

**STRENGTHENING NATIONAL FEEDBACK AND  
GRIEVANCE REDRESS MECHANISM FOR UGANDA'S  
REDD+ PROGRAMME**

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**DRAFT REPORT**

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ENVIRONMENT**

**CONSULTANT:**

**ADVOCATES COALITION FOR DEVELOPMENT AND  
ENVIRONMENT (ACODE)**

**PLOT 96, KANJOKYA STREET, KAMWOKYA.**

**P. O. BOX 29836, KAMPALA - UGANDA.**

**TEL: +256312812150,**

**<http://www.acode-u.org/>**

**Email: [library@acode-u.org](mailto:library@acode-u.org) , [acode@acode-u.org](mailto:acode@acode-u.org)**

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## EXECUTIVE SUMMARY

Reducing Emissions from Deforestation and Forest Degradation (REDD) is a global climate change effort to create a financial value for the carbon stored in forests, encouraging creation of policy approaches and positive incentives for developing countries to reduce emissions from forested lands and invest in low-carbon paths to sustainable development. REDD+ goes beyond deforestation and forest degradation, and includes the role of conservation, sustainable management of forests and enhancement of forest carbon stocks. Under the REDD+ initiative, Uganda is developing a national strategy for addressing deforestation and forest degradation thus enabling the country to benefit from the REDD+ strategy. As part of the preparations to implement the strategy, the Government of Uganda contracted the Advocates' Coalition for Development and Environment to build upon the framework assessment already undertaken by the Government of Uganda during the formulation phase by developing a Feedback and Grievance Redress Mechanism (FGRM) in preparation for the REDD+ readiness and implementation of REDD+ activities.

### **Objectives of this assignment**

There were two specific objectives of this assignment:

The **first objective** was to undertake an assessment of existing national institutional capacity for feedback and grievance redress, so as: (a) to identify existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ Strategy/ activities' implementation; (b) to identify mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances; (c) to strengthen policy, legal and institutional framework for managing grievances and Conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation; (d) to strengthen institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels; and (e) to build the capacity on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM. The **second objective** was to establish an easily accessible and well publicized mechanism to receive feedback and handle grievances in a credible and timely manner.

The assessment exercise was conducted in field case sites selected in four districts, namely: Gulu, Mbarara, Mbale and Kyankwanzi. The four case studies consisted of a central forest reserve and a local forest reserve. The consultant also undertook desk-based literature review to understand the nature of conflicts in community forests as well as private forests and forests forming part of a wildlife conservation area declared under the Uganda Wildlife Act (Cap 200, Laws of Uganda).

During the assessment, the team interacted with a total of 122 respondents through Focus Group Discussions (FGDs). Eighty four (84) of these respondents were male while thirty eight (38) were female. Although the consultant was quite gender sensitive in the selection of respondents for this exercise, it should be noted that there was no pre-determined sample size. Accordingly, the research team could only interact with the respondents who turned up for the FGDs without much influence on their respective gender. In addition, it should be noted that most FGDs were being held during

the rainy season when more women than men were engaged in garden work and other related activities and could therefore, not be in position to make it for the FGDs in equal or even bigger numbers. The participants included local government officials (political leaders and civil servants), NFA officials, CSOs, as well as local community members who are also forest dependent and forest adjacent. In addition, the assessment reached twenty two (22) respondents through Key Informant (KI) interviews. Of these, seventeen (17) were male while five (5) were female. The majority of these respondents were from government departments, CSOs, the private sector, cultural institutions, religious organizations, international agencies, development agencies, the academia, and the REDD+ secretariat.

### **Contents of the Report**

This report consists of five main chapters. **Chapter one** provides a general introduction to the report as well as providing information on the national context. **Chapter two** sets out the methodology for undertaking the study and describes the approach to executing the assignment. **Chapter three** presents the major findings of the study, including a description of existing and potential grievances; the potential grievances and conflicts that could arise during REDD+ readiness; the key drivers and actors in existing and potential conflicts; existing mechanisms to detect, prevent and minimize the escalation of conflicts and grievances; and an analysis of the adequacy of the existing policy, legal, regulatory and institutional framework for managing grievances and conflicts. **Chapter four** presents the proposed feedback and grievance redress mechanism (FGRM) for REDD+ in Uganda. Finally, **Chapter five** presents conclusions and recommendations of the study.

### **The assessment used the following methodology to collect data:**

- Literature and document review
- Selection of field case studies that provided insight into the national context
- Data collection through focus group discussion and key informant interviews
- Semi-structured questionnaires to obtain detailed data
- FGD and Key Informant guides to obtain the relevant data from respondents
- Forest stakeholder mapping to understand the major stakeholders in the forestry sector
- Problem solving workshop to promote dialogue and initiate resolution of the conflicts
- Use of other vital tools such as the GRM evaluation tool; the conflict dynamics framework; the trend analysis tool; the problem/solution tree tool.

The assessment found out that the major causes of the existing conflicts and grievances in the four case study areas include the unclear boundaries of the forest protected areas; disputed forest borders and expansion of forests; exclusion of local governments from the management of central forest reserves; exclusion of forest adjacent communities from the management of forests; conflicting information by political leaders and district technical staff regarding the boundaries; failure by institutions to fulfill their mandate and landlessness resulting from unplanned population growth. Overall, these issues affect the forest tenure in totality where most grievances will arise due to lack of clarity on forest tenure and other related rights.

Other causes include; conflict over land access and use; the community view that forests are the only source of livelihood; denial of access to the forest area for various purposes; interference by politicians in the management of the forestry sector; interests of the local politicians who exploit the plight of the local people; perceived unfairness on the part of government; perceived unethical conduct and abuse of Office by Forestry officials; disrespect and disregard of state institutions by encroachers.

In particular, the existing conflicts include: conflicts over boundaries of forest reserves; conflict over revenue/benefit sharing; conflict over the selective application of the law by the authorities; conflicts between local governments and local communities; conflict over land ownership and use; conflict over the exploitation of forest resources; conflict over the type of trees to plant in the forest; conflict over the legal status of the forest and conflict over migration of peoples from the south-western region and Rwanda. Others include; conflict over the restricted exploitation of forest resources; conflict over deployment of forest patrol men outside the local communities; conflict over land/forest/tree tenure insecurity under CFM arrangements; conflict over the authenticity of some of the land titles; conflict between NFA and the community over grazing land and exploitation of other forest resources; conflict over the use of chemicals to control weeds by Global Woods company; conflict between wildlife/forest conservation and the search for livelihoods.

The assessment further found that the conflicts described above are driven by a number of factors, including: unethical conduct and abuse of office by UWA and NFA officials; disrespect for government institutions and laws; boundary disputes; inadequate supervision and monitoring by NFA, local governments, UWA and other stakeholders; poor sensitization of the forest dependent communities; exclusion of the local governments from the management of central forest reserves; land use and access limitations as well as unchecked population increase.

The assessment found out that there have been attempts at solving some of the above conflicts using both formal and informal mechanisms—with varying levels of success. The formal mechanisms include the deployment of the police force; involvement of the Local Councils (LCs) and other area politicians; and the involvement of the Offices of the President and that of the Resident District Commissioners (RDCs) and the use of the Judicial processes. On the other hand, the informal mechanisms include the involvement of traditional/cultural leaders; religious leaders; family and clan systems as well as opinion leaders and elders.

### **How the different capacity elements of the stakeholders were assessed during the study**

The major medium of capacity assessment was through extensive literature review as well as through interviews with different institutions and stakeholders. As already presented under the methodology section (see Chapter 2), the assessment obtained information through an in-depth study of six cases. Also, the capacity of the different stakeholders was assessed through FGDs and through interviews with KIs. Through interactions with the different FGD participants and KIs (see Tables 2.1 & 2.2 under section 2.6.2 as well as section 2.6.3 respectively), the assessment understood the current institutional capacity of the key institutions. Extensive literature was particularly critical during the assessment of the policy, legal, regulatory and institutional

framework. This was ably supplemented by empirical information obtained from respondents during the field study.

The assessment was also undertaken using Participatory Learning and Action (PLA) techniques such as the Forest Stakeholders Mapping; the Conflict Dynamics Framework; the Trend Analysis Tool; as well as the Problem/Solution Tree Tool (see section 2.6.4). These tools provided the analytical framework for assessing the capacities of the different institutions.

On the basis of the capacity assessment above, the consultants have been able to identify mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances (see chapter 4, section 4.3) through the establishment an active mechanism to receive feedback and handle conflict in a timely manner and at all levels. The consultants have also come up with a range of recommendations that, if implemented, will contribute to the effective implementation of Uganda's REDD+ strategy. Most of the recommendations have to do with the need to strengthen policy, legal and institutional framework for managing grievances and conflicts, as well as mechanisms for strengthening institutional capacity of relevant national institutions.

### **The proposed Feedback and Grievance Redress Mechanism (FGRM)**

On the basis of the conflicts identified above, as well as the limitations of the formal and informal mechanisms identified above, the consultant proposes that a 'hybrid' Feedback and Grievance Redress Mechanism (FGRM) be established. The consultant proposes that the mechanism should include the establishment of Collaborative Forest Management (CFM) arrangements in all areas with forests reserves countrywide (regardless of their type of ownership and location). The proposed FGRM should also include the use of Local Councils (LCs) at village, parish and sub-county level, as well as the district local councils. Finally, the Environmental Tribunal (under the proposed National Environment Bill, 2014) should form the apex of this mechanism. It should however, be noted that this proposed FGRM needs to work closely with a host of other formal and informal structures in order to fulfill its forest-related grievance and conflict detection, prevention and resolution roles.

### **Key conclusions**

The report provides a number of conclusions and observations that inform the recommendations. The following are some of the key conclusions (please see Chapter 5, section 5.1 for all conclusions that are presented according to the study objectives):

- If the existing and potential conflicts and grievances identified above are not addressed, they are likely to arise during the implementation of the REDD+ readiness activities and implementation of REDD+ Strategy. As a result, these conflicts are likely to significantly affect the implementation of the REDD+ strategy.
- The new (proposed) FGRM will be critical in the establishment of a feasible arrangement for detecting, preventing and minimizing the escalation of, and resolving conflicts and grievances using a hybrid arrangement of both the existing formal and informal mechanisms. This will facilitate the realization of the REDD+ strategy objectives.

- The study identifies a number of gaps in the current policy and legal framework, such as gaps in the UNFCCC which is yet to be domesticated by Uganda; gaps in the Paris Agreement, 2015 which is yet to be ratified by Uganda; gaps in the ILO Convention 169 on Indigenous and Tribal Peoples, 1989 which is yet to be ratified by Uganda; and the fact that the Forestry Committees have never been established since the *National Forestry and Tree Planting Act* came into force. Also the study realizes that the Tree Fund has never been established more than 10 years after the *National Forestry and Tree Planting Act* came into force; the *National Forestry and Tree Planting Act* does not assign any specific responsibility to local governments in the management of central forest reserves. If these gaps are not addressed, they will affect the implementation of the REDD+ strategy.
- The study analyzed the institutional framework and identified several challenges, such as those related to the potential conflict over management of climate finance (including REDD+ funds) by different government agencies; conflicting institutional mandates; the grossly under-resourced nature of key institutions; and the effect of politicians and political structures on the effectiveness of forestry institutions. If the institutional issues and capacity gaps identified above are not addressed timeously, they are likely to frustrate the implementation of the national REDD+ strategy.
- The assessment report contends that these majority of REDD+ stakeholders require more capacity building in order to contribute to more effective implementation of the REDD+ strategy.
- The proposed FGRM is not necessarily a panacea to all issues and challenges identified by this study. A number of weaknesses of some of the institutions that make up the proposed structure are identified and will need to be addressed in order for them to play a more meaningful role in the implementation of the REDD+ strategy.

### **Key recommendations**

1. There is need for government to urgently address the boundary issues in all types of forests because this is one of the main drivers of conflicts;
2. There is need for the government jointly involve the forest adjacent and forest dependent communities in the demarcation of forest boundaries in their communities to forestall conflicts and grievances related to boundaries;
3. Government need to proactively deal with the widely perception/view by the community members that government officials/personnel managing forest resources are engaged in unethical and unprofessional conduct;
4. Government need s to hire adequate personnel and provide them with adequate equipment and logistical support to enable them to effectively supervise and manage the forestry sector;

5. There is need for provision of opportunities to forest adjacent and forest dependent communities to balance their livelihood interests and conservation through more elaborate collaboration with responsible government agencies and reasonable access to forest resources;
6. The executive arm of government needs to respond to the widespread calls to legitimize the LC structures at the lower levels (LCI and LCII) by holding elections for the respective positions to enable them adjudicate in forest conflicts without any legal challenges to the decisions they make;
7. The FGRM Secretariat should implement and monitor the FGRM process to ensure timely and effective response to forestry grievances and conflicts;
8. The FGRM Secretariat also needs to implement key capacity building programmes such as training and sensitization for the formal and informal mechanisms involved in the proposed mechanism to enable them play a meaningful role in the detection, prevention and resolution of conflicts among forest stakeholders;
9. The OPM should coordinate efforts to recruit FGRM secretariat staff and build their capacity to implement the FGRM through training and facilitation of their activities
10. The FGRM Secretariat should design a continuous strategy of building the capacity of all stakeholders in the forest sector on its operations and the overall activities aimed to detect, prevent and resolve conflicts;
11. Government should establish an FGRM secretariat in the Office of the Prime Minister. Given that the FGRM comprises various organs established under different laws, the principal function of the FGRM secretariat will be coordination. The study recommends that the FGRM secretariat be operationalized within a period of 24 months from the date of approval of this report;
12. Government should establish and facilitate the operationalization of the Collaborative Forest Management (CFM) arrangement in all communities depending on all categories of forest reserves. Essentially, CFM is the cornerstone of the proposed FGRM and its implementation requires adequate sensitization of the stakeholders on the operations of the management approach;
13. Government, through NFA and other stakeholders should be more pro-active in providing support to forest dependent communities who wish to implement the CFM arrangement by increasing the budgetary allocation of the CFM desk at NFA to enhance the capacity of the communities in implementing CFM;

14. Government should identify, recruit and facilitate selected eminent ‘Honorary Forestry Officers’ within all communities depending on forests to champion the detection, prevention and management of grievances and conflicts in forest reserves.
15. There is need for government to take steps for domesticating the UNFCCC into its national policies and laws;
16. Government needs to take steps to ratify the Paris Agreement, 2015 and the ILO Convention 169 on Indigenous and Tribal Peoples, 1989;
17. There is need for government to establish Forestry Committees as provided for in the National Forestry and Tree Planting Act, 2003 so as to enhance sustainable forestry management;
18. Government should consider revising the National Forestry and Tree Planting Act, 2003 to provide for the role of local governments in the management of central forest reserves (responsibility should be shared between LGs and NFA) in line with the recommendations of the Uganda Forestry Policy, 2001;
19. Government should consider revising the exiting legal framework to introduce specific legal provisions that define carbon rights; and provide elaborate procedures for their registration;
20. There is need for government to amend the National Forestry and Tree Planting Act, 2003 so as to provide for the application of CFM in all forest types as opposed to the current legal position where CFM is only applicable to only central and local forest reserves
21. Government should consider revising the Draft National Forestry and Tree Planting Regulations, 2013 to increase initial CFM duration from 5 to 10 years;
22. Government should consider revising the Draft National Forestry and Tree Planting Regulations, 2013 to remove ambiguities in the definition of carbon sellers;
23. Guidelines for the sharing of forest benefit (REDD+ benefits) in a CFM arrangement need to be put in place so as to protect the rights of communities and mitigate potential conflicts and grievances;
24. Government should consider revising the National Environment Bill, 2014 to expand jurisdiction of the Environmental Tribunal to cover REDD+ related disputes;

25. Government should consider incorporating legal provisions in the existing legal framework for the sharing of revenue generated from REDD+ projects between the central and local governments;
26. Government should consider amending the Land Act (Cap 227) and other relevant laws so as to provide clarity to the nature of property rights, and eliminate ambiguities over land ownership;
27. Government should revive operations of Land Tribunals;
28. Government should provide capacity building and adequate resources to enable LC courts handle some of the REDD+ related disputes;
29. In consultation with NEMA, NFA should enforce and implement the Environmental Impact Assessments (EIAs) carried out by private tree planters in central forest reserves in accordance with Section 38 of the National Forestry and Tree Planting Act, 2003 to avoid the use of dangerous chemicals and mitigate the risks of other environmental hazards associated with the activities of private tree growing;
30. Even without consideration of the proposed legal reform, government should consider strict implementation of the existing legislation in the forestry and related sectors to curb deforestation and forest degradation. In short, the existing laws should really 'bite'. And quite hard;
31. Government should undertake sensitization and awareness of REDD+ related policies and laws;
32. Government should create the necessary legal framework for the implementation of the proposed FGRM;

## LIST OF ACRONYMS

ACCS:	Advisory Consortium for Conflict Sensitivity
ACODE:	Advocates' Coalition for Development and Environment
ACORD:	Agency for Cooperation and Research in Development
ACWGIP	African Charter on the Welfare and Rights of the Child
ADR:	Alternative Dispute Resolution
AUPWAE:	Association of Uganda Professional Women in Agriculture and Environment
BECA:	Bushwre Environment and Conservation Association
BUCODO:	Budongo forests community development organization
C&P:	Consultation and Participation Plan
CADER:	Centre for Arbitration and Dispute Resolution
CAOs:	Chief Administrative Officers
CAP:	Chapter
CDM:	Clean Development Mechanism
CDOs:	Community Development Officers)
CFM:	Collaborative Forest Management
CITES:	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CLA:	Communal Land Association
CODECA:	Community Development and Conservation Agency
CP:	Conference of Parties
CPRs:	Common Pool Resources
CSOs:	Civil Society Organizations
CWAs:	Community Wildlife Areas
DEAPs:	District Environment Action Plans
DEOs:	District Environmental Officers
DFOs:	District Forestry Officers
DNROs:	District Natural Resources Officers
DRR:	Disaster Risk Reduction
EBA:	Ecosystem Based Adaptation
ECOTRUST:	Environmental Conservation Trust
EIA:	Environmental Impact Assessment
ENR:	Environment and Natural Resources
EPED:	Environmental protection and Economic development
FACE:	Forests Absorbing Carbon dioxide Emissions
FCPF:	Forest Carbon Partnership Facility
FGD:	Focus Group Discussion
FGDs	Focus Group Discussions
FGRM:	Feedback and Grievance Redress Mechanism

FLEG:	Forest Law Enforcement and Governance
FMPs:	Forest Management Plans
FPIC:	Free, Prior and Informed Consent
FSM:	Forest Stakeholder Mapping
FSC:	Forest Stewardship Council
FSSD:	Forest Sector Support Department
GDP:	Gross Domestic Product
GHGs:	Greenhouse Gases
GRM:	Grievance Redress Mechanism
HRC:	Human Rights Council
ICT:	Information Communication and Technology
IGG:	Inspector General of Government
IIED	International Institute for Environment and Development
INDC:	Intended Nationally Determined Contribution
KAFODA:	Kagoto Foundation for Development Association
KDA:	Kanywamaizi Development Association
KI:	Key Informant
KIIs:	Key Informant Interviews
LC:	Local Council
LCs:	Local Councils
MAAIF:	Ministry of Agriculture, Animal Industry and Fisheries
MEAs:	Multi-lateral Environmental Agreements
MoFPED:	Ministry of Finance, Planning and Economic Development
NAADS:	National Agricultural Advisory Services
NBSAP:	National Biodiversity Strategy and Action Plan
NDP:	National Development Plan
NEMA:	National Environment Management Authority
NFA:	National Forestry Authority
NFMS:	National Forest Monitoring System
NFP:	National Forest Plan
NPA:	National Planning Authority
OPM:	Office of the Prime Minister
PCE:	Policy Committee on Environment
PES:	Payment for Ecosystem Services
PLA:	Participatory Learning Action
PLR:	Policy, Legal, Regulatory
PWDs	Persons with Disabilities
RDCs:	Resident District Commissioners
RECPA:	Rwoho Environmental Conservation and Protection Association
REDD:	Reducing Emissions from Deforestation and Forest Degradation
RETs:	Renewable Energy Technologies
R-PP:	REDD+ Preparedness Proposal

SESA:	Strategic Environmental and Social Assessment
SMS:	Short Messaging Service
SWAGEN:	Support for Women in Agriculture and Environment
TA:	Trend Analysis
ToRs:	Terms of Reference
UBOS:	Uganda Bureau of Statistics
UN:	United Nations
UNCCD:	United Nations Convention to Combat Desertification
UNDP:	United Nations Development Programme
UNEP:	United Nations Environment Programme
UNESCO:	United Nations Educational, Scientific and Cultural Organization
UNFCCC:	United Nations Framework Convention on Climate Change
USAID:	United States Agency for International Development
UWA:	Uganda Wildlife Authority

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## DEFINITION OF KEY CONCEPTS AND TERMS USED IN THIS REPORT

**Grievance:** a grievance can be defined as actual or supposed circumstances regarded as just cause for complaint that create a sense of injustice amongst individuals or groups (ACCS, 2013). On the other hand, a grievance is a complaint or a strong feeling that you have been treated unfairly (Cambridge International Dictionary of English). Grievances can fuel latent conflict by supporting conflict drivers, e.g. perceptions of neglect by the authorities or unequal access to services.

**Conflict:** a conflict is defined as a social situation in which a minimum of two actors (parties) strive to acquire, at the same moment in time, an available set of indivisible scarce resources as a result of relative deprivations (Wallensteen, 2002). Conflict occurs when individuals or groups give high priority to defending their own interests or positions (Carment & James, 2002).

**Conflict transformation:** the process by which conflicts, such as ethnic conflict, are transformed into peaceful outcomes. It differs from conflict resolution and conflict management approaches in that it recognises that contemporary conflicts require more than the reframing of positions and the identification of win-win outcomes. The very structure of parties and relationships may be embedded in a pattern of conflictual relationships that extend beyond the particular site of conflict. Conflict transformation is therefore a process of engaging with and transforming the relationships, interests, discourses and, if necessary, the very constitution of society that supports the continuation of violent conflict" (Hugh Miall, 2004).

**Mechanism:** an elaborate structural or diagrammatic illustration of an institution or logical arrangement that has a particular function. The mechanism has a purposes and is aimed at leading to the achievement of a particular outcome.

**Opinion leader:** an opinion leader may be a well-known individual or organization that has the ability to influence public opinion on the subject matter for which the opinion leader is known. Opinion leaders can be politicians, business leaders, community leaders, journalists, educators, celebrities, and sports stars.

**Traditional leader:** a leader whose leadership and authority is legitimate and derived from traditional values and principles

**Local Council:** administrative units based on the county, the parish, and the village (in rural areas), and the parish or ward, and the village (in urban areas).

**LC Court:** a local council court established at every village, parish, town, division and sub-county level.

## CHAPTER ONE: INTRODUCTION

This report is an output of one of the REDD+ Readiness Preparation Processes being undertaken by the Uganda as part of its commitment to the United Nations Framework Convention on Climate Change (UNFCCC) and other international legal instruments by implementing activities towards reducing emissions from deforestation, reducing emissions from forest degradation, conservation of forest carbon stocks, sustainable management of forests and enhancing forest carbon stocks (REDD+). Specifically, the report recommends the adoption and implementation of a Feedback and Grievance and Redress Mechanism (FGRM) aimed to detect, prevent and resolve grievances and conflicts affecting the ownership, access and use of varying forms of forest resources by forest dependent communities. In addition to other on-going REDD+ Readiness Preparation Processes such as the National Forest Monitoring System, Benefit Sharing Arrangements, Environmental and Social Management Framework and the Standards for REDD+ Field Activities in Uganda; the recommended FGRM in this report will—if approved and implemented—enable Uganda to effectively handle potential REDD+ conflicts and grievances.

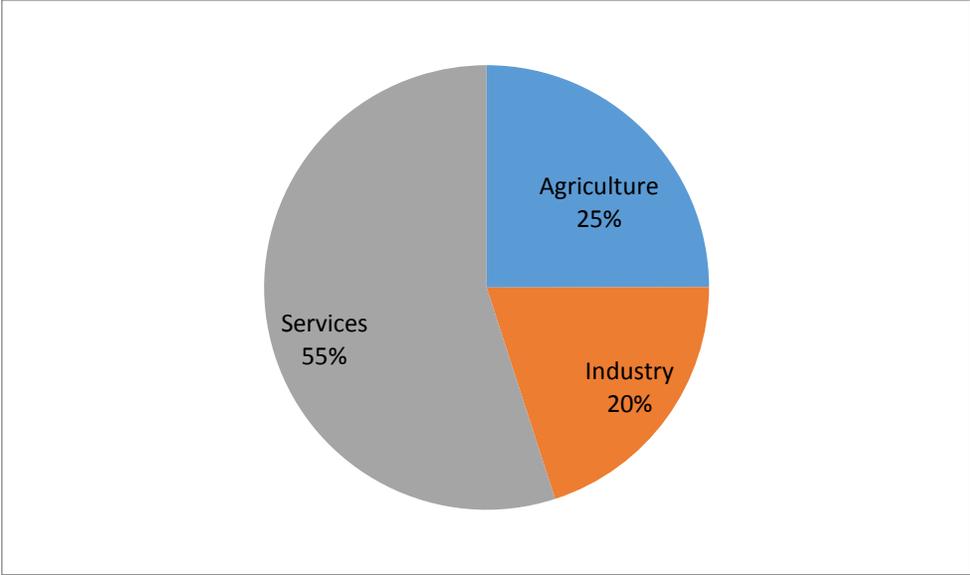
### 1.1 National Context

Uganda is a land locked country in East Africa, bordered by Tanzania to the South, Kenya to the East, South Sudan in the North, Democratic Republic of Congo, (DR-Congo) to the West and Rwanda to the South West. Uganda enjoys favourable climate for a diversity of fauna and flora as well as human settlement and a variety of land use types due to its location astride the equator (NFA 2009).

