

Current forestry laws do not allow Papua New Guineans to develop their own forest resources



In Papua New Guinea (PNG) 97% of land (including forests) is under customary ownership. However Papua New Guineans (PNGs) are often excluded from meaningful forestry development due to the forestry laws and regulations that have been in place since gaining independence in 1975. The laws have been developed from the view point of large scale forest industry and business, therefore have effectively removed the customary rights of the PNGs. This has resulted in increased state control and private ownership by large businesses over an increasing majority of PNGs forested land.

An example of this is that, for PNGs wishing to practice community forestry, the process of acquiring a timber licence from the Timber Authority (TA) is cumbersome, expensive, and time consuming, sometimes taking up to 18 months. Therefore local PNGs are often unable to comply with the regulatory requirements for harvesting timber. There is a discrepancy between the current Forestry Act (1991) and how society in PNG functions. In PNG society land is Clan owned and passed down from generations. Forestry regulations are currently orientated that allow situations to occur where; a forest area is granted to a company (by the authorities) that encompasses different clans. The Clans, that are sometimes rival clans, are then expected to work together in the forest area. This can all take place without any consultation with or consent from the Clan land owners. The PNG forestry laws need to change so that they are in accordance with the cultural and historical context of the country.

The study is a part of a regional initiative by The Center for People and Forests (RECOFTC), partly funded by the Rights and Resources Initiative (RRI), to analyze key constraints in exercising user rights, which will likely prove vital in facilitating poverty reduction.



The current regulations and the discrepancies between land tenure and forestry law create a situation where unsustainable forest management is being practiced and clan members wishing to practice community forestry and smallholders are unable to generate an income from harvesting the timber on their land.

Recommendations to aid community forestry and smallholders in PNG:

1. The 1991 Forestry Act be reviewed so PNG landowners become the major developers of their forest resources. Clan Based Community Forestry (CBCF) must become the starting point for sustainable forestry in PNG.
2. The PNG Government should build the capacity of CBCF and smallholders to manage and develop their own forestry resources, by providing enabling regulatory conditions and training resources.
3. There needs to be an enabling environment that allows for access to capital that is able to stimulate CBCF business. This access to capital could be coupled with financial and business training.

The Problem

Overview

Papua New Guineans cannot participate or engage meaningfully in community forestry and forestry development mainly due to the existing forestry laws and regulations.

The forestry laws are geared towards big forest businesses and do not compliment the traditional cultural state of PNG land ownership, where land is Clan owned and passed down from generations. Since PNG gained independence from Australia in 1975, landowners rights regarding their forests continue to be removed and given to the state. The

state often permits a third party, usually a foreign logging company, the rights to harvest timber from the local people's forested land. The local people are becoming spectators whilst their forests are being harvested.

An example that can be used to highlight one of the many challenges that local PNGs face compared to big logging companies is the process of acquiring a forest harvesting licence from the PNG Timber Authority (TA). For the average person, applying for a harvesting license is cumbersome, time consuming and expensive with no guarantee of success. The

reasons for the process are not even understood by the local applicants. In a recent workshop attended by community forestry practitioners, participants questioned why they needed permission from the state, let alone why they have to go through all the bureaucratic processes, including the paying of high fees, for cutting timber from their own land to sell.¹

Furthermore there has been an indication that corruption has come into play with nepotism being shown towards individuals applying for their harvesting rights. This adds to an already frustrating and disheartening situation. While the PNG locals struggle to raise the capital and complete the process for the TA harvesting license the big logging companies usually have the capacity and resources to fast track the TA process, and obtain a license relatively easily.

Another important issue is the land tenure system in relation to forestry development in PNG. Under current forestry laws sustainable forestry is the main objective. The timber permit period averages around 10-20 years, while the forests are expected to be managed beyond that timeframe. However the practice on the ground is far removed from the objective of sustainable forestry, with companies clear cutting the forest and moving on. The land tenure system that puts 97% of PNG land (including forests) under customary ownership, instead of being side-stepped, should become the key to a strong regulatory system upon which development towards sustainable forestry, including CBCF, is built upon.

What are the root causes?

In Papua New Guinea the land is customary owned, as recognised by law. No resource development

takes place unless consent is given by the local people. The current forestry practice by the PNG Forestry Authority (FA) is to delineate the boundary of the forest resource first and identify the ownership later. This has caused numerous conflicts amongst landowners over boundary disputes and ownership of the land.² These practices also lump different clans together (usually traditional enemies as well) under one timber concession with the expectations of the clans agreeing to work together.

