of the hindrances to locals planting such a tree since it does not belong to them. However, their recommendations are that there should be research focused on farmers needs and institutional change and this can be criticized for not looking at changing the laws, which they found to be a hindrance.

Uganda has implemented some of these like enactment and remission of laws (up-to 90% received) and institutional creation as NEMA, however little research has been done and this creates a loop in how the policies should be implemented.

A report by Hamilton AC (1984) attributes deforestation in Uganda as a result of insecurity and social unrest of the seventies where he urges that the conserved authorities lost control over these resources since these places were insecure. However, studies carried out by the World Conservation monitoring center<sup>51</sup> attributes the problems too.

The non-recognition of territorial laws indigenous and traditional territories, in effective legislation, which leads to poor government control of local industries that harvest the forests with no future consideration. In a case study of Pris Morski in Russia they found poor laws as the leading cause of forest destruction, same as in Kenya where they found weak policy foundation and enforcement political factors like giving parts of the forests to government supporters and giving forest land for industrial development.

This is true in Uganda's case for example the Mabira forest which is to be degazetted to Mehta group of companies for sugarcane growing, the Namanve forest which was given to industrialists for development and the development of palm oil farms in Sese-islands, tea estates in Kabarole and Kyenjojo Districts all these projects have been carried out on either gazetted forest reserves or non gazetted reserves. These policies conflict with the law, which provides for the protection and conservation of the forests from such encroachers.

The need for laws was observed in NEAP where it was stated that:

*"The laws are used as means for implementation of policies. Environmental*

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<sup>51</sup> Addressing the underlying causes of deforestation and forest degradation. (a case study analysis and policy recommendations. World conservation monitoring center (1999) pp3



*degradation occurs partly because the laws to enforce the policies are inadequate and lack of proper tools for sound environment.”<sup>52</sup>*

This report advocated for the revision of laws and improper implementation of these laws. Just like what the World Conservation Monitoring Center advocates for that is: “protect the environment by ensuring the laws are also implemented.” Government policies and projects should not conflict with environmental conservational laws. Among international policies sighted, that has caused problems is the IMF advocacy of structural adjustment program (SAPs) which advocate for liberalization of the economy and letting the forces of demand and supply allocate resources this has led to irresponsible harvesting of forest, clearance of forests for large scale agriculture and industries (e.g. Namanve industrial park and the Palm oil project in Kalangala District.)

UNEP says part of the cause for increased wood-fuel consumption in Uganda is resulting from unreliable hydro electricity supply and ever increasing tariffs together with high population density that was 90 people/km<sup>2</sup> in 1992 and it expected to be 204 people /km<sup>2</sup> in 2012 which is more than double. This will increase pressure on land for agriculture and settlement thus more forests are likely to be destroyed.

The constitution of the republic of Uganda 1995 establishes the roles of the government and individuals in preservation of the environment and some of the above policies contradict these roles. **Objective xxxvii** provides for The state to promote public awareness of the need to manage land, air and water resources in a balanced and sustainable manner for the present and

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<sup>52</sup> National Environment Policy legislation institutional frame work September 1993 pp2

future generations.

This is emphasized in **article 245**, which gives parliament the powers to make laws to protect and preserve the environment from abuse, pollution and degradation, to manage the environment for sustainable development and to provide environmental awareness. The **sixth schedule** of the 1995 constitution of Uganda give duties of the government among them is the forest and game reserve policy.

Most of these have been done as can be seen by enactments of the laws as the National Environment Act cap 153 which provides for protection of the environment, subsidiary legislations have been done as the environment impact assessment regulations 1998 (SI — 13 of 1998) which provides that before a project is done its impact on the environment should first be done through the Ministry responsible. The National Environment (designation of environment inspectors) Notice 2000-legal Notice 5 of 2000 that provides for inspection of all industries at any time to ensure that they comply with the environmental regulations.

**Other Acts as the Land Act cap 227** laws of Uganda, which provides for district owning forests and game reserves on behalf of the people and the Local Government Act cap have all been enacted. However what lacks is the public awareness of the laws and implementation of some of these laws as the land act, which has been criticized for being in applicable. This has made such regulations remain on paper than being physically implementable.

The broader vision for forest conservation recognizes that achieving and sustaining forest conservation also requires the integration of social; and economic goals into conservation planning processes which in a wider a sense involves laws and regulation.

Furthermore, Peter C. Howard in his report Nature Conservation in Uganda's Tropical Forest Reserves confirms the role of forestry in the national economy amongst other things in the sector. The report arose from a 3-year survey of the status of Uganda's 12-principle tropical forest reserves carried out between 1985 and 1988.

He writes that forests satisfy energy and industrial product needs, provide essential environmental services that support Uganda's agriculture, sustain her water supplies and protect her soils. The author notes that there have been efforts to sustain forests by government ever since time immemorial. The British established the idea protectorate government and further manifested itself with the establishment of the FD and the adoption of a Forestry Policy in 1929 by the then government. Howard argues that the British Protectorate initiate the establishment of forest reserves Government and was enforced by the FD that designated Forest Nature Reserves and the legal protection afforded to them was derived from paragraph 13 of the Forest Act.

In the report, Howard recommended in line with an appropriate legal and administrative framework for effective forest conservation that the Uganda government with assistance from the International Union for the Conservation of Nature (IUCN) should coordinate the development of a National Conservation Strategy.

He further advised that the laws of Uganda relating to the management of natural resources and protection of the environment be revised making

provisions for increasing the penalties for violations of the law so that they serve as effective deterrents.

This piece of work is relevant to the study in such a way that it brings to our notice the efforts through the years to conserve confirming the fact that it is an issue addressed from way back in time. However, there is need for added vigilance.

### **1.8 METHODOLOGY**

Literally interpreted it means the method to be used by the researcher in data collection in the field. Therefore in my data collection I proposed for different methods of which I applied depending on how effective it was to the specific place or places and to the specific group of individuals.

### **1.9 RESEARCH DESIGN**

The researcher chose the local communities bordering the Mabira forest, the management of the forest, the LCI, chairpersons as the respondents during the research.

A number of research tools were used in order to get information from the respondents and these tools included interview schedule, interviewing using questionnaires and observation methods.

Using these research tools, the researcher created a friendly environment which made him possible to make the respondents friendly enough and indeed the respondents were able to give enough information about management and conservation of Mabira forest. The information got enabled the researcher to

compile the findings of the study.