The country lies within the latitudes of 4°12'N and 1°29'S, and longitudes of 29°34'E and 35°0'W (UBOS 2011). Uganda is heavily endowed with natural resources which are the main source of livelihood for the majority of Ugandans. Uganda has good soils and biodiversity, ample vegetation cover, an attractive climate and abundant water resources. Uganda occupies a total area of 241,550.7 square kilometres, of which 41,027.4 sq kms is open water and swamps, while 200,523.2 sq kms is land (UBOS 2015). The altitude above sea level ranges from 620 metres (Albert Nile) to 5,111 metres (Mt. Rwenzori peak) (UBOS, 2015).

Geographical highlights include; Lake Victoria, which is the largest lake in Africa and the second largest freshwater lake in the world, with almost one-half of its 10,200-square-kilometre area lying inside Ugandan territory; and River Nile, the longest river in the world which has its major source in Lake Victoria and has an average discharge at about 300 million cubic metres per day. Other major lakes include; Albert, Kyoga, Edward, and George. Other rivers include; Kafu; Kagera; and Katonga. The Rwenzori Mountains form about eighty kilometres of the border between Uganda and the Democratic Republic of the Congo in western Uganda. In eastern Uganda, the border with Kenya is also marked by Mount Elgon, approximately 120 kilometres north of the equator, which rises from the 1,200-metre plains to reach a height of 4,324 meters and North of Mount Elgon is Mount Moroto, at 3,085 metres (Cleveland, 2011).

Uganda’s GDP by production is dominated by three main sectors namely, agriculture, industry, and services sectors (UBOS 2014) (Figure 1.1). Agriculture is the most important sector of the Ugandan economy, and in 2013/14 financial year, the sector’s contribution to GDP in volume terms was at 25 percent of GDP (UBOS 2014). The agricultural sector accounts for 73 percent of the total employment for persons aged 10 years and above (UBOS 2011). In 2013/14 financial year, the contribution of the industrial sector to GDP in volume terms stood at 20 percent. In 2013/14 financial year, the contribution of the services sector to GDP in volume terms stood at 55 percent.



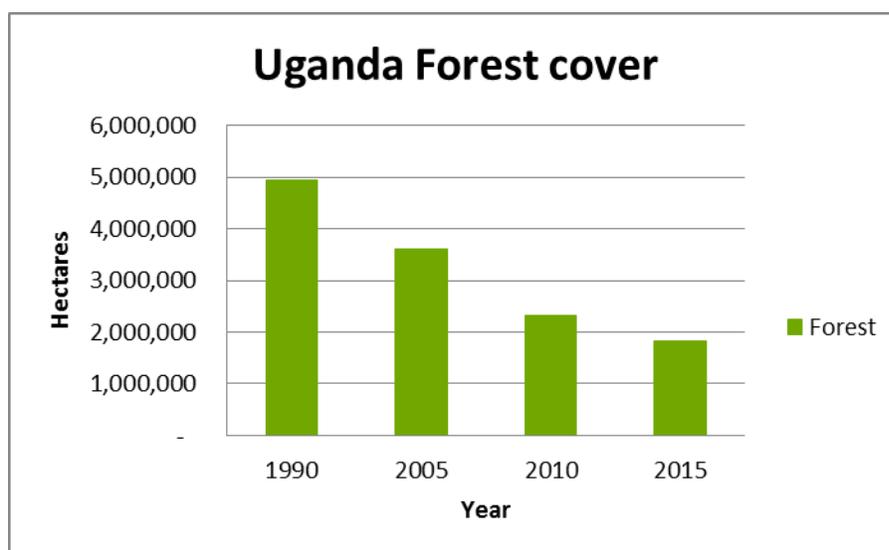
**Figure 1.1: Contribution of the main economic sectors to Uganda’s GDP**

Uganda continues to experience rapid population growth. Uganda’s population increased from 9.5 million in 1969 to 34.9 million in 2014 (UBOS 2015). Between 2002 and 2014 the population increased from 24 million to about 35 million representing an average annual growth rate of 3.0 percent (UBOS 2015). The rapid population growth is partly to blame for the high rate of deforestation in Uganda.

The main energy sources in Uganda include: electricity; biomass; petroleum; and new and renewable sources of energy. Biomass accounts for 92 percent of the total energy consumed; fossil fuels account for 7 percent; and electricity accounts for 1 percent (National Development Plan, 2010). Most of the biomass energy is from wood which is consumed in form of charcoal and firewood. The heavy reliance on biomass energy is not sustainable because it relies on non-renewable energy, has negative environmental impacts, and is one of the causes of forest degradation and loss both on private public forests and woodlands.

**1.2 Status of Uganda’s Forest Cover**

In 2015, forest cover in Uganda was estimated at 1,835,147 ha. This is a reduction from 2,313,620 ha in 2010, 3,602,365 ha in 2005 and 4,933,271 in 1990. Figure 1.2 shows the decline in Uganda’s forest cover for the period 1990-2015 (NFA, 2015).



**Figure 1 2: Decline of Uganda’s forest cover for the period 1990-2015**

Land cover data available is for the years 1990, 2005, 2010 and 2015 (NFA, 2015). Deforestation is calculated between 1990 and 2005, 2005 and 2010, 2010 and 2015 as well as overall deforestation from 1990 to 2015.

From 1990 to 2005, forest cover loss amounted to 1.33 million ha. Over the 15 year period, Uganda experienced an annual deforestation rate of about 1.8%. From 2005 to 2010, the forest lost was 1.28 million hectares. Whereas the area of forest lost is almost the same as the one between 1990 and 2005, the latter happened over a period of just 5 years as opposed to the former which was 15 years. The annual deforestation rate over the 5 years (2005 to 2010) was about 7.15%. From 2010 to 2015, the forest lost was 487,472 hectares making an annual deforestation rate of about 4.14% or 95,694ha per year (NFA, 2015).

Studies by NFA, John Begumana, 2015 have shown that almost all the natural forests outside protected areas have been cleared and most of the remaining forests are in protected areas mainly local and central forest reserves or national parks. Over the entire period of 25 years from 1990 to 2015, Uganda has lost about 63% of its forests at an annual rate of 2.51%.

### **1.3 Initiatives to reduce deforestation and forest degradation**

Reducing Emissions from Deforestation and Forest Degradation (REDD) is a global climate change effort to create a financial value for the carbon stored in forests. It encourages creation of policy approaches and positive incentives for developing countries to reduce emissions from forested lands and invest in low-carbon paths to sustainable development. REDD+ goes beyond deforestation and forest degradation, and includes conservation, sustainable management of forests and enhancement of forest carbon stocks (UN REDD Programme, 2014).

REDD+ involves five key actions:

- (i) reducing emissions from deforestation;
- (ii) reducing emissions from forest degradation;
- (iii) conservation of forest carbon stocks;
- (iv) sustainable management of forests; and
- (v) enhancement of forest carbon stocks.

REDD+ is a framework through which developing countries are rewarded financially for any reductions in greenhouse gas emissions achieved as a result of undertaking the above five key actions.

REDD+ is one of the tools that can be used to conserve Uganda's forests while promoting sustainable development. Through REDD+, the government can put in place a set of policies, strategies, positive incentives and practices to simultaneously reduce greenhouse gas emissions; reverse the trend of deforestation and forest degradation; and achieve sustainable development.

Uganda's conditional pledges regarding the forestry sector are set out in its Intended Nationally Determined Contribution, 2015 (INDC) – reverse deforestation trend to increase forest cover to 21% in 2030, from approximately 14% in 2013, through forest protection, afforestation and sustainable biomass production measures.

Uganda is a participant of the Forest Carbon Partnership Facility (FCPF) – a global partnership of governments, businesses, civil society, and indigenous peoples focused on reducing emissions from deforestation and forest degradation, forest carbon stock conservation, the sustainable management of forests, and the enhancement of forest carbon stocks in developing countries. Uganda is also a partner country of the UN-REDD Programme.

Uganda is developing a national strategy for addressing deforestation and forest degradation thus enabling the country to benefit from the REDD+ mechanism. Being “ready” for REDD+ will require increased capacity to develop and coordinate land use policies with the view of mitigating future impacts on forest cover, while ensuring that benefits from forests flow to those communities dependent on these resources and to stakeholders taking actions to address deforestation and forest degradation. The REDD+ Readiness process should ensure that implementation of proposed programs and activities will not cause adverse social and environmental impacts, while striving to enhance benefits for local communities and the environment (Ministry of Water & Environment, 2015).

The REDD+ mechanism has the potential to ignite grievances and conflicts at various levels and scales:

- (i) *Field level:* existing conflicts and grievances relate to control, use and access to forest resources within protected areas. It is probable that conflicts or grievances relating to ownership of carbon credits, tenure of trees, benefit sharing and participation in REDD-Plus activities may arise;

- (ii) *Institutional level:* conflicts or grievances relate to participation and sharing of roles and tasks in readiness phase among government Agencies and between government agencies and Civil Society organizations and Private Sector. Institutional level conflicts arise due to need to control or acknowledge access, use and interpretation of data and information held by various institutions or whose interpretation infringes on the credibility of some institutions; and
- (iii) *Policy level:* policy and legal related conflicts arise because of policy/legal gaps related to key REDD-Plus issues such as tenure and ownership of Carbon in Protected Areas, licensing Carbon Trade, Funds channeling, among others.

These conflicts are likely to be more pronounced at the community level and may revolve around the loss of livelihoods and sharing of benefits from the REDD+ programme. An effective Feedback and Grievance Redress Mechanism (FGRM) is essential for the successful implementation of the REDD+ programme – it will resolve potential REDD+ conflicts and grievances, enhance transparency, information sharing amongst stakeholders – and ultimately boost the integrity and accountability of the programme.

REDD+ modalities therefore require a systematic plan for addressing the potential conflicts and grievances that may arise during REDD+ readiness activities as well as during the actual implementation of REDD+ mechanism.

#### **1.4 Objectives of the Study**

In a bid to help manage grievances and conflicts should they arise, Uganda aims to put in place an effective and efficient Feedback and Grievance Redress Mechanism (FGRM). The Ministry of Water and Environment accordingly contracted Advocates Coalition for Development and Environment (ACODE) (‘consultant’) to undertake detailed analysis on FGRM systems and design an effective and efficient FGRM that can be used by REDD+ stakeholders in Uganda.

The main objective of the assignment was to build upon the framework assessment already undertaken by the Government of Uganda during the formulation phase to develop a feedback and grievance redress mechanism and make it available to REDD+ stakeholders. There were two specific objectives of the assignment. The first objective was to undertake an assessment of existing national institutional capacity for feedback and grievance redress, so as to:

- a) Identify existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ Strategy/ activities’ implementation;
- b) Identify mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances;
- c) Strengthen policy, legal and institutional framework for managing grievances and Conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation;

- d) Strengthen institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels; and
- e) Capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM.

The second objective was to establish an easily accessible and well publicized mechanism to receive feedback and handle grievances in an as credible and timely manner.

The main output of this consultancy assignment was to come up with a proposal for establishment of an FGRM, including, an elaboration of the principles, structure and functions of the mechanism, and an action plan for the operationalization of the mechanism.

## **1.5 Contents of the Report**

This report consists of five chapters:

**Chapter one** is an introduction to the report that provides information on: the national context; the status of Uganda's forest cover; government initiatives to address deforestation and forest degradation; and the objectives of the study.

**Chapter two** sets out the methodology used for undertaking the study; it describes the approach to executing the assignment; the methods used in data collection including a description of the case studies covered, namely, Cwero local forest reserve; Mt. Elgon national park; Rwoho central forest reserve; and Kikonda central forest reserve.

**Chapter three** presents the major findings of the study, focusing on: policy, legal, regulatory, and institutional framework; the social context of forestry conflicts and grievances; and the conflicts and grievances context.

**Chapter four** presents findings of the proposed feedback and grievance redress mechanism (FGRM) for REDD+ in Uganda, including – the goal and objectives of the FGRM; its rationale; structure; a description of how the FGRM is aligned to the principles of FGRM and Ugandan laws; and monitoring and evaluation of the FGRM.

**Chapter five** presents conclusions and recommendations of the study.

## CHAPTER TWO: METHODOLOGY

### 2.1 Introduction

In this chapter, the consultant describes the detailed approaches and methods that were used to implement the assignment. Specifically, this chapter provides insights into the details of the study design and approach for execution of the assignment, sampling procedures, the study population, methods used for data collection and analysis.

### 2.2 Approach to executing the assignment

The consultant adopted a qualitative approach to undertake the assignment. Whereas the fieldwork team was quite cognizant of the need to collect quantitative data at the different stages of the literature review and data collection process, qualitative research methods were mainly deployed to gain an understanding of the underlying issues as spelt out in the Terms of Reference for the assignment. The consultant also ensured that the FGRM developed under this particular assignment was linked to the other ongoing REDD+ initiatives such as the Strategic Environmental and Social Assessment (SESA), Benefit Sharing, Strategy Options and the Participatory Structures and Communication. This was largely done through the active participation of the entire team of consultants in the seminars, through which the consultants for the other initiatives presented their inception reports to the REDD+ task force. Interactions enabled the FGRM consultation team network and share their experiences with the fellow consultants and also updated on the other ongoing initiatives.

A key requirement of this assignment implicit in the scope of work and the Consultation and Participation Plan was to ensure that a simplified feedback and grievances mechanism conforms to the standard principles of legitimacy, accessibility and transparency as set out in a variety of governance documents and the literature<sup>1</sup>. In designing such a mechanism, the consultant considered the various forest management arrangements for the different types of forests (as set out under the National Forestry and Tree Planting Act, 2003), namely:

- (a) Central forest reserves (CFRs)
- (b) Local forest reserves (LFRs)
- (c) Community forests (CFs)
- (d) Private forests
- (e) National Parks-Forests forming part of a wildlife conservation area declared under the Uganda Wildlife Act (Cap 200, Laws of Uganda)

A case study approach was used to examine the social, legal and conflict related issues that informed the proposed FGRM, conclusions and recommendations in this report. In particular, field case studies formed the basis for:

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<sup>1</sup> Joint FCPF/UN-REDD Programme Guidance Note for REDD+ countries, June 2015

- a) Identification of existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ Strategy/ activities' implementation;
- b) Identification of mechanisms that can detect, prevent and minimize the escalation of, and resolve grievances and conflicts;
- c) strengthening policy, legal and institutional framework for managing grievances and conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation;
- d) strengthening institutional capacity and presence of an active mechanism to receive feedback and handle grievances and conflicts in a timely manner at all levels;
- e) Capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM.

### 2.3 Justification of the case study approach

Although case studies are largely synonymous with natural scientists to—for instance--study plants and animals in their natural habitat, they are also used by behavioural and social scientists to interview and/or observe people in their natural environments. One of the main advantages of this approach is that it often involve a range of well-defined diverse methods such as interviews, direct observations, focus group discussion, document analysis and self-analysis. For this particular assignment, the field case study approach was the basis for data collection largely because it made it possible for the consultant to study populations with clear boundaries and contextual issues pertinent to the issues that were interrogated.

The study sites selected for this assignment were seen as bounded systems--bounded by time (the period of data collection) and place (situated in a particular geographical region of Uganda). This approach also enabled the consultant to gather an array of information about the field cases to provide an in-depth analysis of the feedback and grievance mechanisms. Specifically, data was collected through multiple sources of information thus providing “layers” of analysis and invoking broader interpretations of the meanings of the selected field cases.

### 2.4 Sampling procedure

The main sampling procedure for the case studies was purposive—also known as judgmental sampling—largely used for deliberately selecting study populations that meet the data requirements. Accordingly, the consultant purposively selected four (4) conflict prone forest areas in the four geographical regions of Uganda—eastern, western, northern and central - where the field studies were conducted. Although the sampling procedure for the study sites was guided by a range of factors such as geographical location, nature and frequency of conflict, nature of social/economic activity, concentration of indigenous groups and nature of community settlement (such as squatters), it was largely based on the type of, and management/ownership of the forest. Given the fact that there are five (5) broad categories in all parts of Uganda, the consultant felt the need to develop the above specified criteria in order to come up with what would arguably qualify to be a representative sample of forests to constitute the field case studies. Even if opinion may still be

divided over whether or not this is the most comprehensive list of criteria for choosing the sample, it represents the key considerations that can be made while constituting an appropriate sample for such an assignment.

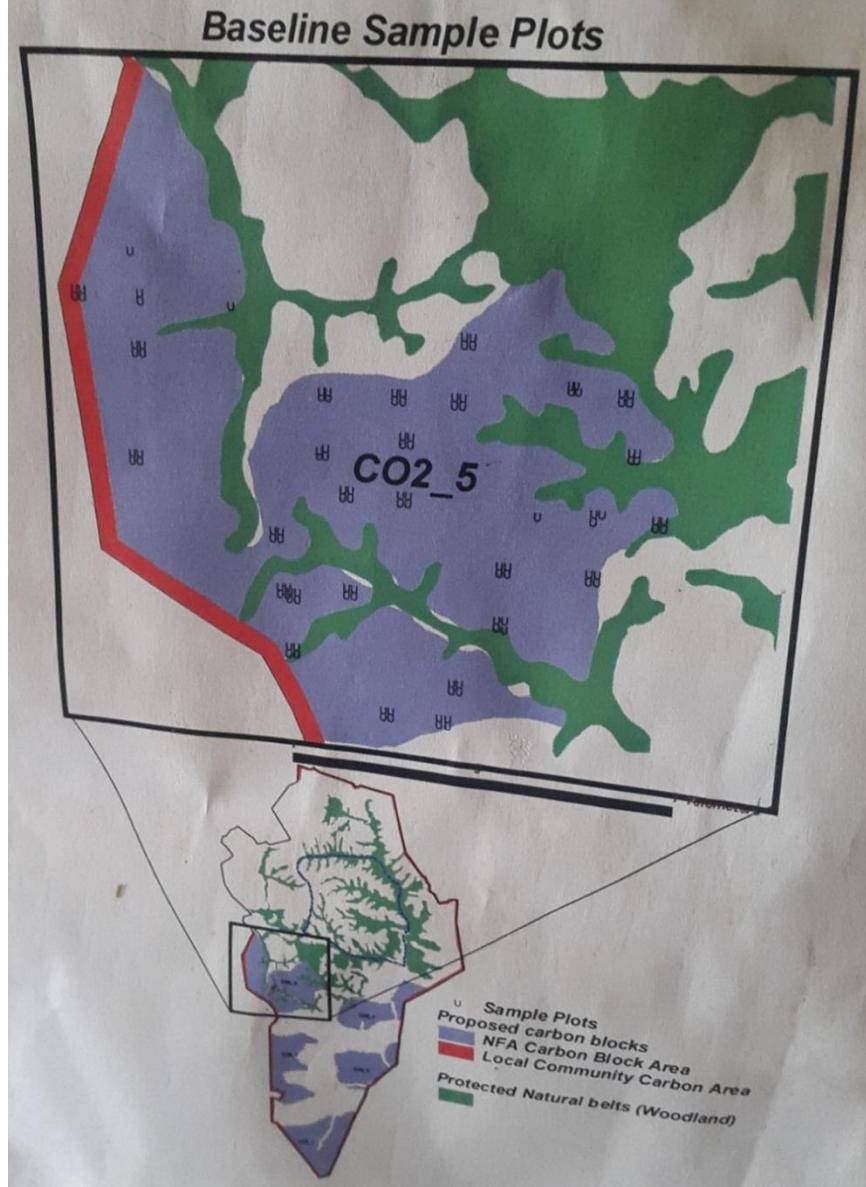
## **2.5 Sampling framework**

On the basis of the justification of the field case studies approach for this assessment (see section 2.3) and taking into consideration the different types of forests (as set out under the National Forestry and Tree Planting Act, 2003), the consultant selected Rwoho, Kikonda, Luwunga and Namwasa CFRs, Cwero Local Forest Reserve, Ongo Community Forest and Mt Elgon National Park as field case studies for this assignment. The details of each of the selected forests for case study are presented in subsections 2.5.1-2.5.5.

### ***2.5.1: Rwoho Forest Reserve***

Rwoho Forest Reserve is located in Western Uganda, with an area of about 9,073 ha and forms part of the Nile Basin Reforestation Project, managed by the National Forestry Authority (NFA) of which over 50% is for reforestation, and the remainder for watershed and biodiversity conservation (Mwayafu & Kimbowa, 2011). The forest is largely managed by community-based organisations spanning the three districts that share the forest reserve namely; Mbarara, Ntungamo and Isingiro.

## Appendix 2: Baseline Sample Plots



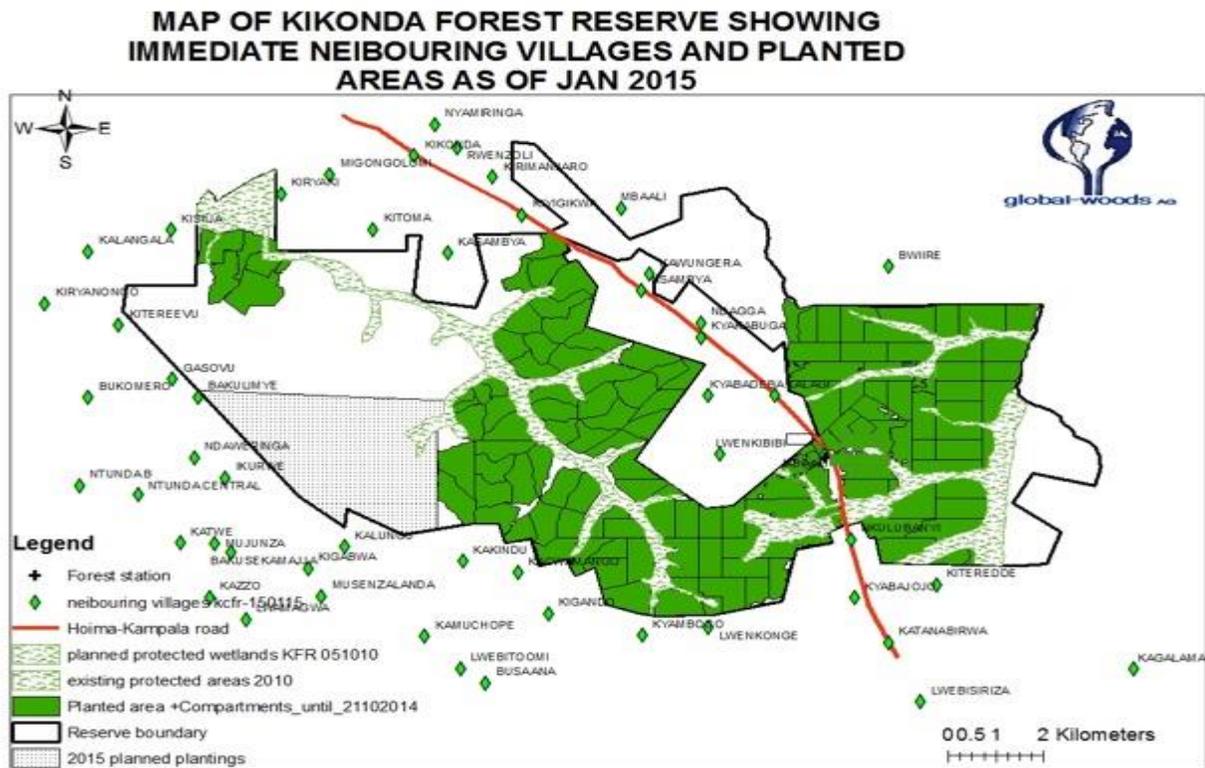
Rwoho central forest reserve was selected as one of the field case studies for this assignment largely on account that it represents a category of central forest reserves with a functioning Collaborative Forest Management (CFM) system. The forest has a CFM system that has been operational for several years and with well-organized and established community-based organisations. These include; the Rwoho Environmental Conservation and Protection Association (RECPA), Kagoto Foundation for Development Association (KAFODA), Kanywamaizi Development Association (KDA), Bushwere Environment and Conservation Association (BECA) and the Support for Women in Agriculture and Environment (SWAGEN). Under the C\*FM arrangement, the community-based organisations enter into structured partnerships with the other key stakeholders in forest management and conservation notably the government (NFA and/or UWA) and any other

interested organisations. The community groups are also given powers to manage either part of or the whole central forest reserve and benefits accruing from the carbon projects are rewarded to the members of the community-based organizations basing on the carbon shares held.