The current forestry laws have been inherited from the colonial era, with the rights of the local owners being removed from them and given to the state who in turn is supposed to negotiate with forest developers the best deal for the local land owner. Despite 37 years of independence, and the increasing knowledge and experience of the landowners, the assumption is still that development is only possible with foreign investment.

Since land ownership in PNG is clan based, the best approach to sustainable forestry development in PNG is for forest ownership to also be clan based.

What are the policy implications?

Landowners are spectators in forestry development:

One important policy implication of the current forestry law is that landowners will continue to be spectators and bystanders in the development of their forest resources by a third party. The landowners sometimes willingly sign their land rights to the state and to the logging companies in order to obtain royalties from the harvesting of timber, but often land owners are not fully consulted or do not understand the lease agreement that they have signed. Once signing away their forest rights they have no say in

¹ Report of FPCD organised workshop, Madang Dec 2011, Lae Feb 2012

² Papua New Guinea Forestry Act 1991 (Clause 58)



how things are done over the duration of the timber permit period.

Landowners will be left with what the timber permit holder has left behind after logging is completed and/or the permit expires, whichever comes first. The local people are left to pick up the pieces of the environmental damage and damaged infrastructure that does not comply with national standards.

The current situation could create a culture of laziness and dependency where landowners are willing to sit back and receive royalties and payments from the harvesting of their forests. This handout mentality could inadvertently suppress any move towards innovation and creativity. To help ensure that PNGs are able to lift themselves out of poverty for a long period of time, local people need to move towards becoming more self-reliant and ensure their livelihoods are sustainable.

Sustainable forestry practices:

The current Forestry Act (1991) incorporates concepts of sustainable yield. The International Tropical Timber Organisation (ITTO) Diagnostic Report of PNG in 2007

says PNG basically has the laws to achieve SFM.³ It argues the problem is improper implementation.

The PNG government commissioned five separate reviews of the administration and practice of the logging industry between 2002-2005. A synthesis of these reports was provided by Forest Trends and again the issue of un-sustainable logging was highlighted.⁴ Technically PNG has laws for SFM but the key reason why these laws are not being implemented is that the “people and traditional” aspects of SFM are missing.

As previously highlighted the traditional institutions of land tenure and land ownership by clans has not been dealt with effectively by the current forestry laws. A fundamental challenge to developing SFM and CBCF, is that the whole process of forestry development is top-down, starting with forest demarcation and ownership by logging companies

³ Achieving the ITTO Objective 2000 and Sustainable Forest Management in Papua New Guinea – Report of the Diagnostic Mission”. Report submitted by the Diagnostic Mission to the International Tropical Timber Council for the 42nd session in Papua New Guinea in May 2007.

⁴ Forest Trends 2006. Logging, Legality and Livelihoods in PNG: Synthesis of large scale logging Vol 1 & 2.

first, and traditional historical clan land ownership last.

If new regulations do not intervene or there are no drastic changes to current forest regulations it will become increasingly difficult for local people to create a livelihood from their forest resources and to contribute to the conservation and protection of PNG forests through SFM. Furthermore the longer the regulations remain as they are the more difficult this will become as a result of the current unsustainable forestry practices of logging companies.

Developmental challenge:

Poor infrastructural development will also be another negative result of the current forest policy. As there is no security in land tenure there is no guarantee that the infrastructure put in place around logging operations will last. Already experience has shown that roads, bridges and buildings are of very poor quality and standards and they are only built to last as long as the logging company is in operation. These infrastructures deteriorate to the point that they are useless after the logging company leaves the area.

The underdeveloped infrastructure adds more problems to the services that are supposed to be given to the rural people. The consequences are continued poor basic health care and education services which are compounded by poor government services.

A more secure forest tenure based around CBCF and SFM practices could enable sustained growth in the PNG infrastructure based on the forest area and forest communities.

Overview of the policy implications

Papua New Guineans are not participating in the development of the forestry sector mainly because of the current Forestry Act (1991) that separates

land ownership and forest ownership. A review of the Forestry Act needs to take place and changes need to be made accordingly to enable meaningful participation through the clan based land ownership of the forests.

PNG developed an Eco-forestry Policy in early 2000. This was supposed to help average PNGs manage the forests on their land. The Forest Authority of PNG has yet to make a decision on whether to implement the law or not. This indecision has caused confusion and delay for the local people wishing to manage their forests.

The various licences that are currently being issued by the FA and TA need to be reviewed. There are permits for plantations and there are permits for natural forests. The starting point must be the traditional clan based PNGs landowners. These landowners must be given the right of first refusal in the development of the forestry resources.