From the initial stage two sub-counties such as Buikwe and Nakifuma research areas were chosen for the reason that they were part of Mabira forest that are currently proposed by the government of the republic of Uganda to be allocated to sugarcane corporation Uganda limited (scoul) for the sugarcane growing and the proposal made by the president H.E Yoweri Kaguta Museveni brought many tensions between the government authorities and the communities around the forest. These tensions and misunderstandings between the government and the communities around the Mabira forest was extended to other cities like Kampala where there was outbreak of many riots in Kampala where there were headed by the woman member of parliament of Kitgum, Madame Anywera Beatrice challenging the presidential directives of give away Mabira to the scoul for the sugarcane growing.

These riots cost many lives and destruction of properties in Kampala

### **Selection of the study samples**

Top management of Mabira forest was purposively selected for the study. The selection was purposively because of the position held, and expected knowledge about the study problems being investigated.

Two villages from Buikwe sub-county and three villages in Nakifuma sub-county were purposively selected for the study. The villages were in close proximity with the Mabira forest.

Five local council, LC1, chairpersons were also purposively selected from each of the villages selected. This was because of their position that they could cooperate with the researcher during the investigation

The researcher obtained the sample of men and women in each village selected

from LC1 chairpersons' register. From the sample, 10 people were randomly selected a total of 50 people were selected for interviews.

The researcher however interviewed up to 6 people in each village. The total respondents interviewed were 30 people. Initially the researcher chose a large sample to cater for non-response of some respondents. 30 respondents were considered number for generating the findings. In total, 38 respondents participated in the study.

### **Methods of data collection**

Various research tools were employed by the researcher during the process of data collection all of which were aimed at obtaining the answer and achieve the needed objectives of the study.

### **Interview schedule**

The researcher designed a number of questions that were orally administered to the purposive sample (these are Mabira forest wardens and local councils).

The questions were designed in a way that they desired detailed and specific information as regards management and conservation of Mabira forest. This was done after making appointments with the different respondents which enabled them to be prepared and give detailed information, while answering the questions the researcher technically enticed the respondents so as to give proper information and this included making respondents feel free to interact with the researcher hence enabling correct information to be given.

### **a) Questionnaire**

Here a researcher shall formulate questions on papers relating to this topic of the study and the information to be gathered. It is then to be sent to particular individuals such as I shall send to local environmental officers and district environmental officers as well as some lay people in the locality such that. They

can use their own views to answer the questions put to them in my questionnaire.

The researcher shall do this in areas where it will be difficult to access information from the public personally or where there is a suspect that, people may fear to reveal the information to the interviewer in person.

### **b) Interviewing.**

This is a method a researcher expected to interact and question the respondent on the relevant issues pertaining the subject matter of the research. The researcher then takes the relevant information answered by the respondent as the respondent may be giving rational information that both relevant and irrelevant to what the interviewer wants. It was an exercise carried out orally with local individuals and environmental officers relating to my area of study. I considered different categories of people basing on their age brackets, and sex.

### **c) Observation**

This is where a researcher is expected to see with his naked eyes and be able to assess the impacts on the observable facts. It is in this method a researcher is expected to relate the information given in other method with what he actually sees on the ground. Therefore a researcher owes to be critical in analyzing of the information he gets from some other different ways or methods. In doing this visit and having a clear look at Mabira forest being affected by government's proposal to give it to Mehta to expand their sugarcane plantations as well as people's recreations.

In this method will also attend open seminars and workshops, demonstrations if time allows and if its constitutionally granted which mainly discuss environmental matters especially the giving away of Mabira forest.. I will also be able to listen to discussions aired on radios and televisions read news papers

attend some community discussions relating to environmental conservation matters.

**d) Library consultation.**

Through this method the researcher is able to consult a number of books literature magazines, pamphlets, news papers, formulas to find out and review the information contained therein relating to forest protection and conservation in particular and the surrounding environment at large.

The researcher also visited quite a number of libraries for instance KIU, LDC library-Makerere institute of Environment and Natural resource, NEMA library.

The researcher looked at various legislations which among others include the 1995 constitution, NEMA Act National Forestry and tree planting Act, National Environment Act, and Journals.

**Document survey**

The researcher had to consult very many publications as regards management and conservation of Mabira forest. These documents revealed what other writers have written about the management and conservation of Mabira forest. The publications were got mainly from Makerere University Main Library, Geography Department Library, Uganda Wild Life Authority Library, Law Development Center Library, KIU Library; others include papers presented by various personalities on management and conservation of protected areas particularly on Mabira forest. The researcher was thus able to get enough information from these publications which were then supplemented by the intended respondents in the field and these include the Mabira forest protected areas management committee and local council.



### **1.10 HYPOTHESIS**

The researcher hold the opinion that protection and conservation of Ugandan forests is such that securing its nature under the National Forest Act is a question of procedure and law.

The following and other working assumptions as derived from the Hypothesis. Were tested by the author in due-course of the study.

- i) The nature of protection and conservation of forests is such that execution of contractual obligations under various forestry Acts is a subject to the discretionary powers of protecting forests as against the illegal destruction of forests.
- ii) Ignorance of law in respect to protecting forests invites a legal attitude in forestry to the effect that they are reluctant to lodge claims for illegal cutting of trees.
- iii) Fraud and illegal conduct does a dis-service to forest encroachers which would otherwise require that punishment be effected with due regard to the circumstances of that nature.
- iv) It is our jurisprudence, that judgment cannot be delivered in another that is still subjudice, it would therefore be idle, for the author to aspire, to avert that these assumptions explain why encroachers of forests are indemnified or not, under the National Forestry Act when liability accrues and it is on these premise that the author proceeded to conduct the study in order that he establishes the facts behind the protection and conservation of forests in Uganda.

### **1.11 PROBLEMS ENCOUNTERED**

The researcher encountered very many problems which were bound to make the research fail and among these problems include the following;

There were financial problems; the money for transport to the Mabira forest, feeding and compiling the report was not available. This delayed the whole plan of the research and threatened to fail the research.

In some parts of the Mabira forest the local people were not cooperative especially in Buikwe where the locals mistook the researcher to be an agent of the president Yoweri Museveni Kaguta so getting information was difficult.