Within this site, the consultant generated information on the positive and negative experiences (both past and present) and lessons learnt from the CFM procedures—particularly in relation to handling grievance and conflict in the forest reserve. The information generated was to inform and guide in the formulation of an effective and legitimate FGRM. Other specific issues interrogated during the data collection exercise included; the decision making procedures over resources for preparing land for plantation establishment, animal grazing rights by the forest adjacent communities, conflicts over which tree species should be planted by the community members to yield faster returns and land/forest/tree tenure insecurity under the CFM arrangement.

### ***2.5.2 Kikonda Central Forest Reserve***

The Kikonda Central Forest Reserve is located in Kyankwanzi district astride both sides of the Kampala-Hoima road (Figure 2.2). The forest is managed by Global Woods International, a German company that was granted a 50 year tree planting license by the Government of Uganda in 2001. Since then, the company has planted pine, eucalyptus and other seasonal water plants in an estimated 8,000 hectares of the approximately 12,186 hectares of the entire forest reserve. During the visit to Kikonda CFR, the consultant specifically examined the positive and negative experiences and lessons learnt from the management of the project with a view to informing the formulation of an effective and legitimate FGRM. Specifically, the consultant focused on the nature of conflicts between Global Woods Company and the community adjacent to the reserve.



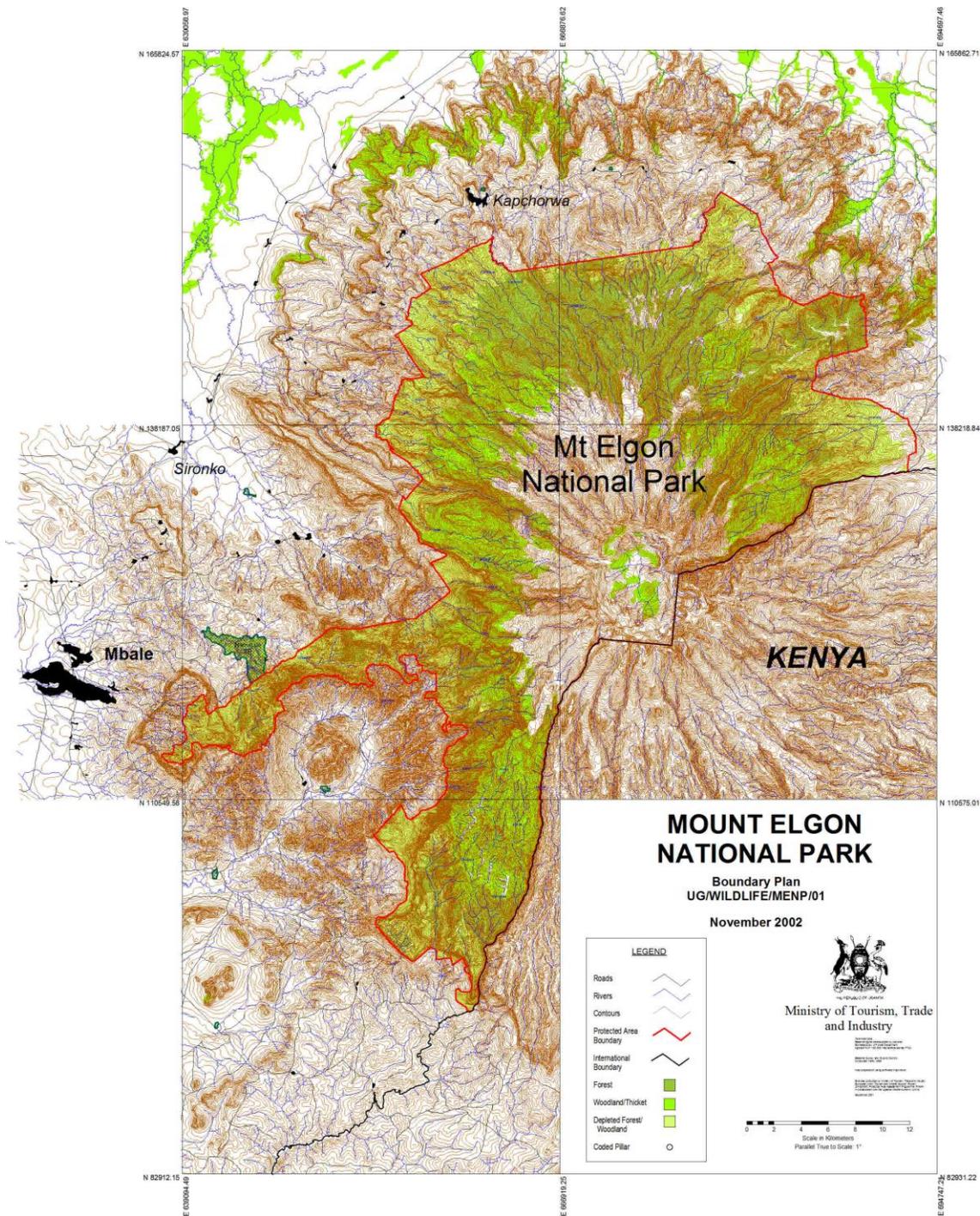
**Figure 2.1:** Map of Kikonda Forest Reserve showing neighboring communities and planted areas

### 2.5.3: Mount Elgon National Park

Mt. Elgon National Park is located in Eastern Uganda, straddling the districts of Mbale, Bududa, Manafwa, Bukwo, Kween, Kapchorwa, Sironko and Bulambuli (Figure 2.3). Mount Elgon National Park provides a refuge for flora and fauna and is one of the largest volcanic bases in the world. The park is home to over 300 species of birds, including the endangered Lammergeyer, the small antelopes, forest monkeys, elephants and buffalos. The higher slopes of Mt. Elgon—the oldest and largest solitary, volcanic mountain in East Africa creates an extensive trans-boundary conservation area which was declared a UNESCO Man & Biosphere Reserve (UWA, 2016).

The climate is moist to moderate dry with an annual rainfall of over 1,270mm. The dry season runs from June to August, and December to March, although it can rain at any time of the year on the mountain. The geology of the area is dominated by basaltic parent materials and strongly weathered granites of the Basement Complex. The park receives a bimodal pattern of rainfall, generally, with the wettest period occurring from April to October. The mean annual rainfall ranges from 1500 mm on the eastern and northern slopes, to 2000 mm in the southern and the western slopes. The mean maximum and minimum temperatures are 23° and 15°C respectively. Mid-slopes oriented towards the east and north, at elevations between 2000 and 3000m tend to be wetter than either the lower slopes or the summit (UWA, 2016).

In 1994, the Dutch Forests Absorbing Carbon dioxide Emissions (FACE) Foundation--now called Face the Future--signed an agreement with the then Uganda national Parks to plant trees on 25,000 hectares inside Mount Elgon National Park (REDD, 2015). Essentially, the agreement allowed different companies to market carbon credits from the project. Although FACE—which eventually pulled out from the Park in 2004—had for long insisted that the project has improved income and standards of living among local communities (especially through job opportunities and the provision of seedlings to farmers to plant on their individual farms), it had been plagued by reports of a series of conflicts and human rights abuses towards local villagers who particularly questioned FACE’s ownership of the land. There were also frequent land disputes between UWA, the Benet people (whose territories were inside the park) and other local villagers living adjacent to the park claiming that their fields had been encroached on by the park invasion ((Kill, 2015). To date, there is still simmering animosity between UWA, NFA and local community over the demarcation of the national park boundary that took place in the years 1993 and 2005. Whereas local community adjacent to the park prefer respecting the 1993 park boundary line, UWA insist that the boundary marked in 2005 is the actual and must be respected by the park adjacent communities. However, efforts are underway to demarcate what would be an acceptable boundary between the park and the adjacent community.



**Figure 2.2:** Location of Mountain Elgon National Park, Eastern Uganda

During the visit to this field case study, the consultant examined the positive and negative experiences and lessons learnt from the management of the park in light of a host of conflicts over a myriad of other issues such as alleged human rights abuses, forceful eviction of forest dependent communities and the ‘militaristic’ resolution of disputes (Nel, A., 2014); disputes over land use,

boundary disputes and ethnic violence and the clash of competing interests (forest conservation vs. agricultural land use).

#### ***2.5.4 Field case study 4: Cwero Local Forest Reserve***

Located 20 kilometres on the Gulu-Pader road, Cwero Forest Reserve represents the category of Local Forest Reserves managed by the District Forest Services. It represented the category of forests currently bedeviled with a host of contentious issues on the use and exploitation of forest resources following the return of persons who were previously living in Internally Displaced Persons (IDPs) camps to their communities. Given the challenges associated with land ownership in the region during this post-conflict era, some individuals who were previously living in IDPs had no option but to earn their living by exploiting resources in the forest reserve—notably charcoal, timber and firewood which has resulted into many forms of conflict.

##### **A section of Cwero Local Forest Reserve**



Like for the above field case studies, the consultant's interest in this site involved the interrogation of the nature of and lessons learned in dealing with conflicts related to the microeconomic and social issues that affect the traditional livelihoods in the forest reserve. Specifically, this field case study provided insights into the formal and informal mechanisms of resolving grievances and conflicts in a post-conflict environment, the management and/or oversight roles of the District Forest Services of local forest reserves and the overall forestry resource management practices during the transition to peace in fragile post-conflict societies.

#### ***2.5.5 Other forest types reviewed for this assessment***

Through the literature review process, the consultant also considered selected forest types to offer insights into their ownership and management practices and draw any lessons on the resolution of

conflicts where they have ever arisen or exist. Like for the field case sites explained in sections 2.5.1 to 2.5.4, the selection of the forest types in this sub-section was largely influenced by their ownership/management than any other considerations. The forests reviewed under this sub-section included:

(i) ***Ongo Community Forest***

Ongo community forest is located in Kasenene parish, Budongo Sub-county, Masindi district. It is surrounded by the villages of Onieni, Abangi, Ogadra and Kibaali. Initially, it had a total land area of 200 hectares but has since been reduced to 197 hectares due to encroachment. The local communities adjacent to the forest have been supported by various organizations to sustainably secure and derive forest goods and services. Notable among the organisations include; Budongo Fforests Community Development Organization (BUCODO) now Community Development and Conservation Agency (CODECA), Care International Uganda, Environmental Conservation Trust (ECO-TRUST), Makerere University, Association of Uganda Professional Women in Agriculture and Environment (AUPWAE) and Ministry of Water and Environment through Forest Sector Support Department, Uganda Forest Working Group and Environmental Alert.

A key feature of this forest reserve is that it is one of the highlights of the community forestry management concept—which is however, yet to be fully operationalized. While the initiative started in Alimugonza in 2000 and Ongo, Tengele and Motokai in 2003 in Masindi through support by Environmental Protection and Economic development (EPED) for Alimugonza and Budongo Forests Community Development Organization (BUCODO), the concept is still a step-wise process of transforming selected forests into community forests under the management of Communal Land Associations. It is anticipated that these associations are granted ten year management plans that are reviewed every five years on the recommendation of the district councils.

Since its inception in 2003, the Ongo Communal Land Association (CLA), various forest committees were formed in the four neighbouring villages of Onieni, Abangi, Ogandra and Kibaali that resulted into the formation of the interim executive committee of the CLAs. Following the initial forest boundary demarcated by the community, forest land ownership was secured through the Area land Committee of Budongo Sub County. The land was surveyed and a map produced with mark stones planted at different grid points. Over the years, Makerere University has been undertaking research in the forest in order to implement the activities in forest management plans such as carbon trade, small scale business management and forest friendly enterprises to support communities for the purpose of conservation benefits.

However, community forest management has continued to face encroachment resulting from delayed process of declaring the forests as community forests under responsible management of the CLAs, as well as delay in approving the application to register the forests by the District Land Board (DLB). This has been compounded by the expiry of the tenure of office of the DLB and the slow process in reconstituting the new DLB. The forest also face the challenge of bureaucracy and overwhelming demand for resources to implement the forest management plans and the lack of

land title since the community does not have the resources to pursue the process to logical conclusion.

(ii) *Namwasa and Luwunga CFRs*

Namwasa and Luwunga are central forest reserves that have been leased by the NFA to the New Forests Company a, private organisation for tree planting activities. Located in Mubende district and Kiboga district respectively, Namwasa and Luwunga forests represent a category of privately owned forests that have—over the years--been bedevilled by a set of grievances and conflicts. In 2004 for instance, the New Forests Company (NFC)—the parent company for both forests faced allegations of evicting ‘model farmers’ and local residents from their homes and land in Kiboga and Mubende districts to make way for its plantations (Oxfam, 2011). The company has also since faced allegations of driving the people in both districts into poverty and landlessness and subjected them to violence and destroying their property, crops and livestock. Although government and other stakeholders have for long been credited for undertaking to resolve some of the grievances and conflicts through the resettlement and compensation of evicted persons, there are still complaints of human rights violations and deprivation of livelihoods (Oxfam, 2011).

## 2.6 Methods of data collection

In executing this assignment, the research team triangulated a range of methods and procedures to gather data that informed its findings, conclusions and recommendations. These methods and procedures included Review of secondary data sources, focus group discussions, key informant interviews, stakeholder mapping and problem solving workshop (see details in subsections 2.6.1-2.6.6. The fieldwork for this assignment took place between March 30<sup>th</sup>, 2016 and May 15<sup>th</sup>, 2016. The field team comprised of a conflict analyst, lawyer and a sociologist working with selected experienced research associates. In executing this assignment, the research team triangulated a range of methods and procedures to gather data that informed its findings, conclusions and recommendations. These methods and procedures are fully described below:

### 2.6.1 Review of Secondary data sources

A review of literature was one of the main methods used to generated data for this assignment. This procedure entailed a comprehensive review of scholarly and other literature on the design of effective REDD+ feedback and grievances redress mechanisms (FGRMs) by other countries and other relevant guidance notes by international funding agencies such as the World Bank, UNDP, and UN-REDD Programme materials. The team also reviewed various Government of Uganda policy, legal, regulatory and institutional documents including--but not limited to--forestry, agriculture, wildlife, land, energy and environment. In the process of literature review, the consultants aimed at:

- (i) Identifying and describing the existing national institutional capacity for feedback and grievance redress;
- (ii) Exploring ideas on existing policy, legal, regulatory and institutional framework for managing grievances and conflicts ideas on how to strengthen them;
- (iii) Identifying potential risks and ideas on handling grievances;

- (iv) Examining ideas on formalizing FGRM for REDD+.

Overall, the process of reviewing literature involved identification and location of the relevant articles for review by the consultancy team, followed by an elaborate analysis process of their content. In undertaking literature review, the consultant addressed a number of research questions such as: a) What is the history of grievances and conflicts in the forest sector, and how have they been addressed?; b) Are there any social/informal mechanisms that exist for to handling forest-related grievances?; c) What type of grievance-related legislation, policy, regulations, procedures, administrative systems are currently present, and how are these legal instruments affecting and driving grievances and conflicts?; and d) What kind and nature of structures for redressing grievances/conflicts that exist and how effective are they?

During the review of secondary data sources, notes were recorded on the specific issues that for interrogation of respondents for case studies. The notes were also used to inform the latter processes of the report writing exercise. Review of secondary data sources generated information on the existing maps, drawings and other resources, study gaps, the relationships and explored ways of integrating the findings and recommendations into the outputs of the assignment.

Other important processes that were undertaken included:

***General overview of the literature/secondary documentary sources:*** The consultation team conducted an in-depth study of the available articles to get an idea of their overall purpose and content in relation to the ToRs of this particular assignment. During this process, the reviewers recorded the notes on the specific issues that were interrogated during the field work exercise. Such notes were also used to inform the latter processes of the report writing exercise. In addition to identifying the gaps in the literature sources, the reviewers also reflected on the existing study gaps, took note of the relationships among such studies and explored ways of integrating the findings and recommendations into the outputs of this assignment.

- (a) ***Grouping the articles into categories:*** This process involved the categorization of the secondary sources obtained into the relevant themes under which this assignment was undertaken. These included; legal, social and conflict themes.
- (b) ***Obtaining maps, drawings and other useful information:*** During this process, the consultation team ensured that it obtains maps, drawings and other resources considered useful for writing the assignment report.
- (c) ***Other issues considered:*** The process also considered the methodological diversity in the previous studies and its implications on the distinction between their authors' interpretation of their data and the actual empirical evidence presented in such reports.

### Review of R-PP assessment:

In line with one of the key specific objectives of this assessment—namely building upon the framework assessment already undertaken by the Government of Uganda—the consultant specifically reviewed the R-PP document, considered among other documents, to be one of the most critical to the exercise. Specifically, the results of the R-PP assessment greatly informed the framing of the discussion of the major legal/policy, social and conflict findings of the assessment (see Chapter 3).

#### 2.6.2 Focus Group Discussions (FGDs)

In line with the ToRs for the assignment, the FGDs were held with women, youth, forest dependent people and indigenous minorities. FGDs enabled the consultant to understand the nature and manifestations of grievances and conflicts in each of the field case studies and also to draw lessons on how they were dealt with by all concerned parties.

***The case for FGDs:*** Essentially, FGDs were used to generate information through discussions among selected forest community participants. Information generated from FGDs was used to supplement information gathered through review of literature and the other methods of data collection. FGDs also offered the consultant the opportunity to interact and collect information on the social structure of the local communities and explore issues that embody the specific objectives of this assignment. FGDs also enabled the field team to map and understand the social forces (such as perceptions, knowledge, attitudes, habits, customs and beliefs) of forest/park adjacent communities and their influence in addressing the concerns, grievances and disputes in regard to use and management of forest resources in their vicinity., Participants in the FGDs were encouraged to talk to one another, exchange anecdotes and comment on each other’s experiences and points of view on ways to address concerns, grievances and disputes that might arise in the readiness or implementation phase of REDD+ activities.

***Composition of FGDs:*** Participants in the FGDs included—among others--residents of the forest reserve, evicted (former) residents of a forest reserve and varying categories of individuals who either manage or exploit the forest resources in the particular case study for farming, wood and timber harvesting, hunting or other livelihood activities. Participants in the FGDs comprised both male and female given that the issue that was interrogated for this particular assignment was not necessarily considered a sensitive subject (which often inhibits free discussion during the proceedings amongst persons of different sexes): In total, eight (8) FGDs were undertaken, comprising of 122 participants ( see Table 2.1).

**Table 2.1: List of FGD participants**

Field case study site	No. of FGDs held	Sex of the FGD participants	
		No. of male	No. of female
Cwero Local Forest Reserve	2	12	14
Mount Elgon National Park	2	24	11
Rwoho Central Forest Reserve	2	22	6
Kikonda Central Forest Reserve	2	26	7
<b>TOTAL</b>	<b>8</b>	<b>84</b>	<b>38</b>

*Selection of FGD participants:* Participants in the FGDs were purposively selected basing on their willingness to share thoughts and experiences on the issues that define and/or redefine grievances and conflict and on the feedback and grievance redress mechanism for Uganda’s REDD+ programme. In addition to the sex of the participants, special attention was also put on the need to balance other socio-cultural variables such as occupation, level of education, residence and marital status. On average, each FGD sessions lasted 2 and half hours.

### 2.6.3 Key Informant Interviews (KIIs)

The consultant held key informant interviews (KIIs) with policy makers and practitioners, researchers, civil society members, private tree planters, public officials working at the REDD+ secretariat, key REDD+ practitioners, political, religious and technical officers at policy and programme levels to generate information on their experiences in managing and/or resolving forest grievances and conflicts and on the necessary reforms in the policy, legal and institutional framework for the operationalisation of the proposed FGRM. In total, 22 KIIs were interviewed as summarized in Table 2.2).

**Table 2.2: List of Key Informant Interviewees**

Institution/Department	No. of KIIs interviewed	Sex	
		Male	Female
Government Ministries	5	4	1
Civil Society Organisations (CSOs)	4	3	1
Private sector	4	2	2
Cultural institutions	2	2	0
Faith-based organisations	2	2	0
International agencies	1	1	0
Development partners/donor agencies	1	0	1
REDD+ secretariat	2	2	0
Academia	1	1	0
<b>TOTAL</b>	<b>22</b>	<b>17</b>	<b>5</b>

The purpose of the KIIs was to collect information from a wide range of respondents who have firsthand knowledge about the field case studies and clearly understand the different elements of

the REDD+ initiative. KIIs covered the whole cycle of tasks spelt out in the ToRs for the assignment.

#### 2.6.4 Participatory Learning and Action (PLA) techniques

To examine the social structure of the communities living and/or depending on the selected forest field case studies, the consultant used a range of PLA techniques. These included:

- (i) ***Trend Analysis (TA)***: This technique was used to obtain the respondents' accounts of the past and provide insights into the socio-economic changes that have taken place in the selected field case studies over time. Using this technique, the consultant mapped the major changes and trends that have taken place in the traditional/community mechanisms for addressing grievances and conflicts at the different levels over time and interrogated how such trends could provide insights into designing appropriate redress mechanisms. The trends or phases interrogated during the field work exercise included the analysis of livelihoods in respect to the introduction of the major forest/land-related Acts, Policies and regulations and the ways in which the ownership and management of the forest resources had changed over the years. Also interrogated using this technique was the social structure of the forest community and its influence on the trend of conflicts/ disputes in the areas studied. Specifically, the TA technique was used to probe for the influence of groups (such as clans), associations, individual statuses and roles of key actors in the escalation and management of grievances and conflicts.
- (ii) ***The Problem Tree Analysis (PTA)***: This technique was used to engage the communities in conflict prone forest settings in developing and effective FGRM basing on their perception and understanding of the causes and effects of disputes over forest ownership, use and exploitation.
- (iii) ***Forest Stakeholder Mapping (FSM)***: In line with the ToRs of the assignment, this technique was also used to provide insights into the roles, responsibilities and status of the various stakeholders in the overall management and utilization of resources in the forest reserves. As for the above data collection methods, the engagement with forest stakeholders during the social mapping and trend analysis procedures cover the whole cycle of tasks.
- (iv) ***Problem Solving Workshop (PSW)***: The consultant held one problem solving workshop at Busamo sub-county headquarters, Bungokho County, Mbale district. Although it was envisaged that problem solving workshops would be conducted in all the selected field case study areas, this was not possible largely due to the fact that the prevailing grievances and conflicts required more time than was available to the consultant in order to convince the parties to come to a problem solving workshop. For a number of days, efforts to mobilize various categories of stakeholders to attend our planned PSWs were futile due to either their busy schedules in search of livelihoods or

reluctance on the part of some of the key individuals involved in the conflicts. Essentially, the Mbale PSW workshop was aimed to pass on tools of conflict resolution skills to the stakeholders and explore ways of formulating effective and legitimate FGRMs. The workshop, attended by 30 participants drawn from different categories of stakeholders in areas adjacent to Mt. Elgon national park. In addition to the local community forest users drawn from various parts of the country, participants in this workshop were also drawn from the Ministry of Water and Environment, the local governments, the private sector, the media, and relevant CSOs. Overall, the problem solving workshop provided a forum for the conflicting parties in the Mt. Elgon National Park to dialogue on some of the grievances and conflicts they are facing. During the workshop, the consultant obtained useful information and insights regarding the types, nature and causes of conflicts experienced and how they were being managed. The consultant also explored the pre-existing FGRMs in the case study areas. Overall, the PSW also helped the consultant to concretize the conceptualization of the various FGRMs. Specifically, the engagement with participants in the problem solving workshop covered the whole cycle of tasks.

## **2.7 Description of the tools used & the context under which they were applied**

In undertaking this assignment, the consultant used a set of tools for the FRGM work as described in subsections 2.7.1 -2.7.6.

### **2.7.1 Grievance Redress Mechanism (GRM) Evaluation Tool**

A grievance redress mechanism (GRM) tool was developed by the Joint FCPF/UN-REDD Programme Guidance Note for REDD+ Countries to examine relevant aspects of the assessment such as organizational commitment, legitimacy, accessibility, predictability, fairness, rights compatibility, transparency and capability. The tool is often recommended for the evaluation of an existing grievance redress mechanism. In applying this tool, the consultant used a set of questions were formulated to guide a discussion with the goal of identifying areas that work well and those that need improvement and also to evaluate the existing redress mechanisms. . The tool also contained questions that address process issues such as uptake, sorting and processing, acknowledgement and follow-up, verification, investigation and action, monitoring and evaluation, feedback and analysis.

### **2.7.2 Conflict Dynamics Framework (Conflict Analysis Framework) Tool**

This tool was used to assess and analyze existing conflicts and corresponding grievances in the forest sector. The conflict dynamics framework also helped to explain conflict processes and their resolution by identifying dilemmas and paradoxes that define different stages of a confrontation between resource dependent communities, the local leadership as well as the state in general. The framework was also used to identify how these conflicts have worsened the community dynamics as they struggle to share the limited natural resources. The conflict analysis framework also helped

to understand the relationship between the stakeholders in the forestry sector, and explore the possible strategies for resolving the problems.