The law needs to be changed to enable landowners to participate in the development of their forests. They own the forests and given further training and resources, they will be able to sustainably manage their forests. This is already being demonstrated in some parts of the country like Madang and Kimbe where civil society groups are assisting the local land owners in managing their forest resources.⁵

Capital and resources are also needed to enable landowners to partake in productive SFM. So far it has been civil society, along with the support from outside donors, that have provided aid and support for landowners wishing to engage in forestry on their land. The government needs to think of innovative ideas that will lead to empowering local communities to manage their forests sustainably and improve their livelihoods.

⁵ FPCD FSC Group Manager, Madang; FORCERT Groups Kimbe.

Critique of Policy Options



Why and how the current or proposed approach is failing

The current forestry law does not take traditional PNG landownership into account and this is one of the major reasons why forestry operations will never be sustainable.

The central issue is that the land is owned by the many different local clans. All resource development that takes place should be clan based and must be the starting point for any progress towards community forestry management and the revision of Forestry Law. The preamble of the constitution says “economic development is primarily to take place through the use of Papua New Guineans forms of social political and economic organisations”. This is clearly not happening in the forest sector.

Poverty alleviation in PNG through the forestry sector will not be solved under the current forestry laws and regulations. Landowners are not empowered to make informed decisions over their own land. Large logging concessions, who often have little regard for the landowners or the sustainability of their forest management practices, are taking precedence over local people when applying for harvesting permits. Local people have the potential to manage PNG forests sustainably whilst adding to the economic wealth of the country.

There is room for too much tokenism within current forestry regulations and this needs to be drastically overhauled. The trend will improve if local landowners are in the driver’s seat of forestry development.

Sustainable forestry management in PNG is practiced on paper only. There is hardly anything to show on the ground. It is only recently that a handful of companies are seriously addressing the issue of third party independent forest certification (e.g. FSC), a tool that has credibility in showing whether forestry is managed sustainably. This tool can play a significant role in encouraging forest industry to improve their practices.

Policy Recommendations

Some practical steps

The Forestry Act (1991) needs to be revised to enable local participation. PNGs should not have to go through the lengthy and complicated process of applying to the TA for a harvesting license to cut timber from their own backyard for the purpose of selling so that they are able to provide an income that sustains their families. An enabling environment needs to be created for local people to make a living from timber in their forests.

The clans in PNG own the land, they know where there and their neighbours' respective clan boundaries are. The current practice of identifying accessible forest resources for large logging companies that encompass many clans (whom may not have been consulted over forest ownership) and then expecting them to work together has not worked so far and there will always be problems if this is not rectified. What is needed is Clan Based Community Forestry development. This will allow for each clan to manage their forest resources as they wish (within sustainable practises). This could even lead to a healthier economic situation due to the increased economic competition.

Owning the forest does not necessarily mean that one knows how to manage it as an asset. In PNG, since independence, land tenure has always been seen as an impediment to development– a relic passed down by the colonial government. There needs to be systems in place to train PNGs wanting to develop their forest resources. This task so far has been left to the civil society groups, with funding from outside donors, and there have been glimpses of successes within the communities they have

targeted. A government programme is needed that will continue to provide training year in year out and increase the capacity of PNGs within the forestry sector.

Access to capital and resources is also a factor in the development of local forestry in PNG and CBCF. There must be facilities in place to help establish local people wanting to develop a business from their forest resources. Technical and advisory support systems must also be in place, to help start saw-milling and forestry businesses.



Furthermore there are many laws and regulations in PNG not only related to forestry but to other government regulators like the Customs Department that one needs to know when doing forestry business. This is the kind of information that landowners will need to know and where advisory support may be needed.



Conclusions:

Land tenure is not, and should not be an obstacle to any form of land based development. Papua New Guineans own the land, predominantly through clan based ownership, this should be the starting point for all resource development including forestry.

The Forestry Act (1991) is not clan based and needs to be significantly revised to suit the PNG social structure and cultural traditions. Important Government Goals including good health, education for all, poverty alleviation; and economic development by Papua New Guineans can be addressed through Clan Based Community Forestry if the current forestry laws are changed.

The recommendations:

1. The 1991 Forestry Act be reviewed so PNG landowners become the major developers of their forest resources. Clan Based Community Forestry (CBCF) must become the starting point for sustainable forestry in PNG.
2. The PNG Government should build the capacity of CBCF and smallholders to manage and develop their own forestry resources, by providing enabling regulatory conditions and training resources.
3. There needs to be an enabling environment that allows for access to capital that is able to stimulate CBCF business. This access to capital could be coupled with financial and business training. Special consideration must be given to local people interested in developing their forest resources themselves.

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