Security problem also created fear in the research since the people around the Mabira forest mistook me as an agent to the president H.E Yoweri Kaguta Museveni. The researcher was thus scared and feared for his life and hence did not visit some parts of Mabira forest and data were not collected from those areas with severe security threats.

Also around the Mabira forest, the researcher found it difficult to connect to the different areas seriously affected by deforestation since he had no personal vehicle to visit these areas and hence he failed to collect data from these areas.

Further more, there was a problem of general fatigue of the researcher since some respondents were refusing to give information. This was overcome by explaining the purpose of the study and the researcher properly identifying himself.

Time and financial constraints delayed the study, but however the researcher followed a strict time schedule and got finances from friends and personal savings. This made the research a success.

## CHAPTER TWO

### 2.0 THE LAW ON FORESTRY IN UGANDA

In Uganda the first law on forestry was the 1889 Africa order in council, which was made by the British and focused on general utilization of forests. In 1900 the first forest protection regulations were enacted with an aim of effective utilization of forest resources for commercial purposes. It generally specified forests under government control, and other areas to be settled soon after 1902 Uganda order in council was enacted followed by the forest **ordinance of 1903**<sup>53</sup> that specified ownership and right to exploit the forests for commercial purposes. These rights were invested in the hands of the government.

In 1913 a new ordinance was made which repealed the old ordinances. But on the part of forests it did not differ much from the 1903 forest ordinance. Another ordinance was made in 1934 and this mainly timber and poles (for industrial use) for export. This was the export of timber ordinance<sup>54</sup>, which was amended in 1938<sup>55</sup> and later in 1947<sup>56</sup>, which established the protected forest reserves. Amendment created the first protected areas which included Mabira forest.

After independence in 1962 a new forest act was enacted and this looked at ways of preserving the forests. It should be noted that as opposed to the old laws, which looked at the economic value of the forests. This aimed at conserving and effective utilization. It is this law forests act that still used as the

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<sup>53</sup> Number 6 of 1903

<sup>54</sup> Number 9 of 1934

<sup>55</sup> Number 7 of 1938

<sup>56</sup> Number 28 of 1947

“act to consolidate law relating to forest and forest reserves” it is thus an act to consolidate other acts and statutes and all the others fall under this act.

However, by virtue of **Section 14[2] of the judicature Act Cap 13** in instances where the Acts do not cover the particular areas rules of equity, common law and customary law will prevail.

The National Environment Act which aims at providing for sustainable management of the environment, establish an authority as a coordinating, monitoring and supervisory body for that purpose and for other matters incidental to or connected with the forest conversation.

However, much as these laws are not implemented or do not cover some specific areas, the forest Act for example does not look at grazing, camping, fishing erection of building for recreation and other purposes. The Act just prohibits such activities but does not talk about what happens when these activities are in existence before the forest is declared a protected reserve. This has been a cause of conflict in many forests for example Mabira forest was in the process of being degazetted to sugar corporation of Uganda Limited (Scoul) for sugarcane growing which resulted to detention of members of parliament like Honorable Anywar Betty woman Member of Parliament for KITGUM DISTRICT and more other who protested against the giveaway of Mabira forest to the above named company.

Due to corruption and lack of follow-up the issuing of licenses for utilization of forest resources as provided for under S. 11 of the forest Act has been abused. S. 11 (3) of the Forest Act Cap 146 gives local authorities powers to issue such licenses but with lack of proper supervision, political influence (local politics) and ignorance of the local administrators of the laws governing forest these

powers can lead to destruction where licensing officers are not considering the future value of the forests.

Besides the laws are hard to implement, In the case of "**RWABITONTOZI AND KINYONYI V UGANDA**"<sup>57</sup>. The two accused were convicted on their own pleas of guilty by Magistrate Grade II of illegal occupation and grazing in a forest reserve and each was fined 500 shillings or 3 months imprisonment on default. They were also ordered to quit the area within 30 days.

On appeal they were acquitted on grounds that the Magistrate Grade II had quoted wrong sections and that the accused could not easily establish a new life within 30 days

One can say that ignorance of the law on the part of the Magistrate let them off despite a plea of guilty. On the other side the fines and punishments provided under the act can no longer serve its original purpose of restricting/deterring encroachers.

**S.20 of the forest Act cap 146** provides that "where any person is convicted of an offence under the act or any rules there under for which no special penalty is provided he shall be liable to imprisonment for a period not exceeding six months or a fine not exceeding two thousands shillings or both". This is too low compared to today's situation. In these situations offences which may be done as provided by Part V, include cutting, taking, working or removing forest

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<sup>57</sup> (1979) HC[3 pp2

produces without a license (Sec. 14 & Sec. 18), forging or counterfeiting licenses and permits or others documents.

**Sec. 14 of the Forest Act** provides for domestic use of forest resources, where it says subject to and in accordance with any rules or exemptions made under the provisions of this Act. Africans may take their own personal domestic use in reasonable quantities any forest produce which;

- a). Is not declared by any such rules to be reserved forest produce and
- b). Has not been planted by any person.

This provision gives a chance for illegal exploitation. One cannot clearly control illegal use of forest products if people are let in the forest. Activities like charcoal burning and firewood are the major causes of forest distraction and yet this is done mainly for domestic purpose and this section protects them.

This is again contrally to the present government policy where some forests have been made strict reserves (for no harvest) restricted reserves and those to be harvested. The conflict in the law and policy is due to the fact that the law is too old and this does not cater for modern demands.

The failure by the law to protect the forests can also be seen in the case of **YOSIA MUSOKE Vs. R**<sup>58</sup>. The appellant was convicted of clearing a forest reserve without a permit. On appeal it was argued that temporary occupation license issued to the appellant under the crown land ordinance were sufficient license or permit for the purpose of Section 14 (2) (b) of the forest ordinance. It was held that the permit granted under the ordinance to occupy crown land is

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<sup>58</sup> 1958 E.A 751

not equivalent to a license to perform certain specified Acts.

From the facts above it can be seen that certain acts / activities were allowed to be carried out in forests, which also leads to deforestation.

On compensating the government in case one has illegally obtained forest produce, S. 27 of the Forest Act Cap 146 allows a forest officer to accept compensation for offences in case he deems proper and in substitute of proceedings provided the offences is not under Sec. 19 of the same Act.