### 2.7.3 Semi-structured questionnaire

A semi-structured questionnaire was designed with a list of questions on the various grievance structures, gaps, existing institutional capacity to manage and resolve grievances and disputes in the field case studies. These questions comprised of open-ended questions on the different themes and sub-themes that were to be assessed during the assignment. The questionnaire was designed to enable respondents provide answers in relaxed manner and conducive interview environment. The philosophy behind this choice of method was that it would enable the respondents to produce “thick descriptions” of their responses in an elaborate and detailed manner on their understanding of the questions put to them and any other follow-up questions raised during ‘probing’.

### 2.7.4 FGD guide

An interview schedule was designed to provide for the procedures and questions on which data was collected from FGD participants. In addition to the set questions designed to address concerns, grievances and disputes that might arise in the readiness or implementation phase of REDD+ activities, this tool also contained an explanation of the FGD study process. It also set out the framework of the FGD ground rules and a checklist of the materials and supplies for the FGDs.

### 2.7.5 Trend Analysis tool

The consultant also designed a Trend Analysis (TA) tool that was used in exploring the sequential changes that have occurred in the conflict areas over the past decade or so. Specifically, this tool was used to provide a detailed understanding of the overall pattern of conflicts and/or the potential for future conflicts related to the forestry sector in the case studies. It also enabled the consultant make future projections and thus provide the framework for making recommendations on ways to refine the FGRM plan outlined in the R-PP.

### 2.7.6 Problem/solution tree tool

A problem/solution tree tool was also designed to provide the consultant with an overview of all the known causes and effects of the concerns, grievances and disputes in the selected case studies for the current assignment. The use of this tool was considered critical in planning a community engagement in assessing the existing individual, community and institutional capacity in managing and resolving grievances and disputes and the overall context in which they can be resolved. In designing and applying this tool for this assignment, the consultant was aware that a problem tree analysis would involve writing causes in a negative form—in this case causes of conflict in the forestry sector—while reversing the problem tree--by replacing negative statements with positive ones—would create a solution tree. In this case, a solution tree was used to identify means-end relationships as opposed to cause-effects issues.

## 2.8 Pre-testing research instruments

The research tools/instruments were pre-tested for validity, reliability, practicability and sensitivity before they were adopted for the exercise/actual data collection. For this assignment, the pre-testing phase was conducted on March 19<sup>th</sup>, 2016 in Senyondo Parish, Buwama Sub county, Mpigi district (Central Uganda). About five FGDs and eight (8) KIIs were involved in the pre-testing exercise, who included government officials, private foresters, civil society group members, and opinion and religious leaders.

## 2.9 Data Analysis

Given that most of the data collected was qualitative, information for this assignment was majorly in form of field notes. These were thematically analysed basing on the specific objectives of the assignment. Where necessary, the consultant used narrative and content analysis to compare views from the different FGDs.

## 2.10 Limitations and challenges to this assignment

Given that the consultant received adequate transport, accommodation and welfare facilitation for this assignment, the major limitations and challenges encountered were largely process-related. Firstly, there were challenges in managing the expectations of the forest-reliant communities who always saw the presence of the research team as an opportunity to ‘at last give us our forest.’ In most cases, the majority of stakeholders who turned up for FGDs and the problem solving workshop were more interested in hearing about when they would be ‘given their forest’ from the team than in responding to the specific questions tailored to guide the discussion. This was however, overcome by insisting on explaining the general objective of this assignment—which certainly had nothing to do with determining who owns a particular forest reserve or when the existing conflicts over its boundaries and related issues would be finally resolved.

Secondly, the failure to hold more PSWs in the various study sites visited (for the reasons highlighted in sub-section 2.6.4) was a key limitation in the consultant’s strategy to build the capacity of the forest dependent communities in conflict resolution strategies. It is however, anticipated that the follow-up conflict resolution training workshops expected to be held in line with the recommendations of this report will go a long way in mitigating this limitation.

Despite the limitations and challenges, the consultant firmly believes that this assignment went according to plan and satisfactorily presents adequate empirical evidence upon which an effective FGRM has been proposed. Like for the other ongoing REDD+ initiatives, the output of this assignment will go a long way in the long term vision of reducing emissions and curbing deforestation in Uganda.

## 2.11 Ethical considerations

Before starting to conduct any interviews for this assignment, the consultant and all members of the research team always fully explained the purpose and relevance of the assignment to all the respondents and assured them of confidentiality, anonymity, voluntary participation and the right to withdraw from the proceedings at any stage of the interview. Although the respondents were not required any consent forms to confirm that they willingly volunteered to take part in the exercise,

the research team ensured that they fully understood the objectives and scope of the assignment before the interviews. In line with respecting this ethical issue, no names or other form of direct reference to the identity of any of the respondents was revealed in this report.

### **2.12 The ACODE research team**

In addition to the team of three (3) highly experienced consultants namely—the conflict expert, the legal expert and the sociologist, ACODE also relied on its network of researchers to execute this assignment. For each of the case studies, two of the ACODE researchers were selected to participate in a three-day training exercise in Kampala. The selected researchers were also involved in the pre-testing exercise of the research instruments before they were deployed to the field to mobilize the communities and prepare to participate in all the data collection procedures in their respective regions.

## CHAPTER THREE: MAJOR FINDINGS ON THE EXISTING AND POTENTIAL CONFLICTS AND THE RESOLUTION MECHANISMS

### 3.0 Introduction

This chapter presents the major findings of the assessment. The findings are presented under three major sub-themes of the study, namely: the policy, legal, regulatory and institutional framework; the social aspects and the conflict aspects of the forestry sector in Uganda within the REDD+ context.

### 3.1 Policy, Legal, Regulatory & Institutional Framework

#### 3.1.1 Introduction

This section presents an analysis of Uganda's policy, legal, and regulatory framework relevant to REDD+ and feedback and grievance redress mechanism. The section begins with the analysis of relevant international legal instruments followed by various domestic legal issues. The various policy and legal instruments are analysed with a view of assessing their adequacy in resolving potential REDD+ conflicts and grievances. Gaps in the various policy and legal instruments are identified followed by recommendations on how to address those gaps. Finally, the section identifies lessons from the review of the policy and legal framework for the design of the FGRM.

#### 3.1.2 International legal issues relevant to REDD+ and grievance redress mechanisms

##### *Tracing the origins of REDD+*

From the outset, it is important to note that international legal instruments do not automatically become enforceable in Uganda just because they have been ratified (Mbaziira, 2009). International legal instruments have to go through a process of domestication (made part of Uganda's laws) in accordance with the applicable laws in order to become effective and enforceable in Uganda (Mbaziira, 2009). Under the *Constitution*<sup>2</sup>, Uganda is obliged to respect international law and treaty obligations. The President may make treaties, conventions, agreements or other arrangements between Uganda and any other country or between Uganda and any international organisation or body, in respect of any matter; and Parliament shall make laws to govern ratification of treaties, conventions, agreements or other arrangements made by the State<sup>3</sup>.

Uganda ratified the United Nations Framework Convention on Climate Change (UNFCCC), 1992 on the 8<sup>th</sup> September 1993 (the UNFCCC entered into force on the 21<sup>st</sup> March 1994). *Article 4* of the UNFCCC sets out the key commitments of the Parties, all aimed at reducing greenhouse gas emissions, including sustainable management and conservation and enhancement of forests.

Uganda also ratified the Kyoto Protocol, 1997 on the 25<sup>th</sup> March 2002 (the Kyoto Protocol, 1997 entered into force on the 16<sup>th</sup> February 2005). *Article 12* of the Kyoto Protocol provides for the Clean Development Mechanism (CDM), a mechanism whereby projects that reduce greenhouse

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<sup>2</sup> See Number XXVIII of the National Objectives and Directive Principles of State Policy

<sup>3</sup> See Article 123 of the Constitution

gases can be implemented in developing countries, and the carbon credits generated in those projects are then used to meet the quantified emission reduction commitments of developed countries. The carbon credits have a financial value attached to them and are sold in international carbon markets.

These international treaties provide the overall international legal framework through which countries continue to take decisions on various aspects of climate change, including REDD+, during the annual Conference of Parties (COP) meetings.

However, both the UNFCCC and the Kyoto Protocol have not been domesticated in Uganda<sup>4</sup>, although Uganda is taking steps towards implementing some of the outcomes of the UNFCCC/Kyoto Protocol process such as the REDD+ mechanism, and CDM.

The origins of REDD+ can be traced to the 11<sup>th</sup> Conference of Parties in Montreal, Canada, 2005 when countries proposed a mechanism for reducing emissions from deforestation in developing countries (Parker, C., et al., 2009). Two years later at the 13<sup>th</sup> Conference of Parties in Bali, Indonesia, 2007 countries acknowledged the contribution of emissions from deforestation and forest degradation to global anthropogenic GHG emissions (Decision 2/CP.13). The decision provided a mandate for several actions by countries relating to reducing emissions from deforestation and forest degradation in developing countries such as capacity building, technology transfer, exploring a range of actions and demonstration activities and mobilization of resources to support these efforts.

The *Cancun Agreements* (Decision 1/CP.16) describe some of the key decisions that countries have taken regarding REDD+. The Agreements also set out the policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries. The Cancun Safeguards (Appendix 1 of Decision 1/CP.16) are a set of seven actions that countries should promote and support while undertaking REDD+ activities that include:

1. ***Consistency with national forest programmes and international agreements***<sup>5</sup>: While undertaking REDD+ activities, countries should ensure that REDD+ actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements (this may include environmental and human rights obligations) (Chapman, S., Wilder, M., et al., 2014). The design of the feedback and grievance redress mechanism should respect national forest programmes and international agreements;
2. ***Transparent and effective forest governance***<sup>6</sup>: Countries undertaking REDD+ activities should promote and support transparent and effective national forest governance structures, taking into account national legislation and sovereignty. In the context of the feedback and

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<sup>4</sup> The Ministry of Water & Environment is in the early stages of developing a Climate Change Bill which would effectively domesticate the UNFCCC and related treaties/agreements (information obtained from a key informant interview).

<sup>5</sup> See paragraph 2(a) of Appendix I to Decision 1/CP.16

<sup>6</sup> See paragraph 2(b) of Appendix I to Decision 1/CP.16

grievance redress mechanism, this safeguard has two important implications – first, by having transparent and effective governance, conflicts and grievances will be minimised; and secondly, whether or not the feedback and grievance redress mechanism is effective will largely depend on the effectiveness and transparency of the country’s forest governance framework;

3. ***Respect for rights of indigenous peoples and local communities***<sup>7</sup>: Countries implementing REDD+ activities should ensure that there is respect for the knowledge and rights of indigenous peoples and members of local communities consistent with the *United Nations Declaration on the Rights of Indigenous Peoples, 2007*, relevant international agreements, and national laws. The feedback and grievance redress mechanism should be designed in such a way that it respects and enforces the rights of indigenous peoples and local communities who are often marginalised and exploited, and could be denied access to REDD+ financial benefits (Chapman *et al.*, 2014);
4. ***Effective stakeholder participation***<sup>8</sup>: Countries implementing REDD+ actions should ensure the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in decision making relating to REDD+ including in the design of the feedback and grievance redress mechanism;
5. ***Consistency with conservation of natural forests***<sup>9</sup>: REDD+ actions should ensure consistency with the conservation of natural forests and biological diversity. A well designed and effective feedback and grievance redress mechanism will promote the conservation of natural forests;
6. ***Measures to address risks of reversals***<sup>10</sup>: REDD+ actions should ensure that emissions reductions created by forest mitigation activities are permanent (Chapman, S., Wilder, M., et al., 2014). This is intended to avoid situations where there is short-term gain in forest mitigation but which is shortly followed by repeated deforestation and forest degradation; and
7. ***Measures to prevent leakage of emissions***<sup>11</sup>: Countries implementing REDD+ should take actions to prevent leakage of emissions. This refers to situations where avoided deforestation or forest degradation happens in one area resulting in emissions reductions, while in another area, emissions of greenhouse gases are increased due to deforestation and forest degradation (Chapman *et al.*, 2014). Stakeholders should be able to use the feedback and grievance redress mechanism, among other measures, to prevent leakage of emissions.

### ***Incorporating the Cancun REDD+ safeguards in the national legal framework***

For Uganda to be ready for REDD+, the Cancun REDD+ safeguards must be respected and promoted by the country’s policy and legal framework<sup>12</sup>. An analysis of Uganda’s current policy and legal framework reveals that elements of the Cancun Safeguards are to a large extent already incorporated (Table 3.1). Whether or not the Cancun safeguards are observed will largely depend

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<sup>7</sup> See paragraph 2(c) of Appendix I to Decision 1/CP.16

<sup>8</sup> See paragraph 2(d) of Appendix I to Decision 1/CP.16

<sup>9</sup> See paragraph 2(e) of Appendix I to Decision 1/CP.16

<sup>10</sup> See paragraph 2(f) of Appendix I to Decision 1/CP.16

<sup>11</sup> See paragraph 2(g) of Appendix I to Decision 1/CP.16

<sup>12</sup> See paragraph 71(d) of Decision 1/CP.16: The Cancun Agreements

on the extent to which the national laws are respected and enforced (Korwin and Rey, 2015). Table 3.1 presents the Cancun REDD+ safeguards and how they are provided for in Ugandan laws.

**Table 3.1: How the Cancun REDD+ safeguards are provided for in Ugandan laws**

Cancun Safeguards	How they are provided for in the national laws of Uganda
<p><i>i) Consistency with national forest programmes and international agreements</i></p>	<p>Uganda has in place several forest programmes and policies, and is subject to several international agreements, all of which aim at reducing deforestation and forest degradation.</p> <p>Relevant policies, plans and programmes include: the Uganda Forestry Policy, 2001; the Uganda National Land Policy, 2013; the National Climate Change Policy, 2015; the National Environment Management Policy for Uganda, 1994 &amp; the Draft National Environment Management Policy for Uganda, 2014; the National Water Policy, 1999; Uganda National Policy on Conservation and Sustainable Development of Wildlife Resources, 2014; the Renewable Energy Policy for Uganda, 2007; the Energy Policy for Uganda, 2002; Vision 2040; National Development Plan (2015/16 – 2020/21); Uganda’s Intended Nationally Determined Contribution (INDC), 2015; National Agriculture Policy, 2013; the National Forest Plan, 2011/12-2021/22; and National Biodiversity Strategy and Action Plan, 2002.</p> <p>Uganda is also Party to, or subject to the following relevant international treaties and agreements: United Nations Framework Convention on Climate Change (UNFCCC), 1992; Kyoto Protocol, 1997; Paris Agreement, 2015<sup>13</sup>; United Nations Declaration on the Rights of Indigenous Peoples, 2007; United Nations Convention on Biological Diversity, 1992; United Nations Convention to Combat Desertification, 1994; and the 2030 Agenda for Sustainable Development.</p> <p>While Uganda is yet to ratify the ILO Convention 169 on Indigenous and Tribal Peoples, 1989, it contains important provisions on the rights of indigenous peoples and local communities, and is an important reference document to determine the extent to which the rights of the marginalised communities are respected.</p> <p>Uganda’s REDD+ actions should be consistent and compliment the above policy and legal instruments (both international and national).</p>
<p><i>ii) Transparent and effective forest governance</i></p>	<p>This is ensured through implementing various national laws including: the Constitution of the Republic of Uganda, 1995 (as amended); the National Forestry and Tree Planting Act, 2003; the Local Governments Act (Cap 243 Laws of Uganda); the Uganda Wildlife Act (Cap 200 Laws of Uganda); the National Environment Act (Cap 153 Laws of Uganda); Draft National Forestry and Tree Planting Regulations, 2013; National Guidelines for Implementing Collaborative Management in Uganda, 2003; the Environmental Impact Assessment Regulations, S.I. No. 13/1998; the Land Act (Cap 227 Laws of Uganda); Land Regulations S.I No 100 2004; the Local Council Courts Act, 2006; the Local Council Courts Regulations, 2007; the Mining Act, No. 9 of 2003; Water Act (Cap 152 Laws of Uganda); the Prohibition of Burning of Grass Act (Cap 33 Laws of Uganda); the Petroleum (Exploration, Development and Production) Act, No 3 of 2013; Petroleum (Refining, Conversion, Transmission Act 4 and Midstream Storage) Act, No 4 of 2013; the Timber (Export) Act (Cap 151 Laws of Uganda); the Access to Information Act, No 6</p>

<sup>13</sup> The Paris Agreement, 2015 was signed by Uganda, although Uganda is yet to deposit its instrument of ratification but is expected to do so any time.

Cancun Safeguards	How they are provided for in the national laws of Uganda
	<p>of 2005; the Investment Code Act (Cap 92 Laws of Uganda); and the Equal Opportunities Commission Act, 2007.</p> <p>Specific elements of the legal framework and how they can be used to promote this particular Cancun safeguard are provided below.</p> <p><i>The National Forestry and Tree Planting Act, 2003</i> provides for a forest governance structure. However, the full implementation of the Act seems lacking. For instance, study findings point to the failure by NFA to fully discharge its mandate under the law. In addition, important structures such as Forestry Committees provided for under the Act have never been put into place.</p> <p>For a detailed discussion on the weaknesses of the current forest governance structures, please refer to the section on ‘domestic legal issues relevant to REDD+ and the FGRM’.</p> <p><i>Article 41</i> of the <i>Constitution of Uganda</i> provides for the right of access to information. <i>The Access to Information Act, No 6 of 2005</i> promotes transparency and accountability by all organs of the government. <i>Section 5</i> of the Act provides that every citizen has a right of access to information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.</p> <p><i>Section 91</i> of the <i>National Forestry and Tree Planting Act, 2003</i> provides that ‘Every citizen has a right of access to any information relating to the implementation of this Act, submitted to or in the possession of the State, a local council, the Authority or a responsible body.’ This important legal provision on access to information can be used to promote transparency and effective forest governance.</p> <p>Uganda has in place anti-corruption laws and institutions to ensure transparency in REDD+ actions. <i>Chapter 13</i> of the <i>Constitution of Uganda</i> provides for the establishment of the Inspectorate of Government. The <i>Inspectorate of Government Act, 2002</i> establishes the office of the Inspectorate of Government. Other relevant anti-corruption laws include the <i>Anti-Corruption Act, 2009</i>; the <i>Whistle-blowers Protection Act, 2010</i>; the <i>Anti-Money Laundering Act, 2013</i>; and the <i>Leadership Code Act, 2002</i>.</p> <p>It seems to us that the legal framework to promote transparency and effective forest governance is in place (with some shortcomings as pointed out in this report). However, the full implementation of the existing legal framework is lacking, and this is a hindrance to the promotion and respect of the Cancun safeguards.</p>
<p><i>iii) Respect for rights of indigenous peoples and local communities</i></p>	<p>Uganda does not have a government policy recognising indigenous people as understood internationally. Also, Uganda has not ratified some important international instruments such as <i>The ILO Convention 169 on Indigenous and Tribal Peoples, 1989</i> that recognize the rights of the indigenous peoples and local communities.</p> <p>However, legal provisions exist that can be used to advance the rights of indigenous peoples (Mbazzira, 2009). Examples include:</p> <p><i>The Constitution</i> in its National Objectives and Directive Principles of State Policy (<i>Objective III(ii)</i>), provides that every effort shall be made to integrate</p>

Cancun Safeguards	How they are provided for in the national laws of Uganda
	<p>all peoples while at the same time recognising the existence of, amongst others, their ethnic, religious and cultural diversity.</p> <p><i>Article 32 of the Constitution</i> provides that the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.</p> <p><i>The Equal Opportunities Commission Act, 2007</i> establishes the Equal Opportunities Commission with the mandate to monitor, evaluate and ensure that policies, laws, plans, programs, activities, practices, traditions, cultures, usages and customs of entities are compliant with equal opportunities and affirmative action in favour of groups marginalized on the basis of sex, race, colour, ethnic origin, tribe, creed, religion, social or economic standing, political opinion, disability, gender, age or any other reason created by history, tradition or custom (see <i>Section 14</i> of the Act). The Act operationalizes <i>Articles 32 (3) and 32 (4)</i> of the Constitution.</p>
<p><i>iv) Effective stakeholder participation</i></p>	<p>Forest sector co-ordination structures proposed under the <i>Uganda Forestry Policy, 2001</i> should ensure wide stakeholder participation and coordination across a wide range of stakeholders from all relevant sectors. These structures should have representation from central government ministries involved in the forest sector, local governments, the private sector and civil society. As proposed by the policy, this co-ordination structure should be supported by a professional body.</p> <p>A national consultative forum proposed by the <i>Uganda Forestry Policy, 2001</i> should be put in place ‘to allow the public, international partners and all interested countries to contribute to a regular debate on the forest sector, to improve sector coordination and inform national priorities’.</p> <p>Existing government and non-governmental coordination structures should be explored as potential avenues through which effective stakeholder participation in REDD+ can be achieved. For example, the Policy Committee on Environment (PCE), and the National Climate Change Advisory Committee/Inter-ministerial technical committee on climate change should be used to ensure effective coordination of government agencies while the Environment and Natural Resources Civil Society Organisations Network as well as the Uganda Forestry Working Group – a network of civil society organisations involved in forestry issues – can be used to ensure effective participation of non-governmental actors.</p> <p>The proposed feedback and grievance redress mechanism has benefitted from a wide range of stakeholders, and structures will be put in place to ensure continuous engagement with various stakeholders.</p> <p><i>Section 49(2) of the National Forestry and Tree Planting Act, 2003</i> requires the views of persons and organisations involved in forestry in the private and public sectors to be taken into account in the preparation of the National Forest Plan.</p> <p>Some of the current laws can be used to ensure effective stakeholder participation. For instance, the <i>Environmental Impact Assessment Regulations</i> under the <i>National Environment Act (Cap 153)</i> can be used to ensure the effective participation of relevant stakeholders including local communities and indigenous peoples.</p>

Cancun Safeguards	How they are provided for in the national laws of Uganda
v) <i>Consistency with conservation of natural forests</i>	<p>Relevant policies, plans, and laws exist through which conservation of natural forests can be achieved. Examples include the Uganda Forestry Policy, 2001; the National Environment Management Policy for Uganda, 1994; Uganda National Policy on Conservation and Sustainable Development of Wildlife Resources, 2014; the Renewable Energy Policy for Uganda, 2007; the National Forest Plan, 2011/12-2021/22; National Forestry and Tree Planting Act, 2003; and the National Environment Act (Cap 153).</p> <p>In order for this safeguard to be respected and promoted, the above policy and legal instruments should be aggressively implemented.</p>
vi) <i>Measures to address risks of reversals</i>	<p>The <i>National Forestry and Tree Planting Act, 2003</i> and the <i>Uganda Forestry Policy, 2001</i> contain adequate provisions to avoid reversals of the gains made to reduce deforestation and forest degradation. For example, under <i>Section 28</i> of the Act, the forest should be managed in accordance with the management plan, and <i>Part III of the Act</i> deals extensively with actions to ensure the protection and conservation of forests. A major hindrance towards achieving this safeguard is the inadequate implementation of the above policy and legal instruments.</p>
vii) <i>Measures to prevent leakage of emissions</i>	<p>Provisions under the <i>National Forestry and Tree Planting Act, 2003</i> and the <i>Uganda Forestry Policy, 2001</i> can be used to prevent leakage of emissions if effectively enforced. This will require periodic monitoring of the forest cover. <i>Section 49</i> of the Act requires preparation of a national forest plan at periodic intervals, and this is one of the ways through which Uganda's forest cover can regularly monitored to prevent leakage of emissions.</p>

The **Warsaw Framework for REDD+, 2013** requires all countries undertaking REDD+ activities to explain how all the Cancun Safeguards are being addressed and respected (Decision 12/CP.19). The Warsaw Framework on REDD+ also requires countries implementing REDD+ actions to put in place information systems for reporting on how the Cancun safeguards are being promoted and respected (Voigt and Ferreira, 2015). Information systems should provide consistent, comprehensive and transparent information that is accessible by all stakeholders, is updated regularly, and is flexible to allow improvements to be made (Voigt, and Ferreira, 2015). The Warsaw Framework on REDD+ allocates to the Green Climate Fund a key role in channelling results-based finance to developing countries in a fair and balanced manner (Voigt, and Ferreira, 2015).

### ***REDD+ under the Paris Agreement, 2015***

In December 2015, during 21<sup>st</sup> Conference of Parties in Paris, France countries reached a historic agreement to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future, by adopting the Paris Agreement, 2015. The Paris Agreement is yet to enter into force, and Uganda is yet to ratify it.

The Paris Agreement's central aim is to strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below 2 degrees Celsius above pre-

industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

The Paris Agreement requires all countries to put forward their best efforts through “nationally determined contributions” (NDCs) and to strengthen these efforts in the years ahead. There will also be a global stocktake every 5 years to assess the collective progress towards achieving the purpose of the agreement and to inform further individual actions by countries.