**Section 19** of the Forest Act is ambiguous and promotes corruption what will happen in case the same officer has interest in the activity (the illegal produce). This can let many suspects off the hook as long as they are able to pay the forestry officer. It also provides the amount to be compensated the maximum of which is I, 000/= shillings. This is too little compared to whatever value would have been taken.

As already seen the forest Act due to its being old can no longer meet today's demands much of it cannot be implemented or has got loopholes that will be exploited by people who want to use the forest resources without being restricted by the law. The researcher thus suggests an amendment of the whole Act or creation of new laws.

The Act only provides for appointment of senior officers (S.2), but even these officers are not law enforcers. There is need For the law to empower law enforcers like Forest rangers who should guard and patrol the forests to protect them from encroachers.

## **CHAPTER THREE**

### **FINDINGS FROM THE FIELD**

#### **3.0 INTRODUCTION**

This Chapter covers research findings. The findings are presented according to the study objectives and are in form of descriptive and statistical data.

#### **3.1 FACTORS LEADING TO INCREASED DEFORESTATION OF MABIRA FOREST**

Nearly all respondents acknowledged the presence of forest destruction factors as clearing of forests for new farmlands, charcoal burning, timber harvesting and cutting of trees for firewood. These factors were attributed to having resulted from the need for agricultural production and economic needs which has led to increased timber harvesting charcoal burning, firewood production, lack of land for expansion where farmers have been forced to encroach on the forests in search for new lands and migration of people.

On migration most respondents said that people have come to this area to work in the sugarcane plantations of Soul. These people end up settling in neighboring areas thus there has been sudden population increase. Related to this is the expansion of the sugarcane plantation agriculture which has led to physical destruction of forests for new sugarcane plantations. The plantations cover great areas which have led to a big forest area being destroyed.

Its notably observed that human activities has been subject to extensive encroachment, pit sawing, charcoal burning and hunting for many years. In the 1970s and 80s politicians encouraged many people to leave their homes and re-establish in specially cleared areas of the forest. These immigrants came from



many parts of Uganda in particular from east of the Nile. This single act caused much disturbance to the forest and it's estimated that 15% of the reserve was cleared to accommodate the settlers. The encroachers were evicted in 1988<sup>59</sup> after a much publicized action by the forest department.

In the focus groups discussions it was raised that there's increased scarcity of firewood. In their context firewood used to be collected by women and children who would get dry wood from the bushes and forests around. Today men have to cut down trees to let them dry for firewood.

Key informants gave political influence as one factor leading to increased forest destruction. One key informant (identity not to be given because of a promise of confidentiality) sighted a prominent politician who wants to take over part of Mabira forest comprising of over 7,000 hectares of land to Mehta group of companies for sugarcane growing which nearly resulted into armed resistance whereby "Kiboko squad" <sup>60</sup> was formed to combat the citizens who were demonstrating over the giveaway of part of Mabira forest to Mehta group of companies. This demonstration resulted into detention/remand of top politicians of the country like Anywar Beatrice Atim Woman MP for Kitgum District Uganda young democrat vice president Mukasa Mbidde and others at large. On release by bail they were asked to answer charges of murder, inciting violence looting of property/merchandise amongst the 21 detainees. I asked an active informant and politician of the area to as why he did not participate in Mabira give away demonstration and this is what he had to say "I have no powers to control the big man and if I try, I fear losing my job or he may just transfer me which I do not like."

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<sup>59</sup> The eviction of encroachers in 1988

<sup>60</sup> Daily Monitor news paper in April

This shows powerlessness, if a forest officer fears doing his job (to protect forests) then who will. This factor is related to what many respondents said as a cause to destruction of forests in their area. They blame extensive cutting of trees for timber and charcoal burning on corrupt officer. In a focus group discussing one respondent said “I used to deal in timber, but the district officials stopped me that I did not have a license. When I paid it, they said I should pay to transport my timber to the district where it should be counted and cleared for consumption. In the end I was frustrated and I left the business. But the rich who can pay or bribe those officers can cut and transport timber easily.”<sup>61</sup>

The researcher raised the same view in another discussion with the youths who said its true many people especially those who cut timber and charcoal first bribe the forest officers or the rangers so that they don't report them to higher authorities.

Another issue raised was the conflict on interest between those supposed to implement the law and personal economic needs. They argued for example that some forest officers and rangers are physically engaged in timber cutting and charcoal burning. However the key informants denied this. A person from the district forest officer said no one from their office is involved in such because if they did they would loose their jobs and no timber or charcoal burner is in the district and operates without a license.

Lack of land for agricultural activities was also raised as a factor leading to deforestation 72% of the respondents gave this as a factor. This issue was also raised in are focus group discussions where respondents gave examples that

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<sup>61</sup> Respondent from the field

the youths who do not own land have nowhere to go since culture demands that at a given age they have to leave their parents homes. This is true given the fact there are low literacy rates and most people are agriculturalists. This is seen around the Kampala-Jinja highway where fruits such as Jack fruits, fresh bananas, Tomatoes, "Gonja" etc (refer to table below).

**Table I showing Employment of Respondents**

NATURE OF EMPLOYMENT	NUMBER OF RESPONDENTS	PERCENTAGE
Agriculture	42	42
Working in Scoul	20	20
District workers	18	18
Shopkeepers	16	16
Others	04	04
Total	100	100

Still on agricultural land, some respondents blamed destruction of forests on expansion to sugarcane plantation. They cited examples of Scoul sugarcane out growers and some local farmers who encroach on the forest.

Also are forest extension staff at the sub-county level said its true but the cleared lands are on to some extent private holdings and so they have limited power over them even though the trees are not used for charcoal or timber which is prohibited and supposed to be licensed or controlled.

The researcher found this alone dangerous than mere tree cutting. According to the forest officers, these trees are dumped somewhere, they either rot off or villagers collect them as firewood for domestic use or brick burning. In this case

important tree species are wasted; wood with high economic value is also wasted and left to rot or used as firewood.

Forest officers say they have nothing to do to control this firstly because there will be antagonism with the Government Development Program (modernization). Secondly some of these factories, farmers and out growers have NEMA certificates on Environment impact assessment which gives them ago ahead which results into destruction of Forests on top of wasted resources (where trees are dumped and left to rot). This is alarming since most of these trees have taken over 40 years to mature. If few ones are planted it will take the same time for the new trees to have the value that has been lost.

On this the researcher discovered that there is a conflict of interests between the different government needs. The need for modernization and the need to protect the environment these is no appropriate policy to handle the short come effects and long-term effects of the projects on the environment. True the environmental impact assessment caters for the possible effects to the community. In this case the wood from cut down trees would be utilized effectively so that the community enjoys maximum benefits.

Over 90% of the population around Mabira forest is rural, with subsistence agriculture being the dominant economic activity. Table 1.1 describes the population of the area. Significantly, in some sub-counties bordering Mabira forest, rural population densities reach over 600 people per km<sup>2</sup>. these extremely high population densities on the borders of the forest testify top the soil fertility and reliability of rainfall in these areas.

Sub-counties	Population /1000s		Mean annual % increase,2006-2011	Population density/Km <sup>2</sup> (2011)
	2006	2011		
Buikwe	2006	2011	2.2	282
	556.9	706.6		
Nakifuma	74.0	116.3	4.2	67

**Source: Table 1.1 population by sub-counties, 2006 and2011.**

Taken from Uganda Wildlife Authority (2011): outputs of the Task force on collaborative management for Uganda wildlife authority draft, Kampala Ministry of Tourism, Wildlife and Antiquities.

The combination of high population density and a strong dependence on agricultural activities has led to severe land shortages for the forest adjacent people. With undersourced educational facilities and few job opportunities the younger generation will increasingly be dependent on a small and usually inadequate share of their family's fragmented land. An unwelcome effect of intensification of landuse is that soil fertility is declining and soil erosion is an increasingly serious problem.

Further more, people around the Mabira forest are forced to encroach the forest in order to get land where to grow their crops hence deforestation of the Mabira forest.

The table showing size of holdings in Buikwe and Nakifuma sub-counties in Mukono district

Size of holding	Hectares	
	Buikwe	Nakifuma
Under 1	80.1	74.8
1-2	13.6	17.5
2-5	5.5	6.7
5-10	0.8	1.0

From Uganda Wildlife Authority (2011): outputs of the Task force on collaborative management for Uganda wildlife authority draft, 30 November. Kampala Ministry of Tourism, Wildlife and Antiquities.

The dominant illegal activities around Mabira forest by the community around the forest and other government policies are the great threat to the conservation and management of Mabira forest.

The management of Mabira forest said the highest level of illegal activities such as entry without the permission around the Mabira forest are cutting the trees, burning the grass, settlement, bringing in domestic animals, driving off road, hooting and littering was one of the factors that resulted to the destruction and deforestation of Mabira forest.

The management said the highest level of illegal activities was in 1970 during Idd Amin regime and even the Ministry of Tourism and Wildlife (1986)<sup>62</sup> reported that during this regime of Idd Amin, hunting in conserved areas especially

<sup>62</sup> A perspective plan for Uganda Tourism

forests, national parks, game reserves was encouraged so as to finance the armament that the president Idd Amin need to equip his increasingly violent army.

However, in 1986 when Yoweri Kaguta Museveni took over power, the levels of illegal activities reduced in Uganda's protected areas since the government became committed in promoting conservation of environment and promotion of tourism, many bodies were formed to ensure protection of the protected areas and these include Uganda Wildlife Authority and National Environment Management Authority (NEMA).

The respondents interviewed were all aware of what illegal activities in the forest (Mabira forest) and existing laws. This therefore, showed that to a great extent, the communities around the Mabira forest are aware of the existing laws governing the protected areas.

When asked about the law that is more effective in the protection of the protected area like Mabira forest, they told me the 1995 Ugandan constitution, the Wildlife Act, The Land Act, The National Environment Management Act.

This therefore, shows that the citizens know some laws relating to the conservation of the environment.

Further, this showed to me that, the blame should be shifted on the government for the failure to implement such laws regarding the conservation and protection of the protected areas in Uganda especially Mabira forest.

The management of Mabira forest also said, although there are laws in place regarding to conservation and protection of protected areas, however such laws

are non-functional in that political influence affects environmental management. They argued that institutions such as the National Environmental Management Act and the Land Act have been politically influenced and therefore, cannot stand as an independent body that can make independent decisions. For example the government decided to allocate 7,100 hectares (approximately 25%) of Mabira forest to the sugarcane corporation of Uganda limited without consulting the communities around the forest, nor the Mukono district land board.

Further more, the government never followed the procedure required under the National Environmental Act to carryout the environment impact assessment which is a condition to be followed before the government grants a license to any person to carry out a particular activity in the protected areas.

Table 1.3 Showing list of activities considered illegal in the Mabira forest by the communities around.

Settlement in the forest
Encroachment on the forest
Cutting down the trees
Trespasses
Bringing domestic animals in the forest
Hooting
Littering
Driving off the road

Source: Field survey data 2014



**THE EXTENT TO WHICH A RIGHT TO A CLEAN AND HEALTH ENVIRONMENT HAS BEEN OBSERVED IN UGANDA ESPECIALLY AROUND MABIRA FOREST**

The forest management suggested ways at which a right to clean and health environment has to be observed particularly to the communities around the Mabira forest. This is shown in table 1.4 below

Table 1:4 The extent to which a right to health and clean environment can be observed in Uganda particularly to the communities around Mabira forest.

Methods	Number of respondents	Percentage
Imprisonment	1	14
Patrol by forest management wardens	2	29
Sensitization	1	14
Buffer zones fund	2	29
Infrastructure development	1	14
Total	7	100

**Source: Filed survey data 2014**

Table 1:4 shows that 29% of the respondents advocated for patrol by forest management as the best way to control illegal activities in protected areas around Mabira forest, that results to the deforestation, another 29% advocated for giving buffer zone funds as one way of controlling illegal activities in protected areas that degrades the environment especially around Mabira forest, 14% of the respondents said imprisonment of the culprits is the best way of controlling illegal activities in protected areas and another 14% preferred developing infrastructures as a way of controlling illegal activities such as trespassing through the forest which is also one of the illegal activities carried out by the communities around Mabira forest that is one of the worst illegal

activities that results to the degradation of the Mabira forest.

The 14% of the respondents further said that sensitization to the communities around Mabira forest about its usefulness in conserving the environment around will help the people to reserve the forest thereby enabling them to enjoy the right to a clean and health environment enshrined **under Article 39 of the 1995 Uganda constitution**.