*Article 5(1)* of the Paris Agreement provides that all countries should take action to conserve and enhance sinks and reservoirs of greenhouse gases including forests. *Article 5(2)* of the Paris Agreement provides that countries are encouraged to take action to implement and support, including through results-based payments, the existing framework as set out in related guidance and decisions already agreed under the UNFCCC.

### ***Rights of indigenous peoples and local communities***

The design of the FGRM must ensure that the knowledge and rights of indigenous peoples and members of local communities are respected.

Indigenous peoples have been defined by some scholars as:

*“...those particular groups who have been left on the margins of development and who are perceived negatively by dominating mainstream development paradigms ‘whose culture and ways of life are subject to discrimination and contempt and whose very existence is under threat’.”* (Mbaziira, 2009)

There are a number of groups or local communities in Uganda that satisfy the above international criterion and may be appropriately described as indigenous peoples (Mbaziira, 2009). This may include any communities or local groups that are at risk of being excluded from important decisions affecting their economic livelihood. Many of the local communities living in areas adjacent to natural forests fall in this category.

There are two key international legal instruments that address various aspects of the rights of indigenous peoples and local communities – *The ILO Convention 169 on Indigenous and Tribal Peoples, 1989*; and the *United Nations Declaration on the Rights of Indigenous Peoples, 2007*. While Uganda has not ratified the Convention (Mbaziira, 2009), the following are some of the key issues relating to indigenous peoples that should be considered in the design of the FGRM and the wider REDD+ context:

- (i) ensuring that indigenous peoples have the right of access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and

- collective rights, giving due consideration to their customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights;
- (ii) putting in place an effective mechanism for the protection of the rights of indigenous peoples to their lands, territories or resources giving due consideration to their laws, traditions, customs and land tenure systems, including ensuring that no relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned;
  - (iii) ensuring that indigenous peoples are consulted whenever legislative or administrative measures which may affect them are being considered;
  - (iv) ensuring that customs or customary laws of indigenous peoples are given due regard in applying national laws and regulations, and to establish procedures for the resolution of conflicts which may arise in the application of this principle; and
  - (v) ensuring respect for the cultures and spiritual values of indigenous peoples and their relationship with the land they occupy or use.

### ***Ensuring effective stakeholder engagement***

The *Guidelines on Stakeholder Engagement in REDD+ Readiness* (FCPF and UN REDD Programme, 2012) are designed to support effective stakeholder engagement in the context of REDD+ readiness for the Forest Carbon Partnership Facility and the UN-REDD Programme, with an emphasis on the participation of indigenous peoples and other forest-dependent communities.

These guidelines require countries to adhere to standards outlined in key relevant international instruments and to uphold the principle of free, prior and informed consent (FPIC) as stated in the UN Declaration on the Rights of Indigenous Peoples.

The guidelines set out various common guiding principles for effective stakeholder engagement, including ensuring that impartial, accessible and fair mechanisms for grievance, conflict resolution and redress are established, and are accessible during the consultation process and throughout the implementation of REDD+ policies, measures and activities.

*Annex 1* to the *Guidelines on Stakeholder Engagement in REDD+ Readiness* sets out the UN-REDD Programme requirements relevant to stakeholder engagement. The guidelines provide that national programmes are required to establish effective grievance redress mechanisms.

### **3.1.3 Domestic legal issues relevant to REDD+ and grievance redress mechanisms**

#### ***Categories of forests and their management in Uganda***

Given that sustainable management of forests is a key tenet of REDD+, it is important to analyse the extent to which the current policy and legal framework promotes or undermines it.

The *National Forestry and Tree Planting Act, 2003* regulates all aspects of the forestry sector in Uganda. The law classifies forests into the following five categories<sup>14</sup>:

- central forest reserves;
- local forest reserves;
- community forests;
- private forests; and
- forests forming part of a wildlife conservation area declared under the Uganda Wildlife Act (Cap 200 Laws of Uganda).

Under the law, forest reserves should be managed in accordance with generally accepted principles of forest management<sup>15</sup>. It is mandatory for forest reserves to have a management plan that regulates various aspects of the forest, including, a description of all matters relating to the forest, the forest produce and the use currently being made of the forest produce; the type of activities to be carried out in the forest; the management objectives of the forest; the measures to be taken for the sustainable management of the forest, and the involvement of local communities in the management of the resources (except for a private forest); and the resources likely to be available to enable the management plan to be executed<sup>16</sup>.

The law establishes various key institutions for the management of forestry resources in Uganda, including the National Forestry Authority (NFA)<sup>17</sup>; the District Forestry Office; and Forestry Committees<sup>18</sup>. The terms of service and membership of forestry committees are prescribed by the law<sup>19</sup>.

The law creates several offences and punishments for the offences ranging from imprisonment to fines and penalties including cancellation of forest licenses, confiscation and forfeiture of forest produce illegally obtained as well as weapons, machinery or vehicle used in the commission of offences. Courts established by the Judiciary have the jurisdiction to hear and determine such cases<sup>20</sup>.

The law empowers any person or responsible body to bring an action against a person whose actions or omissions have had or are likely to have a significant impact on a forest; or for the protection of a forest<sup>21</sup>. As was demonstrated by the case of *Advocates Coalition for Development and Environment (ACODE) Vs Attorney General, Miscellaneous Cause No. 0100 of 2004 (High Court of Uganda)*, it is possible for any person to bring an action under this section and other applicable laws for the protection of a forest. In the above case, court agreed with ACODE that the

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<sup>14</sup> See Section 4 of the National Forestry and Tree Planting Act, 2003

<sup>15</sup> See Section 13 of the National Forestry and Tree Planting Act, 2003

<sup>16</sup> See Section 28 of the National Forestry and Tree Planting Act, 2003

<sup>17</sup> See Section 54 of the National Forestry and Tree Planting Act, 2003

<sup>18</sup> See Section 63(1) of the National Forestry and Tree Planting Act, 2003

<sup>19</sup> See Sections 63(2), 64(1) of the National Forestry and Tree Planting Act, 2003

<sup>20</sup> See Part IX of the National Forestry and Tree Planting Act, 2003

<sup>21</sup> See Section 5(2) of the National Forestry and Tree Planting Act, 2003

granting of a permit to a private company over Butamira forest reserve was null and void. The existence of such legal provisions is a deterrent to persons that may engage in practices that are contrary to the principles of sustainable management of forests.

Investments in oil and gas as well as the extraction of minerals have the potential to disrupt REDD+ projects if not well coordinated. The analysis of the legal regime reveals that all investments relating to oil and gas and extraction of minerals in forest reserves are subject to the consent of the National Forestry Authority (NFA)<sup>22</sup>. This presupposes that NFA may withhold such consent if commitments have already been made to implement a REDD+ project spanning over a long period of time. While this may be the case, in practice, final decisions on investments affecting forest reserves may require the involvement of various other government institutions including NEMA.

The *Uganda Forest Stewardship Standard (draft of March 2016)*<sup>23</sup> aims at contributing to responsible forestry management, *inter alia*, through ensuring that organisations that have been certified, put in place mechanisms for resolving grievances and providing fair compensation to local communities and individuals with regard to the impacts of their activities.

The government has recently strengthened sustainable management of forests by putting in place regulations for facilitating the implementation of the *National Forestry and Tree Planting Act*. The *Draft Forestry and Tree Planting Regulations, 2013* are aimed at facilitating the implementation of the Act by providing details and specific responsibilities of the various forest stakeholders and institutions.

The forestry regulations reinforce the provisions of the Act on forest management plans by requiring persons in charge of central and local forest reserves, community forests, and private forests to prepare forest management plans<sup>24</sup>. The regulations require each district to develop a district forestry development plan<sup>25</sup>. The regulations reinforce the provisions of the Act on collaborative forest management (CFM) by providing, *inter alia*, details on how a CFM can be negotiated and concluded<sup>26</sup>. The regulations clarify management of wildlife that may fall under the jurisdiction of NFA, and how the two institutions can collaborate<sup>27</sup>.

Sustainable management of forests in Uganda is also ensured through various other supporting policies and laws, including the following: National Climate Change Policy, 2015; National Environment Management Policy for Uganda, 1994; National Water Policy, 1999; Uganda National Policy on Conservation and Sustainable Development of Wildlife Resources, 2014; Renewable Energy Policy for Uganda, 2007; the Energy Policy for Uganda, 2002; National

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<sup>22</sup> See Sections 21 and 78 of the Mining Act, No 9 of 2003; See also Section 135(1)(d) of the Petroleum (Exploration, Development and Production) Act, No 3 of 2013

<sup>23</sup> See Principle 4.6

<sup>24</sup> See Regulation 10 of the Forestry and Tree Planting Regulations, 2013

<sup>25</sup> See Regulation 12 of the Forestry and Tree Planting Regulations, 2013

<sup>26</sup> See Regulations 16 to 29 of the Forestry and Tree Planting Regulations, 2013

<sup>27</sup> See Regulation 38 of the Forestry and Tree Planting Regulations, 2013

Agriculture Policy, 2013; Constitution of the Republic of Uganda, 1995 (as amended)<sup>28</sup>; the Land Act (Cap 227 Laws of Uganda); the Local Governments Act (Cap 243 Laws of Uganda)<sup>29</sup>; the Uganda Wildlife Act (Cap 200 Laws of Uganda)<sup>30</sup>; National Environment Act (Cap 153 Laws of Uganda)<sup>31</sup>; the Mining Act, No. 9 of 2003<sup>32</sup>; Water Act (Cap 152 Laws of Uganda)<sup>33</sup>; the Prohibition of Burning of Grass Act (Cap 33 Laws of Uganda)<sup>34</sup>; the Timber (Export) Act (Cap 151 Laws of Uganda)<sup>35</sup>; Investment Code Act (Cap 92 Laws of Uganda)<sup>36</sup>; the Environmental Impact Assessment Regulations, S.I. No. 13/1998<sup>37</sup>; and the National Guidelines for Implementing Collaborative Management in Uganda, 2003.

These policies and laws contain elaborate strategies on the sustainable management of forestry related resources, and if properly enforced would ensure that REDD+ conflicts and grievances are minimised.

However, as demonstrated below, there are significant shortcomings of the REDD+ related policy and legal framework as well as inadequate enforcement, which may impact the sustainable management of forests in Uganda (Turyahabwe, et al, 2012), and ultimately affect the implementation of REDD+, leading to conflicts and grievances over the sharing of the anticipated financial benefits. The following are some of the examples:

Many years after the adoption of the *Uganda Forestry Policy* in 2001, study findings show that the forestry sector is still dogged by many of the shortcomings that the policy intended to address, such as: boundary disputes relating to forest reserves; lack of clarity over the role of local governments in the management of central forest reserves; CFM agreements have not been concluded in many forest reserves despite their huge importance; and there are complaints of social and environmental impact assessments not being conducted in some forest reserves contrary to the provisions of the law<sup>38</sup>, and despite the existence of complaints from the neighbouring community<sup>39</sup>.

During the field case studies, respondents raised concern that whereas the law<sup>40</sup> establishes various structures and safeguards to ensure effective forestry management, many of the institutions are incapacitated due to several reasons including, lack of financial resources, employment of under-qualified staff, poor training of staff, and lack of capacity building. For example, whereas the law

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<sup>28</sup> See National Objectives and Directive Principles of State Policy (Numbers XXVII, and XXVIII); See also Articles 39, 41(1), 176, 123, & 245

<sup>29</sup> See Section 2, Part 2 of the second schedule, and Part 4 of the second schedule

<sup>30</sup> See Sections 2, 4, 5, and 12(1)

<sup>31</sup> See Sections 14, 15, and 16

<sup>32</sup> See Sections 21, 78, and 110

<sup>33</sup> See Sections 14, 15, and 33

<sup>34</sup> See Sections 3(1), 3(2), and 5

<sup>35</sup> See Sections 3, 4, and 7

<sup>36</sup> See Section 13(2)

<sup>37</sup> See Regulations 12, 29, 32, and 38

<sup>38</sup> See Section 38 of the National Forestry and Tree Planting Act, 2003

<sup>39</sup> The adjacent community to Kikonda central forest reserve complained about the lack of an EIA

<sup>40</sup> National Forestry and Tree Planting Act, 2003

provides for the establishment of Forestry Committees<sup>41</sup>, study findings show that these committees do not exist. Likewise, whereas the law<sup>42</sup> provides for the establishment of the district and local environment committees; study findings show that these committees have not been fully operationalized, are under-resourced, and are therefore, unable to discharge their mandate under the law. The tree fund<sup>43</sup> has never been established more than 10 years after the Act came into force. These findings from the field case studies were confirmed by the review of relevant literature (Nsita, 2010).

While the *Renewable Energy Policy for Uganda, 2007* had a target to increase the share of modern renewables in total energy consumption to 61% by 2017 from 4% in 2007, this target is unlikely to be met considering in 2014 it stood at 25% (Bloomberg New Energy Finance, 2015). Failure to meet the target for increasing the use of renewable energy means that the rate of deforestation and forest degradation will continue to rise, thereby leading to further conflicts and grievances over forest resources as the struggle for the exploitation of forests intensifies amongst various stakeholders including local communities.

There is failure by central and local government agencies to enforce existing policies and laws. For example, at Cwero Local Forest Reserve (Gulu) it was observed that Gulu district local government had failed to initiate legal action under *Section 5* of the *National Forestry and Tree Planting Act, 2003* for the protection of the local forest reserve, leaving the Pucong clan to illegally occupy the forest, and to completely degrade it. Still at Cwero Local Forest Reserve (Gulu), it was observed that other clans were quite unhappy with the actions of the Pucong clan, and the inability of authorities to take action against them. Such a situation is a fertile breeding ground for conflicts and grievances, and yet if the local authorities had taken action to restrain the Pucong clan, the conflict would have been contained, and would not have escalated to the adjacent communities. In Kyankwanzi district, at Kikonda central forest reserve, it was alleged that private individuals have acquired land titles within the forest reserve; it was observed that NFA did not provide effective supervision of the private licensee – global woods; it was alleged that NFA had failed to facilitate the conclusion of a CFM agreement between global woods and the community; and it was also alleged that the boundary demarcation of the forest had been financed by the private licensee – global woods.

The various field case studies show that there is lack of awareness of REDD+ related policies and laws, which is likely to lead to the emergence of conflicts and grievances, since the community is likely to engage in certain activities that may conflict with the law whose knowledge they do not have. In addition, there are no abridged versions of REDD+ related policies and laws at the local government level and these policies and laws have not been translated into local languages for easy dissemination.

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<sup>41</sup> See Section 64(1) of the National Forestry and Tree Planting Act, 2003

<sup>42</sup> See Sections 14, 15, and 16 National Environment Act (Cap 153 Laws of Uganda)

<sup>43</sup> See Section 40 the National Forestry and Tree Planting Act, 2003

One of the intriguing issues in the legal regime for forestry management is the question of private forests. Both the Act<sup>44</sup> and the regulations<sup>45</sup> provide for ownership of private forests. The Act and regulations impose obligations on the private owner relating to the management of the forest<sup>46</sup>. For instance, it is mandatory for a *registered* private forest to have a management plan<sup>47</sup>. But registration of a private forest is *not mandatory*<sup>48</sup>, which means that as long as a private forest is not registered, it need not have a management plan, and the private owner may not be subjected to the various obligations under the Act and the regulations.

Irrespective of whether a private forest is registered or not, it is doubtful as to whether the fact of registration would override the general principle of law that the owner of land has ownership of the land itself and the things affixed to the land (e.g. trees) and is entitled to deal with the land as he/she pleases (Megarry & Wade, 2012). While the law requires that a private forest be managed according to certain directives and guidelines<sup>49</sup>, it should be noted that there will be difficulties in enforcing these particular legal provisions. This is because the law grants the private land owner wide liberty to deal with the land which may conflict with management directives from the forestry authorities. A KII respondent at Gulu local government had this to say on this issue:

*“The Act is not clear on private forests. If you direct a private person on a forestry matter, and he does not abide by the directive, there is nothing more you can do. The Act should empower central/local government to enforce directives on private land.”*

During the field case studies, questions were raised about the current state of management of forests in Uganda, with many respondents stating that there has been a steady deterioration in the way forests are managed. For instance, one KII respondent in Mbarara had this to say about the state of management of forests in Uganda:

*“The government should stick to management plans of forests. In Rwoho, if the management plans were followed, there wouldn't much deforestation... there is need for revised management plans that address the current issues...urban forests are being de-gazetted without any legal instrument.”*

Deforestation and forest degradation in Uganda has been partly attributed to poor forest management (Nsita, S., 2010). Introducing anticipated REDD+ financial benefits into an already poorly managed forestry resource will intensify the already existing conflicts and grievances (Nsita, S., 2010).

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<sup>44</sup> See Sections 21-27 of the National Forestry and Tree Planting Act, 2003

<sup>45</sup> See Regulations 61 to 75 of the Forestry and Tree Planting Regulations, 2013

<sup>46</sup> See Regulations 61 to 75 of the Forestry and Tree Planting Regulations, 2013

<sup>47</sup> See Regulation 72 of the Forestry and Tree Planting Regulations, 2013

<sup>48</sup> See Regulation 64 of the Forestry and Tree Planting Regulations, 2013

<sup>49</sup> See Section 27(2) National Forestry and Tree Planting Act, 2003 and Regulation 72 of the Forestry and Tree Planting Regulations, 2013

It seems to us that despite some shortcomings of the Ugandan policy and legal framework<sup>50</sup>, the existing laws if effectively enforced would ensure sustainable management of forests, with minimal conflicts and grievances, thereby achieving the objectives of REDD+.

Currently, the stark reality is that the existing policies and laws are inadequately enforced. If REDD+ is implemented under the current circumstances, there will be many conflicts and grievances, and the overall objectives of REDD+ would not be achieved. In this respect, strategies for improved law enforcement and governance outlined in the various policy and legal instruments should be aggressively pursued.

Through improving the current state of forest management, it is possible to reduce the intensity of conflicts and grievances over forests and enable smooth implementation of REDD+.

Accordingly, it seems to us that one of the key action points should be improving the current state of forest management with the aim of ensuring that REDD+ is implemented in more favourable conditions that mitigate the possibility of conflicts and grievances occurring over the sharing of REDD+ financial benefits.

### ***The role of local governments in the management of forestry resources***

The *Constitution*<sup>51</sup> provides for establishment of the system of local government in Uganda which shall be based on the district as a unit under which there shall be such lower local governments and administrative units as Parliament may by law provide. *Article 180* provides that a local government shall be based on a council which shall be the highest political authority within its area of jurisdiction and which shall have legislative and executive powers. Under the *Constitution*<sup>52</sup>, all local government councils shall be elected every four years.

The existing legal framework allocates the primary responsibility for the management of central forest reserves to NFA, and UWA as may be applicable. The law does not assign any specific responsibility to local governments in the management of central forest reserves, and yet local government structures exist in all these areas where central forest reserves are located. Under the law, local governments are only responsible for the management of local forest reserves, and the provision of guidance for the management of community and private forests<sup>53</sup>.

The lack of a specific role for local governments in the management of central forest reserves is inconsistent with the *Uganda Forestry Policy, 2001* which recognized the important role of local governments in the management of forests and noted that “efforts will be made to clarify the role of local governments in management of forest resources on government and private land and to

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<sup>50</sup> See various sections for specific shortcomings of the policy and legal framework

<sup>51</sup> See Article 176 of the Constitution

<sup>52</sup> See Article 181(4) of the Constitution

<sup>53</sup> See Sections 9 to 12, 19, and 20 of the National Forestry and Tree Planting Act, 2003

build capacity for the management of local forest reserves...”. The forestry policy calls for addressing any ambiguities and contradictions in the provisions of the *Constitution, the Local Governments Act* and the *Land Act* with respect to the role of districts in forest sector development. When the *National Forestry and Tree Planting Act* was passed in 2003, local governments were not allocated any key role in the management of central forest reserves as had been articulated by the forestry policy.

With the anticipated flow of REDD+ financial benefits into the country, it is important that the role of local governments in the management of central government reserves be clarified so as to minimize conflicts and grievances that may arise.

Findings from the field case studies show that because the legal framework does not allocate any key responsibility to local governments in the management of central forests, they are aggrieved and are hostile towards NFA. One participant in the FGD at Nyakigufu in Rwoho, Ntungamo district observed that:

*“Rwoho forest reserve is under the management of the central government, and districts have no say. There is lack of collaboration between NFA and the district local government”.*

One of the KII respondent at the Mbarara district local government had this to say on this issue:

*“NFA uses its autonomy to reject collaborating with the local government”.*

During the meeting with the Kyakwanzi district officials, one of the KII respondent recommended that:

*“...the law should be changed to give the local government some role in the management of the central forest reserve”.*

There is a high possibility that the current conflict between NFA and local governments will intensify with the introduction of REDD+ financial benefits.

Interestingly, under the *Draft Forestry and Tree Planting Regulations, 2013* the management and control of all forest fires including on central forest reserves is imposed on the local government<sup>54</sup>. This is likely to escalate the conflict between NFA and the local governments, considering that local governments have been allocated the responsibility for forest fire management, and yet they do not play any key role in the management of central forest reserves.

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<sup>54</sup> See Regulation 41 of the Forestry and Tree Planting Regulations, 2013

Inadequate funding being experienced by most local governments is one of the factors that is fuelling the conflict between central and local governments (Local Government Finance Commission, 2012). With the scrapping of graduated tax, local government revenue from own sources reduced significantly (Local Government Finance Commission, 2012).

The law permits local governments to collect revenue<sup>55</sup> from a variety of sources including, rent; rates; royalties; stamp duties; cess; fees on registration and licensing; and any other fees or taxes that parliament may prescribe<sup>56</sup>. The funds collected by local governments from these sources may be appropriated in line with the resolutions of the district council<sup>57</sup>. The local government's revenue also includes grants from the central government<sup>58</sup>.

Given that local governments are already financially constrained, the flow of REDD+ financial benefits into the country is likely to intensify conflicts over the control of these resources between central and local government agencies. In order to mitigate these conflicts, it is necessary to work out an acceptable formula through which REDD+ financial benefits can be shared equitably between central and local government agencies<sup>59</sup>.

In light of the above assessment, it is observed that the legal framework is partly responsible for the current conflicts and grievances between central and local government agencies, with other contributory factors being inadequate funding of local governments.

The law on public finance management<sup>60</sup> provides some useful lessons on how local governments can be allocated a share of revenue accruing from resources in their localities. Under this law it is provided that the central government shall retain 94 percent of the revenue from royalties arising from petroleum production and the remaining 6 percent shall be shared among the local governments located within the petroleum exploration and production areas of Uganda<sup>61</sup>. Regarding REDD+, it is possible to incorporate legal provisions that enable local governments retain a percentage of the financial benefits accruing from REDD+ projects.

Accordingly, our considered opinion is that the *National Forestry and Tree Planting Act* should be revised to provide for the role of local governments in the management of central forest reserves. The relevant public finance law should also be revised to incorporate legal provisions for the sharing of revenue generated from REDD+ projects between the central and local governments.

The revision of the law should also ensure that the modalities of cooperation between NFA and the local governments are put in place, and that there is shared responsibility between NFA and local

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<sup>55</sup> See Article 191(1) of the Constitution of Uganda

<sup>56</sup> See Article 191(2) of the Constitution of Uganda

<sup>57</sup> See Article 191(3) of the Constitution of Uganda

<sup>58</sup> See Article 193 of the Constitution of Uganda

<sup>59</sup> A related consultancy is expected to present concrete proposals on REDD+ financial benefits sharing

<sup>60</sup> See Public Finance Management Act, 2015

<sup>61</sup> See Section 75(1) of Public Finance Management Act, 2015

governments in respect of the management of central forest reserves. This will help in minimising conflicts and grievances that may arise between central government agencies and the local governments.

### ***Legal ownership of carbon rights in Uganda***

An analysis of the existing legal framework reveals the lack of clarity on the legal ownership of carbon rights. Uganda does not currently have a law that provides for the definition of carbon rights and other related management issues (Kasimbazi, 2010).

Property rights to sequestered carbon did not previously exist because carbon sequestration did not generate benefits that had a commercial value (USAID, 2012). Therefore, there was no need for a law to regulate carbon sequestration. With the emergence of carbon trading schemes, sequestered carbon is now increasingly recognised as a commodity that needs to be regulated, bearing in mind that existing legal regimes were designed to exploit forests rather than to conserve them (Norton Rose, 2010). The approach taken by REDD+ is entirely different – and that is to conserve forests rather exploit them. This ultimately requires the need to revise existing legal regimes to regulate REDD+ investments, and provide clarity on carbon rights ownership.

In the absence of legal provisions on this issue, the creation and management of carbon rights is largely regulated by contractual arrangements of the participating parties in a project and international rules governing carbon markets and emissions trading. In practice, one of the approaches established by international rules is that in the absence of any law or contract to the contrary, the project owner who undertakes the specific emissions reduction project is the legal owner of any carbon credits produced and is entitled to deal with them exclusively (Baker & McKenzie, 2004).