However, the researcher found out that there are no proper arrangements to hold meetings between local people and protected area management committee. And this explained why local people participated in legal activities that degrade Mabira forest since they were discontented with the problem they faced because of being neighbours to the forest.

The local people interviewed about the frequency of meetings they held with the protected area management committee responded in the table 1:5.

Table 1:5 showing frequency of meetings with the protected area management committee and local councils

<b>Regularity of meetings</b>	<b>Number of respondents</b>	<b>Percentage</b>
None	16	53
Every month	2	7
Once a year	4	13
When animals crossed	8	27
Total	30	100

**Source: Filed survey data 2014**

From the above table majority of the respondents stressed that the right to clean environment which is protected for under **an article 39** of the 1995 Uganda constitution and is also enshrined in **section 3** of National Environmental Act

Cap 156 which provides that every person has the right to a clean and healthy environment and every person has a duty to maintain and enhance the environment, including a duty to inform the authority or local government management committees of all the activities and phenomena that may affect the environment significantly. The authority or local community so informed is entitled to bring an action against any other person whose activities or omissions have or are likely to have a significant impact on the environment.

However, the researcher found out that there was no proper arrangement to hold the meetings between the local people and the protected areas management committee.

Table 1:5 shows that 53% of the 30 respondents did not have meetings with the Mabira forest management committee members or the LCI chairpersons. 7% had meetings every month. 13% had meetings once a year. 27% had meetings when there are many people around the forest involved in illegal activities within and around the forest especially encroachment on the forest, massive cutting of the trees or where there is any rumors that the government is going to allocate part of the forest to sugarcane corporative Uganda limited (scoul) for sugarcane growing.

**Table 1 shows local people interviewed about the level of enjoyment of the right to clean and healthy environment around Mabira forest**

Rate of enjoyment	Number of respondents	Percentage
High	6	20
Little	14	47
Poor	10	33
Total	30	100

**Source: Field survey data 2014**

Table 1:6 shows that 20% of the respondents had high enjoyment of clean and health environment. 47% had little enjoyment while 33% had poor enjoyment of the right to clean and health environment. Thus 80% had little or no enjoyment of the right to clean and health environment.

When asked the respondents why they have enjoyed the right to clean and health environment to such extent, the responses were as shown in the table 1:7 below.

**Table 1:7 showing the extent how the right to clean and health environment was enjoyed around Mabira forest**

Types of cooperation	Number of respondents	Percentage
Very good	6	20
Fair	14	47
Poor	10	33
Total	30	100

**Source: Field survey data 2014**

Table 1:7 shows that 20% of the respondents had very good cooperation with the Mabira forest management committee members or LCI chairpersons. 47% had fair cooperation while 33% had poor cooperation. Thus 80% had very good or no

cooperation with the Mabira forest management committee members of LCI members.

In fact all seven (LCI chairperson and the Mabira forest management chairperson committee members) said the community viewed them as spies of president H.E Yoweri Kaguta Museveni. This explains lack of cooperation with them. This means that the respondents have not enjoyed the right to a clean and health environment due to the fact that there is no good cooperation between the community members around the Mabira forest and the Mabira forest management committee members and the LCI members who are the people supposed to promote and implement institutional framework on environmental legislation.

### **3.2 WEAKNESSES IN THE IMPLEMENTATION OF LAW ON FORESTRY IN UGANDA.**

In order to establish weaknesses in the law implementation other than these already seen in chapter 2. The researcher wanted to know the law implementation, taking in mind the fact that even when a law is clear it may be hard to implement. Only 10 respondents out of 100 of the respondents managed to highlight the offences as, cutting trees without a license and encroaching on forestland. Even forest officers could not give the exact offences yet these are the people supposed to implement the law.

Similar results were got from a focus group discussion. This was a group of selected participants during the discussions and they could not give the laws. More so it was discovered by the researcher that a law like the National Environmental Act cap 152 which directly relate to the forest is not known by both the implementers (forest officers and rangers) and the general public. No

one in a focus group discussion acknowledged to have ever heard of these laws. The district and other local councils do not have any bye-law to protect the forests. A member of the district forest officer said.

Both respondents and focus group discussants said it's the duty of forest officers to implement the laws but however they seem not to establish a difference between forest rangers and other forest officials. None of the respondents acknowledged to have ever seen forest rangers, either on patrol or inspecting the forest. It is only focus group discussants that said that the rangers move around mainly when they suspect that someone is cutting timber or burning charcoal they come to stop those clearing forests for cultivation, timber, charcoal, firewood. A key informant from the sub-county forest extension staff supported this similar argument. He said since cultivation and firewood lie in line with domestic consumption they could not stop them.

Although this particular respondent did not know any section in the Forest act. His argument is in line with that of the act which provides for any African to use the forest products (even when it's a gazetted Forest) for domestic but provided no one planted it. The same respondent said that at times they allow people to cut trees for timber or burning charcoal provided they are satisfied it's for domestic consumption.

However this can easily be abused. It's hard to establish the amount of timber, charcoal, firewood enough for domestic use since even those who do it for business purposes do it on a small scale such that the difference between a domestic user and a business man is minimal.

On how offenders are handled the researcher discovered that forest officials often confiscate the tools one is using and the timber or charcoal. It's assumed that this will make one pay the established fee (fine). The confiscated products

are taken to the district headquarters. Many officers looked unsure of what happens to the confiscated products. In case one does not pay the fine no criminal proceedings are brought against him, it's only the property which is confiscated. It's no wonder that few forest cases have been brought to court and this is not only in the case study area but the whole of Uganda.

On forest patrols it was discovered that the forest rangers are not armed. This makes them vulnerable especially if they are to track down some criminal poachers of forest products. All the forest rangers do is to spy on those encroaching the forests(for the case of protected reserves) those cutting timber or burning charcoal without a license and report them to the sub-county extension staff, who in turn comes with the LCs and confiscate their tools.

It was noted however that some LCs connive with the culprits and help them escape together with their products and tools. This remains a big obstacle in areas where LCs are not co-operative.

The researcher discovered that **S.16 of the forest Act** which provides for calling up for all able bodied men in case of fires remains redundant since no one said he had even been called up to stop spread of fires do not occur in this area. All that is done is in case it attacks friends. But here it was also noted that this is common in case the fire is feared to destroy things like a house or animals. For crops (trees and forests inclusive) they normally let the fire go off by it self. This could be mainly because people own small plots of land separated by (hot paths and the weather keeps most vegetation green throughout the year thus it has not occurred that the fire destroys crops, trees to such an alarming proportion.

Much as the law is in place, little has been done to implement it; even few sections of the laws that are implemented are not well implemented. This has

left many people ignorant about the law, which includes both the implementers and the general public. More so the forest Act does not provide for forest rangers. This lack of being recognized by the law is partly the reason as to why there are not active. They just work as secret agents who give information to top officials.

There is no link between forest officials and the police mandated to keep law and order. The police would be directly involved in the implementation of the forest Act and arresting of offenders. Key informants said that at times they go with LDUs. But LDUs are neither trained to conduct arrests nor is there any law that mandates their activities. Thus if challenged in court it is most likely that such an offender can successfully resist against the arrest, detention or any other thing that could have been done to him hence with this one can say forest officials 'operate by crisis'.

### **3.3 EFFECT OF DEFORESTATION**

The researcher found out the following effects of deforestation.

- ) Climatic changes. Large deforested areas can cause undesirable climatic change, such as decreased rainfall or can contribute to global warming thus damaging the o-zone layer.
- ) Decreased Biodiversity. Loss of sustainable forest is accompanied by loss of habitat, species and genetic diversity and loss of non-timber harvests.
- ) Erosion of top soil, Nutrient loss and leaf litter which allows uncontrolled runoff during rains thus making reforestation and farming difficult.

Apart from the already established effects of deforestation like increase in temperature, reduction in rain fall, climatic change/extremes. Expiration of certain species (both plants and animals) thus increasingly becoming scarce.



Women (who traditionally had the role of collecting wood for fuel) argued that they were moving long distances to collect firewood as opposed to the old system where the forests were nearer. More so the firewood in these forests is very competitive. One discussant said, "In old days you would find dry piece of wood anywhere, today it is hard to find it so what one has to do is to cut wood that is wet and take it home and dry it."

This trend if not checked will lead to more scarcity and more destruction of forest since over 68% of fuel in Uganda is got from wood.

## **CHAPTER FOUR**

### **CONCLUSIONS**

#### **4.0 INTRODUCTION.**

This chapter includes conclusions the researcher made after analyzing the law and what he found on the ground, it is discussed according to the objectives of the study.

#### **4.1 FACTORS LEADING TO DEFORESTATION**

Clearing of new farmland, charcoal burning, timber harvesting and cutting of trees for firewood were the main factors raised as a cause of deforestation in the area. The researcher found out that there is a big discrepancy between the implementation of the law what the law says. Many respondents did not know of any offences under the forest Act. The researcher thus concluded that ignorance of the law on the part of those supposed to implement it (forest officers) and the general masses has led to irresponsible use of forests.

This works with other factors like lack of coordination among the law enforcers e.g. the police is not used when conducting arrests of illegal forest harvesters. This has created a loophole which forest harvesters have used to exploit the forest. A conflict of interest exists between the government policies. This is due to the desire for modernization against the need to protect our natural resources. The end result has been a destruction of forests to give way to industries and other commercial entities.

#### **4.2 WEAKNESS IN THE LAW**

The laws themselves are weak; they do not cater for most of the needs in today's society. For example natural forests on private land are not catered for, but only prohibition of harvest of trees such as Mahogany, Muvule and Elgon on private land for timber or charcoal burning of any type of trees without a license. This

does not cater for those who clear such forests for farms.

On the part of implementation, the Act is not clear. It does not provide for private forests guards or rangers. This limits the powers of the forest rangers we have today since they are not mandated by law. Most forest officers are neither lawyers nor paralegals they know little or nothing about the law and thus cannot prosecute offenders or protect the forest clearly.

#### **4.3 EFFECTS OF DEFORESTATION**

Deforestation has negatively affected the area in which this study was carried. This particular area in this study was carried. This particular area faces a scarcity of forest products as firewood charcoal, local foods such as Mushrooms. This is likely to increase the costs of living and poverty levels that come with problems as diseases, famine and high mortality rates.

## CHAPTER FIVE

### RECOMMENDATIONS

#### 5.0 INTRODUCTION

The chapter has got recommendations which the researcher made after analyzing the law and results from the field which include how the law has been implemented, problems faced by the implementers and if they have tried to overcome them.

The chapter has recommendations, which the researcher feels should be done both in the law and in the general administration of forests, which will help conserve the forests and protect the environment.

#### 5.1 RECOMMENDATION ON THE LAW

The forest Act (cap 146] needs to be over hauled, repeated and replaced by a new Act that can cater for modern needs. It should specifically look at providing for different punishments like fines, imprisonment not like it is today where the highest fine is 10, 000/= there are valuables that cannot easily be put in monetary terms as societies/communities social and religious attachments to some of the forests and religious attachments to some of the forests and animals in them for example among many Bantu tribes, particular trees and animals are valued as totems or part of their clans. These deserve to be preserved by the law.

The Act should also be clear on how to handle offenders **S.2 and forest Act** provides for forest officers to charge an offender and this should be repealed since it promotes corruption. This should be together with **S.14 forest Act** which provides for locals using forest resources for domestic purposes. The law should also look at the forests both natural and man-made on private lands. These forests if well utilized can serve both the purpose of conservation and

provision of forest resources.

A new law should be made to incorporate other laws. Presently laws that relate to forests are in different Acts and statutes for example the national environment Act, land Act. And all the other statutory instruments that relate to the environmental protection.

All these should be incorporated to make it easy for both the public and the forest officers so that the law can be implemented.

The public should be called upon to exercise its rightful duty and take a stake in reporting on any incidents of mismanagement or illegality to the Forestry Inspection Division, Ministry of Water, Lands and Environment.

Integrated Conservation and Development (ICD), the concept of integrated conservation and Development should be based on the understanding so as to enable sustainable use of biodiversity, conservation and socio-economic development interests of stakeholders, especially at the local level, must be reconciled. The livelihood of the local communities therefore become important because the activities of the people such as encroachment, pitsawing and over-harvesting of other forest products for subsistence and commercial use are usually due to socio-economic demands. It is necessary to facilitate the acquisition of alternatives to the adjacent local community to reduce pressure on the target biodiversity. In the past, natural resource management agencies have focused on conservation issues and underplayed the need to mitigate the impact on biodiversity by the protected areas adjacent to local communities. The agencies are slowly appreciating the fact that alternative livelihood strategies can be used to solicit the support of local communities to get involved in conservation activities while at same time providing them with alternatives to reduce pressure on biodiversity.