With respect to the existing emissions reduction projects in Uganda, the practice has been to confer ownership of carbon rights upon the emissions reduction project owner consistent with practices that have been developed under international carbon market regulatory framework. Thus, in the Rwoho Reforestation Project which is registered as a CDM project, CFM agreements signed between the local community groups implementing reforestation activities and NFA provide for the transfer of carbon rights to NFA, which has in turn transferred the ownership of those carbon rights to the World Bank Carbon Fund. *Clause 9* of one of the Rwoho CFM agreement provides as follows:

*“RECPA herewith assigns rights, title and interest to any emission reductions generated under or in connection with this CFM agreement to NFA sell these emission reductions free of any third party rights and interests to the Bio-Carbon fund of the World Bank in consideration for sharing of the benefits in the VER sale proceeds under VER ERPA with the Trustee as defined in Section 7 above.”*

Contractual provisions on the transfer of emissions reductions (carbon rights) such as the one cited above have come under sharp criticism from critics (Rights and Resources Initiative, 2014) who have opined that new property rights to carbon are being created with a potential to negatively impact on existing statutory and customary land rights of local communities. Critics argue that there are no clear safeguards or measures to prevent conflicts and exploitation of local communities in emissions reduction transactions involving multilateral international agencies and corporate entities. Rights and Resources Initiative, 2014 observes thus:

*“It is clear ... that the existing legal frameworks are uncertain and opaque with regard to carbon trading in general, but especially in terms of ... communities’ rights to engage with, and benefit from, the carbon trade.”*

Given the absence of legal provisions on carbon rights, many inferences on ownership of carbon rights can be made from the various applicable laws including laws relating to ownership of land and forestry resources as well as common law principles<sup>62</sup> (Kasimbazi, 2010). Under common law, one of the approaches in Uganda is that carbon rights belong to the investor in the carbon emissions reduction project rather than the owner of the land or trees (Kasimbazi, 2010). This is the same approach adopted by international carbon market regulatory frameworks (Baker & McKenzie, 2004).

Due to lack of clarity on the legal ownership of carbon rights, participants in an emissions reduction project can adopt either of the following two approaches while dealing with the same commodity, adding to the confusion (IIED, 2013):

- That carbon stored in the forest reserves belongs to the State who hold it in trust for the citizens of Uganda. This may be based on Articles of the Constitution that confer ownership of gazetted lands on the state (*Article 237(2)(b)*)<sup>63</sup>.
- That the owner of the land and trees in line with the Constitution of Uganda, the National Forestry and Tree Planting Act, and the Land Act becomes the proprietor of the carbon right.

There are different approaches on how to define carbon rights so as to alleviate potential conflicts and grievances. While some have argued that carbon sequestered under a REDD+ project should be treated as an entirely separate commodity from the ownership of the forest, others argue that the carbon sequestered in the forest is inextricably linked with the sustainable management of that forest, and therefore, those with rights of ownership or control of the forest inevitably derive ownership of the sequestered carbon (Norton Rose, 2010).

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<sup>62</sup> Common law is law developed by judges, courts, and similar tribunals, stated in decisions. A ‘common law system’ such as that of the UK, is a legal system that gives great precedential weight to common law. In Uganda, common law principles are applicable by virtue of the Judicature Act, where there is no law applicable to a particular issue.

<sup>63</sup> Article 237(2)(b) of the Constitution provides that the Government or a local government as determined by Parliament by law shall hold in trust for the people and protect natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological and touristic purposes for the common good of all citizens

Australia is one of the countries that has developed specific legislation to define carbon rights. *Section 5(1)* of the *Western Australia Carbon Rights Act, 2003* provides for the creation of a carbon right in respect of land. *Section 6(1)* of the Act provides that when the carbon right is created, it becomes a separate interest in the land; and the proprietor of the carbon right is the person who is registered as a proprietor of that carbon interest. *Section 6(2)* of the Act recognises the possibility of having the same person as a proprietor of both the carbon right and the land. Under *Section 6(3)* of the Act, where the carbon right is different from the land, it can be registered as an encumbrance to that land. *Section 7(2)* of the Act prohibits the registration of more than one carbon right at any particular time on the same area of land. Under *Section 8(1)* of the Act, the proprietor of the carbon right assumes the legal and commercial benefits and risks associated with carbon sequestration on that land. Under *Section 9* of the Act, the carbon right can be dealt with as a separate interest in land.

The Victorian State of Australia has also defined carbon rights under its *Climate Change Act, 2010*. Part 4 of the *Climate Change Act 2010* provides for a comprehensive rights-based framework for carbon sequestered by forests and soil on private land with the following key features:

- the property rights of landowners, forest property owners and carbon investors are defined;
- all parties must agree on management arrangements as part of the process of creating a Forest and Carbon Management Agreement which is then registered as an encumbrance on the land title; and
- Carbon rights are recognized as an interest that remains attached to the land even if there is a change in land ownership.

*Part 5* of the Victorian *Climate Change Act 2010* recognises the value of sequestered carbon on public land and establishes clear rules under which public land can be managed and used for carbon sequestration purposes. Under this legal regime, the Government may, for purposes of carbon sequestration, manage its own land or by arrangements with third parties. The legal regime allows the Victorian government to:

- declare specified public land to be available for carbon sequestration.
- hold carbon rights over public land subject to existing licences, leases and agreements.
- to enter into carbon agreements with other parties for carbon reforestation on public land and grant carbon sequestration rights and soil carbon rights to third parties.

The two examples from Australia demonstrate that it is possible to craft the law in such a way as to remove ambiguities related to carbon rights ownership thereby boosting investor confidence and attracting carbon finance. Practitioners have urged caution on adopting the Western Australia model, pointing out that this approach can only work in countries with advanced land tenure systems. Norton Rose, 2010 observes thus:

*“We have some reservations with approaches developed for western legal systems such as Australia being exported to developing countries. Such approaches, which create “a new*

*and unique form of land interest that confers upon the holder a right to the incorporeal benefit of carbon sequestration on a piece of forested land”, rely on a sophisticated land tenure system supported by strong legal enforcement. Whilst this might be the appropriate approach in particular countries, we consider that an approach that links carbon sequestration rights with forest ownership or control is more appropriate so long as requisite reforms or additional measures are included to address any inequalities in existing forest ownership or control regimes vis-à-vis local communities and indigenous peoples.”*

The World Bank acknowledges that the title to emissions reduction may not be entirely clear in many countries. To this end, the FCPF Carbon Fund Methodological Framework (2013) calls for the assessment of the status of rights to carbon and relevant land rights to establish a basis for successful implementation of the emissions reduction program. The guidelines impose an obligation on the program proponent to ensure that it is able to demonstrate that it has obtained authority to transfer title to emissions reductions to the Carbon Fund. This explains why in the case of the Rwoho CDM reforestation project, CFM agreements provide for the transfer of title to emissions reductions to NFA who in turn transfer them to the FCPF Carbon Fund.

There is an attempt to define carbon sellers and buyers under the *draft National Forestry and Tree Planting Regulations, 2013* but unfortunately the current draft may lead to further conflict and contradictions.

*Part XI* of the draft National Forestry and Tree Planting Regulations, 2013 deals with trade in carbon sequestration credits. *Regulation 107* provides as follows:

*“seller” means the person who has entered into an agreement or arrangement with the buyer for the purchase of carbon and in the case of forest reserve shall mean the Authority, in the case of the local forest reserve shall mean the District Council, in the case of private forests shall mean the owner of the land or the legal entity under which the group associate;”*

This means that *Regulation 107* creates three broad categories of carbon sellers: NFA for central forest reserves; district council for local forest reserve; and the owner of the land in the case of private forests.

However, the above definitions appear to contradict the provisions of the *National Forestry and Tree Planting Act, 2013*, in particular *Section 22(1)* which provides as follows:

*“(1) A person may register with the District Land Board, a plantation forest situated on land owned in accordance with the Land Act 1998, or a forest or land in respect of which a licence (emphasis mine) is granted in accordance with this Act.”*

Section 23(1) to (3) provides as follows:

*“(1) Any person may enter into a contractual or other arrangement with the owner or holder of an interest in a private forest, for the right to harvest, purchase, or sell or arrange for the management, harvesting, purchase, or sale of all or any part of the forest produce in the private forest.*

*(2) Where the owner or holder of an interest in a private forest has entered into a contract under subsection (1), the contract may be registered against the title of that owner or occupier of the land to which the contract relates in accordance with the Registration of Titles Act and the Land Act 1998.*

*(3) Where land has not been alienated, or where no certificate of title to ownership of land has been issued, the District Land Board shall register the contract as a separate folio on the Register Book.”*

The provisions of the *National Forestry and Tree Planting Act, 2003* clearly recognise that the owner of an interest in the private forest plantation could be different from the contractual owner of the interest in the forest. This is why under *Section 23* above, the owner of a contractual interest in a private forest plantation can register that contractual interest as an encumbrance on the land owner’s certificate of title. The current definition of a carbon seller under the *draft National Forestry and Tree Planting Regulations 2013* means that only the land owner has the legal capacity to sell the carbon sequestered in a private forest plantation. It also means that only NFA or a district council as opposed to a licensee has the legal capacity to sell carbon sequestered by a central or local forest reserve.

Several questions are left un-answered: does this mean that the holder of a licence on a central forest reserve has no legal capacity to sell carbon sequestered in the forest? Does it mean that the holder of a contractual interest in the private forest plantation has no legal capacity to sell the carbon sequestered in the forest?

Our considered opinion is that this is a fertile breeding ground for conflicts and grievances between the holder of the contractual interest in the forest and the land owner; and between the licensee and NFA or district council. Our view is that the *draft National Forestry and Tree Planting Regulations, 2013* should be revised so as to remove the above conflicting legal provisions.

Therefore, given the lack of clarity on the legal ownership of carbon rights, it is necessary to introduce specific legal provisions that define carbon rights; and to provide elaborate procedures for their registration. This will help to reduce conflicts and grievances that may arise as a result of ambiguity in the legal definition of carbon rights.

Our view is that the government should consider revising the existing policy and legal framework on carbon rights ownership with a view of addressing, *inter alia*, the following key issues:

- Legal definition of carbon rights *vis a vis* rights of landowners, the forest owners, and carbon investors.
- Legal protection of carbon rights including the possibility of registering them as an encumbrance on the land title.
- How treat carbon rights ownership in the event of change in land ownership.
- Power to declare public land/forest reserves for carbon sequestration.
- Holding carbon rights over public land/forest reserves subject to existing licences, leases and agreements.
- Granting of carbon sequestration rights and soil carbon rights to third parties over public land/forest reserves.

Besides dealing with carbon rights related grievances and conflicts, the proposed legal regime on carbon rights will enable improved investor confidence by positioning Uganda to take full advantage of carbon markets including attracting carbon finance.

### ***The land tenure system in the context of potential REDD+ conflicts and grievances***

The existing land tenure system is riddled with contradictions and conflicts, mainly on account of the legal regime having created competing interests of ownership over the same piece of land.

Article 237(8) of the **Constitution of Uganda** provides that:

*“...the lawful or bonafide occupants of mailo land, freehold or leasehold land shall enjoy security of occupancy on the land.”*

Article 237(9) of the **Constitution of Uganda** provides that:

*“Within two years after the first sitting of Parliament elected under this Constitution, Parliament shall enact a law—*

*(a) regulating the relationship between the lawful or bonafide occupants of land referred to in clause (8) of this article and the registered owners of that land;*

*(b) providing for the acquisition of registrable interest in the land by the occupant.”*

Section 29 (1) of the **Land Act (Cap 227)** provides that:

*“(1) “Lawful occupant” means—*

*(a) a person occupying land by virtue of the repealed—*

*(i) Busuulu and Envujjo Law of 1928;*

*(ii) Toro Landlord and Tenant Law of 1937;*

*(iii) Ankole Landlord and Tenant Law of 1937;*

*(b) a person who entered the land with the consent of the registered owner, and includes a purchaser; or*

*(c) a person who had occupied land as a customary tenant but whose tenancy was not disclosed or compensated for by the registered owner at the time of acquiring the leasehold certificate of title.”*

Section 29 (2) of the **Land Act (Cap 227)** provides that:

“2) “*Bona fide occupant*” means a person who before the coming into force of the Constitution—

(a) had occupied and utilised or developed any land unchallenged by the registered owner or agent of the registered owner for twelve years or more; or

(b) had been settled on land by the Government or an agent of the Government, which may include a local authority.”

The import of the above provisions of the law is that it is possible for the same piece of land to have two legally recognized owners, namely, the registered owner, and the lawful or bonafide occupant as defined by the *Land Act (Cap 227)*. Indeed, the Supreme Court of Uganda, the highest appellant court of the land, has had occasion to consider the above provisions of the law and has come to the conclusion<sup>64</sup> that it is possible for the same piece of land to have two legal owners – the registered owner and the lawful or bonafide occupant (commonly known as *Kibanja holder*).

To date, there exists numerous conflicts between registered owners and lawful or bonafide occupants, many of which are likely to extend into REDD+ projects.

The present contradictions in land law are a fertile ground for potential REDD+ grievances and conflicts. This is likely to worsen as the different players come to the realisation of the huge financial value attached to REDD+ projects. There are likely to be grievances and conflicts between local communities and REDD+ projects sponsored by the government; or even between government agencies and international development agencies that have sponsored such REDD+ projects.

In order to lessen the potential for grievances and conflicts arising out of ambiguities in land law, it is necessary to undertake land law reforms and eliminate ambiguities over land ownership as articulated in the *Uganda National Land Policy, 2013*. It is the intention of the government to strengthen traditional land management and administration institutions through undertaking the following measures: recognize and ***enforce decisions*** of traditional land management and administration institutions; ensure full judicial backing of the traditional land institutions as mechanisms of the first instance in respect of land rights allocation, and dispute resolution; and developing guidelines and procedures for the traditional mechanisms.

Through a number of legislative and administrative measures, the government intends to resolve the impasse between bonafide/lawful occupants and registered owners. This will include recognizing the rights of ethnic minorities over ancestral land; and to pay prompt, fair and adequate compensation to ethnic minorities that are displaced from ancestral land by government action.

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<sup>64</sup> See for instance, the case of Kampala District Land Board & Chemical Distributors Vs National Housing and Construction Corporation, Supreme Court Civil Appeal No.2 of 2004

The government intends to strengthen the existing dispute resolution mechanism by reviving the operations of the **land tribunals** established by the Constitution<sup>65</sup>, with adequate resources and facilitation. In order to realize the above policy statements, the government will undertake a number of legislative and other measures, including the following:

- ensure that the operations of land tribunals are devoid of technical procedures and litigation technicalities usually associated with ordinary courts;
- provide clear rules for the application of the law by Land Tribunals;
- provide room for the application of traditional and indigenous principles in the resolution of land disputes;
- recognize and institutionalize traditional mechanisms for the resolution of land disputes;
- provide clear hierarchy of dispute resolution mechanisms and levels of appeal;
- provide free legal services to vulnerable sections of society; and
- encourage and build capacity for alternative dispute resolution as well as the application of principles of natural justice.

Given that forests which are the subject of REDD+ are inextricably linked to land, land tribunals will play a key role in resolving potential REDD+ conflicts and grievances. While land tribunals are currently in-operational due resource constraints, their rejuvenation would contribute to the building of a positive REDD+ environment. This is consistent with the position of the *Uganda National Land Policy, 2013* that has called for their revival.

#### ***Handling potential REDD+ conflicts and grievances by Local Council (LC) courts***

LC courts established by the *Local Council Courts Act, 2006*<sup>66</sup> may be used to resolve potential REDD+ conflicts and grievances. Local council courts are established at ***every village, parish, town, division and sub-county level*** throughout Uganda (Figure 3.1).

The local council court of a village or parish is comprised of all members of the executive committee of the village or parish<sup>67</sup>. The local council court of a town, division or sub-county is comprised of five members appointed by the town council, division council or sub-county council on the recommendation of the respective executive committee. At least two members of the town, division or sub-county local council court should be women.

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<sup>65</sup> See Article 243 of the Constitution; see also Section 74 of the Land Act (Cap 227 Laws of Uganda); see also Section 76 of the Land Act (Cap 227 Laws of Uganda); see also Section 76(2) of the Land Act (Cap 227 Laws of Uganda); see also Section 80 of the Land Act (Cap 227 Laws of Uganda); see also Section 81 of the Land Act (Cap 227 Laws of Uganda); see also Section 84 of the Land Act (Cap 227 Laws of Uganda); see also Section 88(1) of the Land Act (Cap 227 Laws of Uganda); see also Section 88(2) of the Land Act (Cap 227 Laws of Uganda); see also Section 89 of the Land Act (Cap 227 Laws of Uganda); see also Regulation 87 of the Land Regulations S.I No 100 2004; see also Regulation 88 the Land Regulations S.I No 100 2004; see also Regulation 89 of the Land Regulations S.I No 100 2004

<sup>66</sup> See Section 3 of the Local Council Courts Act, 2006

<sup>67</sup> See Section 4 of the Local Council Courts Act, 2006

Every question arising before a local council court is determined by consensus<sup>68</sup>; and in the absence of a consensus is determined by a majority of votes of the members sitting by show of hands.

The jurisdiction of a local council court extends only to causes and matters arising within the territorial area of the local council for which the court is established and to causes and matters arising elsewhere if the defendant or accused is ordinarily resident within that area<sup>69</sup>.

Every suit shall be instituted in the first instance in a village local council court, if that court has jurisdiction in the matter<sup>70</sup>.

The local council court may make an order for any one or more of the following reliefs: reconciliation; declaration; compensation; restitution; costs; apology; attachment and sale; and imposition of a fine, community service or any other penalty authorised by a bye-law or ordinance<sup>71</sup>.

The law provides for flexible means of commencing suits before local council courts<sup>72</sup>. The law provides that every civil suit shall be instituted by stating to the Chairperson of the local council court, the nature of the claim against the defendant and the relief sought by the claimant. Every claim shall be signed by the claimant (or thumb print inserted). However, the claim may be made orally in which case it shall be reduced into writing by the Chairperson, Secretary or a person appointed by the local council court for the purpose. After the filing of the claim, a date for the hearing of the case is fixed and the court is then convened by the Chairperson for the hearing.

In a bid to keep procedures as simplified as possible, Advocates/lawyers are prohibited from representing parties before LC courts<sup>73</sup>. Corporations may appear through persons authorised by such corporation<sup>74</sup>. The local council court may use a local language in proceedings before it<sup>75</sup>. Proceedings of the local council court are recorded<sup>76</sup>.

A local council court is required to hear every case before it, expeditiously and without undue regard to technical rules of evidence or procedure<sup>77</sup>. The local council court is guided by the principle of impartiality and adheres to the rules of natural justice<sup>78</sup>, including: that each party is given an opportunity to be heard; that each party is given notice of the proceedings and of the case against him or her; that each party is accorded ample opportunity to call witnesses and to adduce such evidence as he or she requires to support his or her case; and that any member of the local

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<sup>68</sup> See Section 8(7) of the Local Council Courts Act, 2006

<sup>69</sup> See Section 9 of the Local Council Courts Act, 2006

<sup>70</sup> See Section 11(1) of the Local Council Courts Act, 2006

<sup>71</sup> See Section 13 of the Local Council Courts Act, 2006

<sup>72</sup> Section 14 of the Local Council Courts Act, 2006

<sup>73</sup> Section 16(2) of the Local Council Courts Act, 2006

<sup>74</sup> Section 17 of the Local Council Courts Act, 2006

<sup>75</sup> Section 21 of the Local Council Courts Act, 2006

<sup>76</sup> Section 22 of the Local Council Courts Act, 2006

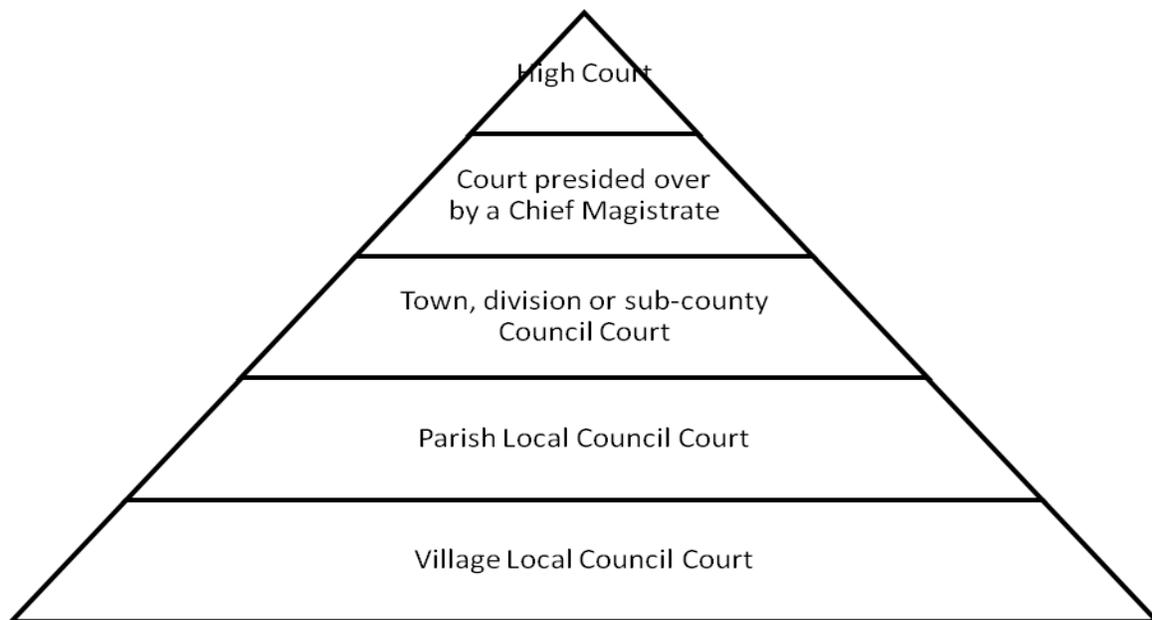
<sup>77</sup> Section 23 of the Local Council Courts Act, 2006

<sup>78</sup> Section 24 of the Local Council Courts Act, 2006

council court who directly or indirectly has an interest of whatever nature, in the issue in dispute is disqualified from hearing the case.

The local council court may order execution of a judgment by attachment and sale of any property<sup>79</sup>.

A party dissatisfied with the judgment or order of a local council court may appeal against the judgment or order<sup>80</sup>. Parties can appeal from the judgment and orders of a village local council court to a parish local council court; from the judgment and orders of a parish local council court, to a town, division or sub-county council court; from the judgment and orders of a town, division or sub-county local council court to a court presided over by a Chief Magistrate; from decrees and orders made on appeal by a Chief Magistrate to the High Court.



**Figure 3.1: Appeal levels in the LC courts system**

Every local council court has jurisdiction<sup>81</sup> for the trial and determination of the following causes and matters of a civil nature: debts; contracts; assault or assault and battery; conversion; damage to property; and trespass.

Monetary jurisdiction<sup>82</sup> of local council courts in respect to matters set out above is limited to 100 currency points (i.e. UGX 2,000,000).

<sup>79</sup> See Section 27(1) of the Local Council Courts Act, 2006

<sup>80</sup> See Section 32 of the Local Council Courts Act, 2006

<sup>81</sup> Section 10 of the Act of the Local Council Courts Act, 2006, See also Section 10(1) (a) of the Act and the Second Schedule to the Act

<sup>82</sup> Under Section 10(2) of the Local Council Courts Act, 2006; see also Second Schedule to the Act

Every local council court has jurisdiction<sup>83</sup> for the trial and determination of causes and matters of a civil nature governed only by customary law including the following: disputes in respect of land held under customary tenure; disputes relating to the identity of a customary heir; and customary bailment (monetary jurisdiction of these matters is not restricted).

Other matters over which local council courts have jurisdiction include<sup>84</sup>: causes and matters arising out of infringement of bye-laws and ordinances; and matters relating to land.

In case the local council court awards compensation exceeding twenty five currency points (UGX 500,000)<sup>85</sup>, the local council court is required to refer the case to the Chief Magistrate of the area for the purposes of execution of the order. If the Chief Magistrate finds that the judgment award is grossly excessive, he/she may reduce the amount of the award taking into account awards in similar cases.

*Local Council Courts Regulations, 2007* facilitate the better carrying into effect of the provisions of the *Local Council Courts Act, 2006* by providing for the following particulars: spell out clearly the operation and procedure of the Local Council Courts; provide for fees to be paid by users of the local council courts; provide for the oath to be taken by members of the court; provide for costs to be awarded by the courts; and provide for other matters such as record keeping, service of documents and other matters intended for the smooth running of local council courts.

A recent nation-wide study on justice needs and satisfaction in Uganda (Hiil Innovating Justice and ACORD, 2016) has concluded that:

*“The LCCs, particularly at the lowest level (LC1) hold an important place in Uganda’s justice system. Despite the fact that these courts, prior to the recent election, have been ruled to be not validly constituted, they are presently the most widely used institution for dispute resolution in Uganda.”*

Although the jurisdiction of LC courts is limited to a maximum of Ugx 2,000,000 and generally restricted to low-level conflicts at the community level, the consultant is of the view that LC courts can be an important forum for resolution of potential REDD+ conflicts and grievances especially those occurring within the local communities.

The fact that other existing government programmes make use of the LC system as a dispute resolution mechanism is proof of its effectiveness. For example, a review of the *National Water Policy, 1999* reveals that the LC system plays a crucial role in the management of water resources. The water policy recognises the important role of the LC system as a mechanism for the resolution of disputes related water resources use. The water policy provides that village elders and the local

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<sup>83</sup> Section 10(1) (a) of the Local Council Courts Act, 2006; see also the Third Schedule to the Act

<sup>84</sup> Section 10(1) (c) & (e) of the Local Council Courts Act, 2006

<sup>85</sup> See Section 10(3) of the Local Council Courts Act, 2006

government system should be used first for mediation of water disputes. LC courts are given a prominent role to play in the mediation of water disputes. Appeals are handled administratively by the district committee responsible for water and the magistrates' courts under the Judiciary. At the national level, the minister responsible for water is given the responsibility to determine appeals finally.

In addition to LC courts, potential REDD+ conflicts and grievances could also be handled by local government structures established by the *Local Governments Act (Cap 243 Laws of Uganda)*. These structures include LC executive councils (levels 1, 2, 3, & 5) as well as district councils<sup>86</sup>.

It should be noted that while the LC court system is widely used and accessible to the majority of the rural population in Uganda, it is currently not fully functional following government's delay to organize and hold elections at the LC I & II levels. Decisions of LC courts have been successfully challenged and set aside by higher courts on grounds that the LC courts are not properly constituted<sup>87</sup>.

### ***Legal issues relating to Collaborative Forest Management (CFM)***

Uganda's policy and legal framework provides for the implementation of CFM. CFM is provided for in the *Uganda Forestry Policy 2001*<sup>88</sup>, the *National Forestry and Tree Planting Act, 2003*<sup>89</sup>, and the *Draft Tree Forestry and Tree Planting Regulations, 2013*<sup>90</sup>. The *National Guidelines for Implementing Collaborative Management in Uganda, 2003* describe the process for concluding a CFM Agreement between a responsible body and a CFM Partner in respect of central and local government forest reserve (Figure 3.2). The Guidelines explain the steps required for negotiating and signing a CFM Agreement in line with the CFM regulations.

Findings from the Rwoho central forest reserve, one of the field case studies undertaken by the consultant show that conflicts have been largely mitigated in areas where CFM has been implemented by NFA. This contrasts sharply with other areas where CFM is not operational, lending credence to the notion that CFM can be employed as a tool to de-escalate conflicts and grievances.

It was observed that at Nyakigufu, Rwoho in Ntungamo district, the local community were hostile towards NFA management and did not see the value of keeping the Rwoho forest reserve. During the FGD discussion, one of the participants said '*we are aggrieved, if the forest catches fire, we don't care*'.

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<sup>86</sup> See Part 2 of the 2<sup>nd</sup> Schedule to the Local Governments Act (Cap 243 Laws of Uganda) (paragraph 15); see also Part 4 of the 2<sup>nd</sup> Schedule

<sup>87</sup> See for example Court of Appeal Civil Appeal No 89/2011 Nalongo Burashe Vs Kekitiibwa Mangadalena which set aside a ruling of the LC II court in respect of a land dispute

<sup>88</sup> See Policy Statement Number 5 of the Uganda Forestry Policy, 2001

<sup>89</sup> See Section 15 of the National Forestry and Tree Planting Act, 2003

<sup>90</sup> See Regulation 17 & Part IV of the Draft Forestry and Tree Planting Regulations, 2013

About one kilometre away at Rwoho cell in Ntungamo district, the consultant then engaged another local community group (RECPA) that is currently engaged in a CFM arrangement with NFA. In sharp contrast with the Nyakigufu FGD, the consultant found that the RECPA local community had a harmonious relationship with NFA under the CFM arrangement, and is proceeding to sustainably manage the forest reserve allocated to them.

According to the National Forest Plan (2011/12-2021/22), by the end of 2010, 25 CFM agreements had been signed, while 60 were at various stages of development. The *National Guidelines for Implementing Collaborative Management in Uganda, 2003* document some of the lessons learnt in the pilot sites including the following: improved sense of ownership and responsibility; increased understanding of community; improved relationships with responsible body; resolved conflicts; promoted forest regeneration; helped to reduce poverty; improved quality of life for women; improved equity in access to forest resources; empowered communities to share authority and make decisions; increased employment and new skills; and increased forest revenues and improved revenue sharing. One of the key reasons advanced for using a CFM arrangement is the desire to overcome conflicts with neighbouring communities.

Despite its potential to contribute to sustainable management of forests, CFM faces some significant challenges. Some of the challenges of CFM (Turyahabwe *et al*, 2012) include the following:

- (i) *Section 3* of the *National Forestry and Tree Planting Act, 2003* restricts the application of CFM to only central or local forest reserve or part of it, leaving out other forest types such as community forests and private forests;
- (ii) The process of concluding a CFM is cumbersome and time consuming (8 – step process)<sup>91</sup>, and communities often become anxious with the result that some CFM negotiations end up collapsing;
- (iii) There is inadequate capacity for CFM implementation, including lack of the required funds, technical/human resources; and experience;
- (iv) Local political interference that favours illegal activities thus discouraging stakeholders from committing themselves to CFM obligations;
- (v) Lack of sensitization on the benefits of CFM agreements, with some stakeholders still sceptical about its benefits;
- (vi) Community members are sometimes duped into undertaking CFM agreements by self-seeking persons who end up fleecing them;
- (vii) Lack of tangible benefits from CFM implementation;
- (viii) Unethical conduct and other unprofessional practices tend to undermine the benefits of CFM implementation;
- (ix) The initial duration of a CFM agreement is 5 years<sup>92</sup> which does not motivate communities considering that benefits of sustainable forest management come after a

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<sup>91</sup> See National Guidelines for Implementing Collaborative Forest Management in Uganda, 2003

<sup>92</sup> See Regulation 28 of the Draft National Forestry and Tree Planting Regulations, 2013

much longer period of time. In addition, there is uncertainty in case a CFM agreement is not renewed after the initial 5 years;

- (x) The lack of guidelines for forest benefit sharing in a CFM agreement means that communities being weaker parties in the negotiation process, may be cheated and end up with low-value items; and
- (xi) CFM agreements are usually in English, which means that most community members cannot comprehend the agreements.

In order to overcome these challenges, there is need for several interventions including the following (Turyahabwe *et al.*, 2012): revise the *National Forestry and Tree Planting Act, 2003* and regulations made under the Act, to provide for the application of CFM to other forest types (community forests, private forests, etc.); awareness creation and capacity building; strengthening community based organisations that can champion CFM agreements and protect the rights of the local communities; putting in place guidelines for the sharing of forest benefit (REDD+ benefits) so as to protect the rights of communities and mitigate potential conflicts and grievances; involve local governments in CFM implementation; translate CFM agreements into local languages; revise the initial period of a CFM agreement to at least 10 years; undertake affirmative action to streamline gender and equity issues in CFM agreements; and provide adequate financial and human resources for implementing CFM agreements.

Although CFM was not originally designed for REDD+, we think that a reformed CFM (see proposals to address its challenges), will make a significant contribution to sustainable management of forests, thereby helping to achieve the ultimate objective of REDD+. CFM will also play a key role in the resolution of potential REDD+ conflicts and grievances.

#### ***Use of the Environmental Tribunal to resolve potential REDD+ conflicts and grievances***

The *Draft National Environment Management Policy for Uganda, 2014* calls for the establishment of an environmental appeals tribunal to handle disputes related to the environment.

The *National Environment Bill, 2014*<sup>93</sup> provides for the establishment of an environmental tribunal. The Tribunal consists of the following members:

- (i) a Chairperson who shall be appointed by the Minister in consultation with the Judicial Service Commission from amongst the persons qualified to be appointed a Judge;
- (ii) an advocate of the High Court of Uganda;
- (iii) one member with high academic qualifications and experience in environmental law;
- (iv) two other members who have demonstrated exemplary professional competence in the field of environmental management;
- (v) one member from the Civil Society Organisation; and
- (vi) one member from the private sector.

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<sup>93</sup> See Section 131 of the National Environment Bill, 2014

The *National Environment Bill, 2014* provides for the jurisdiction of the tribunal<sup>94</sup>, and it will handle the matters where the person is aggrieved by:

- (i) the decision or omission by the Minister;
- (ii) the decision or omission by the Authority, a lead agency, district environment committee, local environment committee, environmental inspector or any other person authorised by the Authority; and
- (iii) the imposition of or failure to impose any condition, limitation or restriction issued under this Act or the regulations made under this Act.

Under the *National Environment Bill, 2014*<sup>95</sup>, the chairperson of the Tribunal may invite any persons with special skills or knowledge on environmental issues which are the subject matter of any proceedings or inquiry before the Tribunal to provide specialised expertise where it appears to the Tribunal that such special skills or knowledge are required for proper determination of that matter.

The Tribunal is mandated to regulate its own procedure, and is not bound the rules of procedure applied by the ordinary courts<sup>96</sup>. Awards of the Tribunal are binding and may be enforced as if they are orders of the court<sup>97</sup>. Any party who is aggrieved with the decision of the Tribunal may appeal to the High Court within thirty days of such decision or order<sup>98</sup>.

The Environmental Tribunal is one of those mechanisms that can a play a role in the resolution of potential REDD+ conflicts and grievances especially where dispute resolution at the lower levels has failed.

It is noted that the jurisdiction of the Environmental Tribunal under the Bill does not cover REDD+ related disputes – and yet the Tribunal could potentially play a crucial role in the resolution of REDD+ related conflicts and grievances especially bearing in mind the need to avoid creation of multiple institutions handling similar matters. In this respect, it is proposed that the jurisdiction of the Environmental Tribunal should be expanded to cover REDD+ related disputes.

### ***Using the law to promote REDD+ benefit sharing as a means of resolving potential conflicts and grievances***

The un-equitable sharing of financial benefits associated with REDD+ projects can be a trigger of conflicts and grievances (Lee and Pistorius, 2015). The law should have capacity for ensuring that REDD+ financial benefits are shared in a manner that will promote harmonious existence of all

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<sup>94</sup> Section 133 of the National Environment Bill, 2014

<sup>95</sup> See Section 131(6) of the National Environment Bill, 2014

<sup>96</sup> See Section 134 of the National Environment Bill, 2014

<sup>97</sup> See Section 135 of the National Environment Bill, 2014

<sup>98</sup> See Section 136 of the National Environment Bill, 2014

participants in a REDD+ project. It is noted that the current legal regime does not have an established mechanism for the sharing of benefits from REDD+ investments<sup>99</sup>.

There exist some relevant policies and laws that can be used to promote the equitable sharing of conservation benefits between management agencies and communities but these are inadequate.

Policy statement number 5 of the *Uganda Forestry Policy, 2001* provides for collaborative forest management, and states that the government will promote innovative approaches to community participation in forest management on both government and private forest lands so as to provide incentives to adjacent communities to sustainably manage the forests. Several strategies for the implementation of this policy statement are outlined, including, developing a supportive legal basis for sharing of benefits from forest products.

The *National Climate Change Policy, 2015*<sup>100</sup> calls for the setting up of mechanisms to regulate the implementation of REDD+ projects as well as equitable benefit sharing schemes.

The National Land Policy 2013<sup>101</sup> calls for the development of benefit sharing schemes between the community/districts and central government in respect of natural resources.

The *Uganda Wildlife Policy, 2014* calls for the promotion of the interests of local communities around conservation areas, including the need to ensure equitable revenue sharing between the wildlife authorities and the communities.

*Uganda Wildlife Act (Cap 200 Laws of Uganda)*<sup>102</sup> authorises UWA to pay 20 percent of the park entry fees collected from a wildlife protected area to the local government of the area surrounding the wildlife protected area from which the fees were collected. This revenue sharing arrangement accounts for the harmonious relationship between the communities and UWA. During the field case study in Mt. Elgon National Park, it was found that local communities have a peaceful relationship with UWA as opposed to NFA which does not implement such schemes.

The *Mining Act, 2003*<sup>103</sup> provides for the sharing of revenue obtained from mining operations between the central government, the local government, and owners/occupiers of the land (17 percent to the local governments and 3 percent to the land owner/occupier).

The *draft National Environment Policy, 2014* embraces the concept of ‘payment for ecosystem services’ and provides that communities responsible for the conservation of natural resources should receive financial incentives for the critical role they play. The environment policy calls for the implementation of several strategies to ensure realisation of ‘payment for ecosystem services (PES)’<sup>104</sup>, including: establishing PES policy, legislative and regulatory frameworks; establishing

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<sup>99</sup> We do not wish to go into details on this issue because a related consultancy will make concrete proposals on REDD+ benefit sharing arrangements

<sup>100</sup> See Section 4.3.1

<sup>101</sup> See Section 22(iii); see also Section 58(ii); see also Section 88(iv); see also Section 141(iii); see also Section 167(iv)

<sup>102</sup> See Section 69(4) of the Uganda Wildlife Act (Cap 200 Laws of Uganda)

<sup>103</sup> See Section 98(2); see also the Second Schedule to the Act

<sup>104</sup> Under the National Environment Bill, 2016, “ecosystem services” are defined as “the direct and indirect economic, social and environmental benefits obtained from the correct functioning of ecosystems, including watershed regulation, maintenance of biodiversity and carbon sequestration, for human well-being;

PES enterprise support centres for advisory and capacity-building services; engaging and training prospective sellers, as well as financial institutions up to the community level for efficient delivery of payments; providing a conducive environment for a public-private partnership for PES deals to flourish; establishing effective governance structures; and creating mechanisms for valuing environmental services. Payment for ecosystem services is also provided for under the *National Environment Bill, 2014*<sup>105</sup>.

Despite the existence of some legal provisions providing for REDD+ benefit sharing arrangements, it is necessary to strengthen the existing policy and legal frameworks with a view of putting in place an effective benefit sharing arrangement that mitigates potential conflicts and grievances.

### ***Access to information as a means of de-escalating conflicts and grievances***

Every citizen has a right of access to information in the possession of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person<sup>106</sup>.

*The Access to Information Act, No 6 of 2005* provides for the right of access to information<sup>107</sup>. Every citizen has a right of access to information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person<sup>108</sup>. The Act is intended to promote transparency and accountability by all organs of the government.

It is noted that denial of access to information is one of the frequent causes of conflicts and grievances. Ensuring that vital information related to REDD+ projects is publicly made available pursuant to the law, is one way through which potential conflicts and grievances can be diffused.

### ***Lessons for the design of the feedback and grievance redress mechanism in Uganda***

Following the analysis of the existing policy and legal framework in Uganda, the following are some of the lessons for the design of the feedback and grievance mechanism for REDD+:

- (i) The CFM which is established by the current policy and legal framework is an important mechanism that can be used to resolve potential REDD+ conflicts and grievances;
- (ii) The law establishes the local government system (LCI, II, III, & district council) right from the village level up to the district level, which system can be used to resolve potential REDD+ conflicts and grievances;
- (iii) The proposed Environmental Tribunal under the *National Environment Bill, 2014* is one of those structures that can be used to resolve potential REDD+ conflicts and grievances;

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<sup>105</sup> See Section 64 of the National Environment Bill, 2014; See also Section 33 of the National Environment Bill, 2014

<sup>106</sup> See Article 41(1) of the Constitution

<sup>107</sup> See also Article 41 of the Constitution of Uganda

<sup>108</sup> Section 5 of the Access to Information Act, No 6 of 2005

- (iv) Other structures established by the current policy and legal framework that could play a role in the FGRM include, the Forestry Committees<sup>109</sup>; Honorary Forestry Officers<sup>110</sup>; and the Multi-Stakeholder Forum<sup>111</sup>;
- (v) Throughout the legal framework, there is strong use of the formal judicial processes – the civil and criminal justice system to prosecute environmental offenders, and settle other forms of conflicts; and these formal judicial structures can play a role in the resolution of potential REDD+ conflicts and grievances<sup>112</sup>;
- (vi) Central and local government institutions are legally empowered to institute court action against persons whose activities are incompatible with the sustainable management of the environment and exploitation of natural resources<sup>113</sup>;
- (vii) Ordinary Ugandan citizens and the civil society are legally empowered to employ the civil justice system to redress conflicts and grievances environment and exploitation of natural resources<sup>114</sup>;
- (viii) Many of the laws have established mechanisms for the resolution of disputes, and persons dissatisfied with decisions from such mechanisms can appeal to higher levels including the High Court<sup>115</sup>; and
- (ix) Some laws provide that decisions taken by administrative tribunals are final and cannot be called into question by courts of law in contravention of the general principle of law that the High Court has unlimited jurisdiction that cannot be fettered<sup>116</sup>.

The design of the grievance and feedback mechanism for REDD+ should take up the good experiences of the existing dispute resolution mechanisms (such as ensuring that the mechanism has an appeal option, enables access of communities and ordinary citizens, etc.) while avoiding some of the bad practices (such as legal provisions that provide that decisions of administrative tribunals cannot be called into question by the High Court).

**Table 3.2: Gaps in Uganda’s policy and legal framework for REDD+ and FGRM**

Policy/legal instruments	Relevant section/provision	Gaps	Recommended action
United Nations Framework Convention on Climate Change (UNFCCC)	Article 4 sets out the legal framework for reducing greenhouse gas emissions,	The UNFCCC is yet to be domesticated by Uganda (made part of national laws)	Government should take steps to domesticate the UNFCCC

<sup>109</sup> See Section 63 of the National Forestry and Tree Planting Act, 2003

<sup>110</sup> Ibid, Section 50

<sup>111</sup> See Uganda Forestry Policy, 2001

<sup>112</sup> See Part XIII of the National Environment Act (Cap 153 Laws of Uganda); see also Part IX of the National Forestry and Tree Planting Act, 2003

<sup>113</sup> See for instance Section 5(2) of the National Forestry and Tree Planting Act, 2003; see also Section 3(3) of the National Environment Act (153 Laws of Uganda)

<sup>114</sup> See Section 5(2) of the National Forestry and Tree Planting Act, 2003

<sup>115</sup> See Section 14 & 15 of the Timber (Export) Act (Cap 151 Laws of Uganda); see Section 38 of the Water Act (Cap 152 Laws of Uganda); see also Part XIII of Petroleum (Refining, Conversion, Transmission Act and Midstream Storage) Act, No 4 of 2013; see also Sections 55 & 135(1)(d) of the Petroleum (Exploration, Development and Production) Act, No 3 of 2013; see also Sections 118 and 119 Mining Act, No. 9 of 2003; see Regulation 38 of the Environmental Impact Assessment Regulations, S.I. No. 13/1998

<sup>116</sup>Section 104(a) & Section 104(b) of the National Environment Act (Cap 153 Laws of Uganda)

Policy/legal instruments	Relevant section/provision	Gaps	Recommended action
	including sustainable management & conservation & enhancement of forests		
Paris Agreement, 2015	<i>Article 5</i> provides for international legal framework on REDD+	The Paris Agreement is yet to be ratified by Uganda	Government should take steps to ratify the Paris Agreement
ILO Convention 169 on Indigenous and Tribal Peoples, 1989	The convention sets out legal provisions for the protection of rights of indigenous peoples and local communities – one of the Cancun safeguards	The convention is yet to be ratified by Uganda	Government should take steps to ratify ILO Convention 169
National Forestry and Tree Planting Act, 2003	<i>Section 64(1)</i> provides for the establishment of Forestry Committees	Forestry Committees have never been established since the law came into force	Establish Forestry Committees as provided for in the Act to enhance sustainable forestry management
	<i>Section 40</i> provides for the establishment of the Tree Fund	Tree Fund has never been established more than 10 years after the Act came into force	Establish Tree Fund as provided for in the Act
	Provisions relating to effective coordination between LGs and NFA	The Act does not assign any specific responsibility to local governments in the management of central forest reserves	Provide for the role of local governments in the management of central forest reserves (responsibility should be shared between LGs and NFA)
	Provisions relating to carbon rights ownership	Lack of clarity on the legal ownership of carbon rights	Introduce specific legal provisions that define carbon rights; and provide elaborate procedures for their registration
	<i>Section 3</i> defines a CFM arrangement	CFM is restricted to only central or local forest reserve or part of it, leaving out other forest types such as community forests and private forests	Revise the Act to provide for the application of CFM to other forest types (community forests, private forests, etc.)
	<i>Section 50</i> provides for the appointment of Honorary Forestry Officers to assist in the implementation of the Act	Honorary Forestry Officers have never been appointed as provided by the Act	Appoint Honorary Forestry Officers in areas with major forest reserves to act as the ‘eyes’ and ‘ears’ of NFA on the ground, champion conservation of forest reserves, and assist in the

Policy/legal instruments	Relevant section/provision	Gaps	Recommended action
			overall implementation of the Act
Draft National Forestry and Tree Planting Regulations, 2013	<i>Regulation 28</i> provides that the initial duration of CFM shall be 5 years	The initial duration of CFM is too short and discourages communities from entering into a CFM arrangement	Revise <i>Regulations</i> to increase initial CFM duration from 5 to 10 years
	<i>Part XI</i> on trade in carbon sequestration credits; <i>Regulation 107</i> on carbon sellers	<i>Regulation 107</i> is restrictive in its definition of carbon sellers: NFA for central forest reserves; district council for local forest reserve; and the owner of the land in the case of private forests; leaving out other potential sellers of carbon, e.g. a licensee on a forest reserve	Revise <i>Regulations</i> to remove ambiguities in the definition of carbon sellers
	<i>Part IV</i> of the Regulations	Lack of provisions on sharing of forest benefit (REDD+ benefits) in a CFM arrangement	Put in place guidelines for the sharing of forest benefit (REDD+ benefits) in a CFM arrangement so as to protect the rights of communities and mitigate potential conflicts and grievances
National Environment Act (Cap 153)	<i>Sections 14, 15, and 16</i> provide for the establishment of the district and local environment committees	District and local environment committees are not fully operationalized and are under-resourced	Fully operationalize and provide adequate resources to district and local environment committees
National Environment Bill, 2014	<i>Section 131</i> provides for the establishment of an Environmental Tribunal	Jurisdiction of the Environmental Tribunal under the Bill does not cover REDD+ related disputes	Revise Bill to expand jurisdiction of the Environmental Tribunal to cover REDD+ related disputes
Public Finance Management Act, 2015	Management of public revenues	No legal provisions for the sharing of revenue generated from REDD+ projects between the central and local governments	Incorporate legal provisions for the sharing of revenue generated from REDD+ projects between the central and local governments
Land Act (Cap 227)	Section 29 on land ownership	Legal regime creates competing interests of ownership over the same piece of land	Amend the Act and other relevant laws so as to provide clarity to the nature of property rights, and eliminate ambiguities over land ownership

Policy/legal instruments	Relevant section/provision	Gaps	Recommended action
	Sections 74 & 80 provide for the establishment of land tribunals	Operations of Land Tribunals were suspended due to resource constraints	Revive operations of Land Tribunals
Local Council Courts Act, 2006	Section 3 establishes LC courts to handle disputes at community level	LC courts (I & II) are not validly constituted due to lack of elections since early 2000s	Hold elections for LC I & II
		Lack of capacity to effectively handle REDD+ related disputes	Provide capacity building and adequate resources to enable LC courts handle REDD+ related disputes
All policy/legal instruments	Provisions for the sustainable management of forests & conflicts and grievances	Inadequate enforcement, e.g. <i>Renewable Energy Policy for Uganda, 2007</i> had a target to increase the share of modern renewables in total energy consumption to 61% by 2017 from 4% in 2007 which target is unlikely to be met	Government should take steps to enhance enforcement of relevant policy and legal instruments
		Lack of awareness of REDD+ related policies and laws	Undertake sensitization and awareness of REDD+ related policies and laws
		Lack of abridged versions of REDD+ related policies and laws	Avail abridged versions of REDD+ related policies and laws
		REDD+ related policies and laws are not translated into local languages	Avail REDD+ related policies and laws in local languages

### 3.1.4 Analysis of the Institutional Framework for the implementation of REED+

Various actors will be responsible for REDD+ implementation in Uganda. They include: Government Ministries (Ministry of Water and Environment, MoLG, Ministry of Energy and Mineral Development, Justice and Constitutional Affairs, Ministry of Finance, Planning and Economic Development Ministry of Agriculture, Animal Industry and Fisheries, Ministry of Education and Sports, Ministry of Gender, Labour and Community Development, Ministry of Internal Affairs, Ministry of Tourism, Trade and Industry); Government autonomous bodies (NFA, NEMA, UWA); District Local Governments; and Civil Society Organisations. The key responsibilities of these actors in the implementation of REED+ is detailed in parts (a) to (d).

*(a) Government Ministries*

The Ministry of Water and Environment is responsible for forestry management in the country, and carries out its functions through the Forest Sector Support Department (FSSD), with the following key functions<sup>117</sup>: formulation and oversight of appropriate policies, standards and legislation for the forest sector; co-ordination and supervision of technical support and training to local government; inspection and monitoring of local government and the NFA performance in forest sector development; co-ordination of the National Forest Plan and cross-sectoral linkages; mobilisation of funds and other resources for the forest sector; and promotion, public information and advocacy for the forest sector.