By use of integrated conservation and development, capacity is being built for partnerships between conservation agencies and local communities. At the same time, the capacity of selected NGOs is being enhanced to link their development activities to conservation in pursuance of this principle, the NGOs should be contracted to support local communities adjacent to the project target sites to develop capacity to acquire alternatives to biodiversity. However, because of the intricate relationship between conservation and development, there is need for partnerships in implementing an integrated conservation and development initiative. The NFA should appreciate the importance of donor and institutional collaboration focusing on the different aspects of conservation and development. NGOs have to support the development activities in the communities adjacent to the target forest ecosystems while the natural resource management agencies such as Forest Department are focusing on conservation issues. These agencies leverage the various activities by using their staff, equipment, vehicles and offices. Leveraging is therefore increasing the chance of creating impact by getting different donors and institutions pull resources together to achieve a similar objective of reducing biodiversity loss. Biodiversity conservation or in general, natural resource management is a long term undertaking and needs partnerships, sustainable structures and systems to create impact. Another way of achieving sustainability and long-term impacts is to create capacity within existing institutions dealing with biodiversity conservation. Nevertheless, the institutions had to have comparative advantage especially in terms of active presence in the project sites, for example Rakai is undertaking related activities.

There should be other alternative energy sources. The high cost of rural electrification means that the rural population will continue to rely on wood fuel for a long time to come. The majority of the population in Uganda has no access to electricity, which results in increased pressure on forests. For instance, large institutions such as hotels, schools and hospitals consume large quantities of

wood fuel; there has been increased demand for wood fuel/biomass in industries. According to Uganda Forestry Policy, people are encouraged to grow trees in order to meet their energy demand. Therefore, there is need to explore alternative energy sources to generate electricity; for instance, energy from trees and forests (biomass). There are several categories of biomass, trees biomass (firewood, charcoal and sawdust), bush biomass (bush stems and twigs, gathered as firewood), agricultural residue (coffee husks, rice husks, crop stalks- maize, sorghum, stalks, sugar cane bagasse, etc). In severe wood fuel shortages, animal manure is also often used for energy. Kakira sugar works is already producing electricity through co-generation from sugarcane bagasse. Bagasse is the waste from sugarcane. Wood when burnt at a very high temperature it produces gas, which can be used to drive the turbines to generate electricity just as water is used to drive the turbines in hydro-electricity generation.

## **5.2 POLICY MAKERS AND LEGISLATURES**

Policy makers should incorporate the masses before they make the laws. This will help them make laws that reflect the needs of the people. The forest Act we have today does not cater for this and there are too many other Acts and statutes. This has made the implementation of such laws hard. The end result has been laws remaining redundant.

Policies made and government projects should be coordinated so as to avoid conflicts. The present conflicts as the desire for modernization, which has led to industrial growth and destruction of forests and desire to preserve the forests should be avoided through clearly developed policies that do not conflict.

Related to this is the fact that government should stream line the roles of politicians and separate them from government projects. This will minimize their influence in the lift of government profits. As already seen political influence has failed the law from taking its course.

More efforts should be put in to fight corruption since this has not only affected forests department. But also other sectors and this negatively affected government policies. Thus the law now stands for a given group who cannot afford to corrupt officials. Those who are able to pay always go away with it.

Particularly to the forest department is the need to incorporate legal assistants who are able to interpret and analyze the law so as to implement it. This has been lacking in this area and that is the reason why the study found out many forest officers lacked the knowledge about the laws that govern them. The department should devise better means of patrolling forests like arming forest rangers, teaching forest rangers and communities about the law that govern forests as well as carrying on day and night patrols on vehicles. Today rangers are not armed and do not carry on patrols this has made the rangers “useless” since they cannot cover the whole forest (even where it is accessible by road and other areas).

**Also the policy makers should encourage sustainable development,**

The Constitution of the Republic of Uganda obliges the state to promote sustainable development in the management and utilization of natural resources in such a way as to meet the development and environmental needs of present and future generations of Ugandans. The state is particularly enjoined to take all possible results to prevent or minimize damage and destruction to land, air and water resources resulting from pollution or other resources. The state has a mandatory duty to protect and hold natural resources in trust for and on behalf of the people of Uganda. In addition, the Constitution guarantees every Ugandan a right to a clean and healthy environment (**Article 39**).

The right to a clean and healthy environment requires a health and habitable environment including clean water, soil and air that is free from hazards that threaten human health. The right to a clean environment is a third generation



right, which does not only depend on the affirmative action of the state, but also on the behavior of the individual for its utilization. Third generation rights are those enjoyed by every body, therefore they are some times called group rights.

The recognition of the right to a clean environment under the constitution is essential because it confers upon the highest legal standing, which exists in the country. Therefore it is possible to measure environmental conservation issues against other national interests; economic, military or otherwise so that when there is a conflict, it can be placed at the same level and even be treated as having priority.

Secondly the recognition of the right provides guidance for administrative and judicial authorities vested with the responsibility of resolving concrete problem issues. In other words, it provides a basis for agencies entrusted to implement the law to find solutions for concrete environmental problems.

The right to a clean and health environment is an inherent right to humankind.

**This position was fortified by the Supreme Court of Philippines in Oposa V Factoran<sup>63</sup>** where it was stated that:

*As a matter of fact, these basic rights needs not even be written under the constitution for they are assumed to exist from inception of human kind, if they are not explicitly mentioned in the fundamental character. It is because of the well founded fears of the framers that unless the right to a balanced ecology is mandated as State policies by the constitution itself..."*

The right to a clean environment is also enshrined in **section 3** of the NEA which provides that every person has a right to a clean and healthy environment and every person has a duty to maintain and enhance the environment, including a duty to inform the Authority or Local Environment Management Committees of

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<sup>63</sup> supra

all activities and phenomena that may affect the environment significantly. The Authority or Local Committee so informed is entitled to bring an action against any other person whose activities or omissions have or are likely to have a significant impact on the environment, to for instance prevent, stop, or discontinue any act or omission deleterious to the environment.<sup>64</sup>

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<sup>64</sup> supra

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