The Ministry of Local Government's key responsibilities in regard to the forestry sector include the following<sup>118</sup>: provide decentralised services through local government structures; ensure coherence of forestry policy and practice; provide support for District Forestry Services; and provide performance monitoring of local governments.

The Ministry of Energy and Mineral Development's key responsibilities of in regard to the forestry sector include the following<sup>119</sup>: formulate policies, laws, regulations, standards and guidelines for sustainable production and provision of energy from various sources; support development of biomass energy conservation technologies; promotion of energy substitution (solar, hydro power, petroleum, etc.); and facilitate access to environmental related funding mechanisms (global funds) that support the energy sector, e.g. CDM, Voluntary Markets, PES etc.

The Ministry of Justice and Constitutional Affairs support in the development forestry related legislation and regulations. The Ministry of Finance, Planning and Economic Development's key responsibilities in regard to the forestry sector include the following: provision of policies, standards and guidelines and information that are needed for planning; sector budget allocations; ensure coherence of forestry policy and practices; oversee the NFA performance contract; mobilise funds and other resources; provide information on green accounting; macro-economic stability through ensuring sustainable natural resources through extraction levies and licenses; implementation of social and environment assessments to facilitate planning and economic stability; and provision of incentives and disincentives (Economic Instruments) for forestry development

The Ministry of Agriculture, Animal Industry and Fisheries in regard to the forestry sector is responsible for<sup>120</sup>: agriculture and forestry interface; delivery of advisory services – to mainstream forestry in NAADS; enabling policies, laws and regulations and standards provide guidance for

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<sup>117</sup> National Forest Plan (2011/12 – 2021/22)

<sup>118</sup> Ibid

<sup>119</sup> Ibid

<sup>120</sup> Ibid

good agricultural practices that enhance sustainable land management; promotion of agro-forestry practices on-farm; and contribute forestry advice in the implementation of UNCCD.

The Ministry of Education and Sports in regard to the forestry sector is responsible for the following<sup>121</sup>: integration of forestry management in formal education for sustainable development through development of curriculum; demonstration of forestry management in schools for good practices; promotion of forestry education in schools, colleges and vocational training institutes; promotion of forestry-focussed school programmes and initiatives; and promotion of tree growing on school/college land (woodlots, aesthetic, windbreaks, roadside planting, etc.). While the Ministry of Gender, Labour and Community Development in regard to the forestry sector is responsible for formulation of enabling policies, laws, regulations and standards related to labour and gender concerns; and community mobilisation.

The Ministry of Internal Affairs (Police) in regard to the forestry is mandated to undertake the following<sup>122</sup>: build capacity for enforcement of environmental laws and regulations both within Justice Law and Order Sector and within civil society for community management of ecosystems; enforcement of forest laws; and promotion of tree growing initiatives on institutional land (woodlots, aesthetic, windbreak, roadside plating, etc).

The Ministry of Tourism, Trade and Industry's key responsibilities in regard to the forestry sector include the following<sup>123</sup>: promotion of international markets that focus on the environmentally safe products (e.g. organic coffee, vanilla, pineapples, honey) and are willing to buy at a premium prices; domestication of the Multi-lateral Environmental Agreements (MEAs) is important in the control of trans-boundary trade, e.g. under CITES; supply of the capital base (natural resource and biodiversity) on which the industry is based; and regulations, guidelines, standards and provisions for effective management of biodiversity and ecosystem management for effective survival of tourism industry.

#### *(b) Government Departments*

NFA is one of lead institutions for forestry management in Uganda and among its main functions is to: (i) develop and manage all central forest reserves; (ii) identify and recommend to the Minister, areas for declaration as central forest reserves, and the amendment of those declarations; (iii) promote innovative approaches for local community participation in the management of central forest reserves; (iv) prepare and implement management plans for central forest reserves and to prepare reports on the state of central forest reserves and such other reports as the Minister may require; (v) establish procedures for the sustainable utilisation of Uganda's forest resources by and for the benefit of the people of Uganda; (vi) co-operate and co-ordinate with the National Environment Management Authority and other lead agencies in the management of Uganda's

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<sup>121</sup> Ibid

<sup>122</sup> Ibid

<sup>123</sup> Ibid

forest resources; in conjunction with other regulatory authorities, (vii) control and monitor industrial and mining developments in central forest reserves; in consultation with other lead agencies, (ix) develop, or control the development of tourist facilities in central forest reserves; enter into an agreement or other arrangement with any person, for the provision of forestry services, subject to such charges as may be agreed upon; (x) carry out or commission research for the purposes of conservation, development and utilisation of forests, and for the conservation of biological diversity and genetic resources; and (xi) ensure the training of forestry officers and other public officers in the development and sustainable management of forests.

NEMA which is established by the National Environment Act (Cap 153 Laws of Uganda) has the following key responsibilities in regard to the forestry sector<sup>124</sup>: control of forestry activities in accordance with environmental legislation; provide environmental planning framework through the National Environment Policy and National Environment Action Plan (NEAP); support local governments in the development and implementation of the District Environment Action Plans (DEAPs); and implementation of forestry components of DEAPs; provide guidance and advice on forestry EIAs.

UWA<sup>125</sup> in regard to the forestry sector is mandated with the following key responsibilities: management of the forest resources in national parks, wildlife reserves and wildlife sanctuaries (about 50% of the gazetted forests; and joint-management with NFA of some central forest reserves under this management status

#### *(c) District Local Governments*

District Local Governments<sup>126</sup> in regard to the forestry sector are mandated to: establish District Forestry Services; strengthen forestry in production and environment committees and District Development Plans; implement international and national policies on forests; permits, licence fees and tax collection; mobilise funds for forestry development; develop and enforce bye-laws; support and quality control of forestry extension, brokering between farmers and service providers, providing market information; manage local forest reserves in partnership with communities and private investors; and land administration, surveying, approval of community forests.

#### *(d) Civil Society Organisations*

Civil society organizations in regard to the forestry sector play the following roles<sup>127</sup>: advocacy for increased understanding of the role of forests in national and local development; promotion of government accountability with regard to use of resources and delivery of services; participating in partnership arrangements for management and utilisation of forests; public education,

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<sup>124</sup> Ibid

<sup>125</sup> Ibid

<sup>126</sup> Ibid

<sup>127</sup> Ibid

information dissemination; training of local communities, private forest owners and resource managers; action research; advisory service delivery; and mobilise local communities to participate in the development process.

The analysis of the institutional framework reveals challenges that may impact the successful implementation of the REDD+ programme in Uganda, that among others, include:

- (i) *Potential conflict over management of climate finance:* While the Ministry of Water and Environment has the mandate to manage and direct REDD+ programmes, the flow of REDD+ funds into the country may ignite tensions over the control of such funds. Consistent with current practice, as well as the roles assigned to the Ministry of Finance, Planning and Economic Development by the *National Climate Change Policy, 2015*<sup>128</sup>, REDD+ funds will likely be under its control. Indeed, the Ministry of Finance, Planning and Economic Development is Uganda's National Designated Authority (NDA) to the Green Climate Fund. Tensions may be ignited if the two key lead ministries have different priorities for spending REDD+ funds. In addition, if REDD+ projects are being implemented at the district level, there should be a mechanism of ensuring that REDD+ funds flow from the central government to the local government. In this respect, it is important that specific attention be directed towards building Uganda's institutional capacity for the management of climate finance including REDD+ funds with a view of addressing any deficiencies (Tumushabe, G., et al, 2013);
- (ii) *Conflicting institutional mandates may undermine REDD+ implementation:* The current policy and legal framework assigns overlapping roles to different institutions thus creating a fertile ground for conflict. While the mandate to manage central forest reserves is the responsibility of NFA<sup>129</sup>, the Constitution of Uganda<sup>130</sup> mandates the Uganda Land Commission to manage all government land including that occupied by central forest reserves. This has resulted into unfortunate situations where the Uganda Land Commission has given away land occupied by central forest reserves for other uses leading to the destruction of such forests. For example, it is reported<sup>131</sup> that the Uganda Land Commission issued a certificate of title to Bunyoro Kingdom in respect of part of the land occupied by Bugoma central forest reserve for sugar cane growing. There is need for improved coordination to avoid such institutional conflicts undermining the integrity of REDD+ implementation;
- (iii) *Inadequate human and financial resources to lead institutions:* Key institutions in sustainable forestry management such as NFA, UWA, and district forestry offices are grossly under-resourced. The field case study findings clearly demonstrated this fact – NFA

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<sup>128</sup> See Section 5.1.2 of the National Climate Change Policy, 2015

<sup>129</sup> See Section 54(1)(a) of the National Forestry and Tree Planting Act, 2003

<sup>130</sup> See Article 239 of the Constitution of Uganda, 1995; see also Section 49 of the Land Act (Cap 227)

<sup>131</sup> See page 11 of the New Vision Newspaper, 7<sup>th</sup> September 2016

staff were found to be thin on the ground and poorly facilitated to be able to carry out any meaningful supervision of forest reserves<sup>132</sup>. For example, in Kikonda central forest reserve, it was found that NFA had ceded the responsibility to demarcate forest boundaries to a private company, global woods. Introducing REDD+ finance into this situation will most likely result into conflict, especially if the funds do not go to areas that are already deprived. A well designed climate finance delivery mechanism should ensure that financial resources are deployed to sectors that are most critical to the sustainable management of forests;

- (iv) *Political interference affects effectiveness of institutions:* The effectiveness of forest management institutions is sometimes affected by political interference. It is common for politicians to meddle in the affairs of institutions and influence them to take decisions that are contrary to the sustainable management of forests (Nsita, S. A., (undated)). For example, many urban forest reserves have been de-gazetted, and forest reserves given away for agriculture and other uses, at the behest of politicians. Institutional reforms in the context of REDD+ should therefore, aim at insulating such institutions from political interference.

### 3.1.5 Conclusion

In this section, an analysis of Uganda's policy, legal, and regulatory framework relevant to REDD+ and feedback and grievance redress mechanism has been presented. Relevant international legal instruments were analysed followed by various domestic legal issues. The various policy and legal instruments were analysed with a view of assessing their adequacy in enabling the resolution of potential REDD+ conflicts and grievances. The following gaps in the various policy, legal, and institutional framework were identified:

- (i) The UNFCCC is yet to be domesticated by Uganda (made part of national laws);
- (ii) The Paris Agreement, 2015 is yet to be ratified by Uganda;
- (iii) The ILO Convention 169 on Indigenous and Tribal Peoples, 1989 is yet to be ratified by Uganda;
- (iv) Forestry Committees have never been established since the *National Forestry and Tree Planting Act* came into force;
- (v) The Tree Fund has never been established more than 10 years after the National Forestry and Tree Planting Act came into force;
- (vi) The *National Forestry and Tree Planting Act* does not assign any specific responsibility to local governments in the management of central forest reserves;
- (vii) Lack of clarity on the legal ownership of carbon rights;
- (viii) CFM is restricted to only central or local forest reserve or part of it, leaving out other forest types such as community forests and private forests;

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<sup>132</sup> See Kikonda case study, in Kyakwanzi district

- (ix) Honorary Forestry Officers have never been appointed as provided by the *National Forestry and Tree Planting Act*, and yet they could play a role in championing the conservation of forest reserves, and assisting in the overall implementation of the Act;
- (x) The initial duration of CFM is too short and discourages communities from entering into a CFM arrangement;
- (xi) *Regulation 107 the Draft Forestry and Tree Planting Regulations, 2013* is restrictive in its definition of carbon sellers: NFA for central forest reserves; district council for local forest reserve; and the owner of the land in the case of private forests; leaving out other potential sellers of carbon, e.g. a licensee on a forest reserve;
- (xii) Lack of provisions on sharing of forest benefits (REDD+ benefits) in a CFM arrangement;
- (xiii) District and local environment committees are not fully operationalized and are under-resourced;
- (xiv) Jurisdiction of the Environmental Tribunal under the Bill does not cover REDD+ related disputes;
- (xv) No legal provisions for the sharing of revenue generated from REDD+ projects between the central and local governments;
- (xvi) Legal regime creates competing interests of ownership over the same piece of land;
- (xvii) Operations of Land Tribunals were suspended due to resource constraints;
- (xviii) LC courts (I & II) are not validly constituted due to lack of elections since early 2000s;
- (xix) Lack of capacity to effectively handle REDD+ related disputes;
- (xx) Inadequate enforcement, e.g. Renewable Energy Policy for Uganda, 2007 had a target to increase the share of modern renewables in total energy consumption to 61% by 2017 from 4% in 2007 which target is unlikely to be met;
- (xxi) Lack of awareness of REDD+ related policies and laws;
- (xxii) Lack of abridged versions of REDD+ related policies and laws;
- (xxiii) REDD+ related policies and laws are not translated into local languages;
- (xxiv) Potential conflict over management of climate finance including REDD+ funds;
- (xxv) Conflicting institutional mandates may undermine REDD+ implementation;
- (xxvi) Inadequate human and financial resources to lead institutions may undermine REDD+ implementation; and
- (xxvii) Political interference affects effectiveness of REDD+ related institutions.

In order for Uganda to be considered ready for REDD+, steps must be taken to address the gaps that have been identified in the policy, legal, and institutional framework.

## 3.2 The Social Context of Forest management in Uganda

### 3.2.1 Introduction

This section focuses on the social context of forestry management in Uganda with a view to provide an analytical framework for developing a feedback and grievance mechanism for REDD+ stakeholders in Uganda. In addition to presenting the summary of the literature on the socio-context of forestry grievances and conflicts, it highlights the history of forest management and the paradigm shift in the management of forest grievances in Uganda and other countries. The section also features the population characteristics and human settlement patterns of the forest dependent communities and examines the influence of the various socio-cultural variables to the existing and potential conflicts in Uganda.

### 3.2.2 The history of forest management in Uganda

Prior to the colonization of Uganda by the British in 1894, forests formed part of the land that was owned by the Kingdoms of Buganda, Bunyoro, Ankole and Toro (Were & Wilson, 1970). Under the arrangement, forests were either communally owned or used as open access resources (Gombya-Ssembajjwe, 1995). There were no written rules to describe forest management and elders continually reminded the communities about the dangers that awaited those who violated the rules of forest use. Sacred controls were used to regulate the use of forest resources and offenders who failed to comply with penalties were cursed by the elders and considered outcasts and despised members of their communities (Gombya-Ssembajjwe, 1995).

When Uganda became a British protectorate in 1894 (Were & Wilson, 1970), the British administrators used a system of chiefs to manage the forest resources. Among the responsibilities of the chiefs were regulating the cutting of timber and prohibiting wasteful destruction of trees. By 1898, formal management of forests begun with the establishment of the Scientific and Forestry Department—mainly concerned with agriculture, experimental farms, meteorology and hydrology (Turyahabwa, 2008). The signing of the 1900 Buganda Agreement between Buganda and the British Government and other subsequent Agreements with the kingdoms of Toro (1900), Ankole (1901) and Bunyoro (1933) effectively put the control and management of forest resources under the colonial government which were consolidated by the creation of the Forest Department in 1929. Even if there were varying forms of resistance to colonial policy of forest administration over the years, a number of subsequent forest policies were enacted until the country gained independence in 1962.

The enactment of the 1967 Constitution brought several administrative changes in the whole country including the management of forest resources. The Forest Department was entrenched as the sole agency with powers to regulate the harvesting of forest produce in all government forest reserves and the use of tree products on public and private land. The 1971 military coup which brought Idi Amin to power also led to the enactment of several Reform Decrees which significantly affected the ownership, management and control of forest reserves in the country.

During the 1970s, many public lands were haphazardly privatized and in the process many forest resources, particularly ungazetted ones were cleared (Turyahabwe and Banana, 2008). Following the fall of Amin in 1979 however, the successive governments lacked the necessary funds and personnel to monitor the use of forest resources. In 1987, the National Resistance Movement (NRM) government embarked on the process of devolution of power to the district councils including the management of natural resources. Over the last 30 years, the government has enacted a series of Environmental Protection Acts, policies and regulations that have since formed the basis of the current ownership, management and use of the country's forest resources.

### 3.2.3 Forest tenure in Uganda

Generally, there are five forest tenure systems in Uganda namely; state tenure, private (mailo), freehold, leasehold and customary tenure (Banana *et al.*, 2012).

*State tenure:* The Ugandan state forest tenure has--over the past century or so--vacillated from a centralized to a decentralized approach (Banana *et al.*, 2012). Since colonial times, this form of tenure has been underpinned by the enactment of numerous Forest and Land Acts, policies and regulations. Following the enactment of the Forest Act in 1993, the country witnessed a new round of governance reforms within the forest sector that has seen the devolution of ownership and management of some forest reserves to the local governments. Nonetheless, state tenure remains the most common in the country under which the largest protected forest reserves and national parks are managed and conserved.

*Private (mailo) tenure:* Registered land owners, lawful land owners and bonafide occupants of mailo land have over the years developed their land to boost livelihoods by planting trees either alongside their crops or by setting up large private forests. Although commercial harvesting of forest produce from private forests and other trees growing on farmers' land largely requires one to obtain a licence from the District Forest Office, some private forest owners often tend to cut down their trees for firewood, charcoal and timber as and when they so wish. Over the past few years, however, private tenure tree planters--organised under the Uganda Timber Growers Association (UTGA) have played a major role in planting forests across the country.

*Freehold tenure:* Large scale freeholders--who hold registered land in perpetuity<sup>133</sup>--have planted trees on a commercial basis which have greatly contributed to sustainable forest management in Uganda. Bouyed by the fact that such individuals (local and/or foreign) enjoy secure tenure and ownership rights to the land, they invest large sums of money in forest management. Examples of this form of tenure include the private forests in many districts of Uganda.

*Leasehold tenure:* Investment in small, medium and large scale tree planting has also been undertaken under a tenure system where individuals of companies--both local and foreign--obtain leasehold for periods ranging from 49 to 99 years. The most prominent category of forest tenure are the CFRs that have been leased to private investors such as the New Forest Company, Global

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<sup>133</sup> Section 4(2)(a) The Land Act (Cap 227 Laws of Uganda)

Woods, Green Resources and Core Woods. They also include many private individuals licenced by the NFA to plant trees on leased land in various parts of the country.

*Customary tenure:* In areas under customary land tenure—such as Northern Uganda—communities use traditional and customary practices to establish, manage and exploit forest resources. They value forests as a community asset and attach great value to the livelihood support they derive from such forests. Although this form of tenure suffered greatly during the insurgency (between 1987 and 2007) that led to the destruction of lives, property and the environment, many local communities still hold this form of tenure dear and have quite often invoked their traditional and customary practices to conserve the forests.

**Analysis:** The diversity of the forest tenure systems provide much food for thought for the implementation of the REDD+ programme. Given that it is, for instance, possible for a tree planter to obtain overlapping tenure systems (such as leasehold on customary land), the availability of REDD+ benefits is likely to result into conflicts at individual, community and national levels. Given that REDD+ is a financial instrument to reduce emissions from deforestation and forest degradation, its roll-out will most likely spark further conflict based on the contradictions highlighted within the forest tenure systems in Uganda. Who for instance, holds the carbon rights of a forest under customary tenure? What are the benefit sharing arrangements of a forest under a leasehold tenure that is due to expire and the landlord wants to end the lease arrangement and change the land tenure system? These and more questions need to be considered before and during implementation of the REDD+ programme and an appropriate FGRM.

### 3.2.4 Socio-cultural practices of forest use and management

In the context of the socio-cultural practices of forest management, the review of relevant literature shows a myriad of factors that underlie the use of resources and management of grievances and conflicts—notably natural population increase, in-migration, the political dynamics and the overall need to eke out a living (Byron & Arnold, 2009). Accordingly, this mixed bag of variables had over decades produced a typology of livelihoods and forest change with the transition from hunting and gathering, to settled cultivation and sedentary agriculture at the forest frontiers. In hunting and gathering populations, for instance, the characteristic main type of forest use served as source of food (through collection of forest fauna). With the turn to settled cultivation, forest lands served as a source of agricultural lands whose fertility was maintained and restored by forest ecosystems in a system of rotational flow (Sundelin *et al.*, 2005). Following the advent of settled agriculture, forest lands tended to serve as a source of new agricultural lands that were not part of forest fallow systems. Throughout this typology, however, the forest uses tend to remain largely the same namely—the extraction of timber for construction of shelter, firewood and the use of plant for medicinal plants.

In Uganda, two major socio-cultural practices have had profound effect on the use, management and resolution of grievances and conflicts in forest reserves namely; the introduction of the Collaborative Forest Management (CFM) approach and gender. With respect to CFM, research has demonstrated that the involvement of local people in the use and management of forests frequently

enhances forest protection by controlling unregulated open access to forest resources (Turyahabwe *et al.*, 2013). Although some forest dependent communities have over the years expressed their dissatisfaction with the CFM implementation process largely due to the approach's inability to deliver benefits as promised in the signed agreements coupled with the lack of an equitable mechanism for sharing its benefits amongst community members, there is ample evidence to suggest that CFM is beneficial in protecting livelihoods, sustainable use of forest resources and managing grievances and conflicts (Tumusiime *et al.*, 2011; Vedeld *et al.*, 2007). Specifically, recent research in Rwoho central forest reserve in Western Uganda presents evidence of some female members of RECPA—one of the CFM community groups in the forest—clearly indicating that they consider themselves as representatives of tree planters without a mandate to represent women's issues per se (Ruta, 2015). Accordingly, such women feel let down by the fact that they did not go through an election seeking process to represent the women's constituency (as opposed to being identified and appointed by the chairpersons of the group. This is against the overall perception by the executive members of the community groups of such women as 'representing women in a broad sense'. Ruta (2015) further notes that this rationale fits well with the intentions of the CFM agreement to have RECPA represent community interests.

Research in Nepal—a small country sandwiched between India and China in South Asia--also presents evidence of how CFM—introduced in the year 2000--has had a profound effect on the use, management and resolution of forest conflicts in Terai forests. Following the adoption of the CFM approach, forest users were divided into two categories: those living close to the forests and those living away from the forests (distant users). The arrangement enabled the original inhabitants of the Terai forests to support many livelihoods. The forest—which had for decades been retained as a barrier against possible colonial invasion until the early 1990s—has now become very attractive to people in search of productive land from the hills and those fleeing from Northern India (Shrestha, 2011).

Other studies in Indonesia and other South East Asia countries have shown that gender resource use and control is blurred. Elmhirst (2012) for instance uses the terms 'fluidity' and 'ambiguity' to refer to the gender dynamics in the use and management of forests in that part of Asia. According to the author, the gender situation is different from that of Africa and South Asia where the role of women in natural resource management is quite clearly segregated. Other studies also point to a segregating role of women towards farming activities and the involvement of more men in community forest activities such as land clearing and planting. Studies in Suriname and Cambodia also point to a similar trend of the interplay between the socio-cultural variables and the overall use and management of forests (Consensus Building Institute, 2013).

### 3.2.5 The paradigm shift in the management of forest grievances and conflicts

Literature on the paradigm shift in the management of forest grievances and conflicts focuses on the nature and evolution of informal mechanisms that have decades been used by forest depended communities to 'deliver justice without relying on the state' (Kegoro, 2011). In the Ugandan context, the management of the forest sector experienced a fundamental change following the enactment of a series of legislations such as the National Forestry and Tree Planting Act (2003).

One of the key outcomes of this piece of legislation was the abolition of the Forest Department; to be replaced by the National Forest Authority (NFA) in managing the central forest reserves countrywide. A major casualty of the shift in the management of the forests was the demise of most of the informal grievance and conflict mechanisms which had hitherto been used by forest dependent communities to resolve disputes amicably.

Under the traditional systems of governance—such as traditional chiefs and other forms of leadership—informal mechanisms evolved from their ancient origins to produce a “win-win” approach; a value and interest-based mechanism that focused more on maintaining social cohesion and relationships than on providing winners and losers or implementing the law. In Acholi region (northern Uganda) for instance, traditional ruler--the *Rwot ker Kal Kwaro Pageya*-- played a critical role in mediating between forest dependent communities that had grievances and conflicts over the ownership, control and management of various forest resources. In some areas, religious leaders (from different faiths) were ever present in community-based problem solving sessions without the intervention of the state and other formal structures. Similar mechanisms also existed in the Eastern and Buganda regions. In the latter case, traditional chiefs regularly acted on behalf of the Kabaka of Buganda to deliver justice in respect to forest grievances and conflicts.

### 3.2.6 Livelihoods of forest dependent communities

Forests—on both private and government land are a key component of many rural livelihoods for both subsistence and commerce (Kigenyi, 2010). Forests are crucial to the lives of millions of Ugandans, especially the poorest sections of society. Individuals living in forest dependent communities and on the forest fringe villages greatly depend upon forest for a variety of goods and services. These include; collection of edible fruits, flowers, timber, roots and leaves for food and medicines; firewood and charcoal for cooking (and sale); materials for agricultural implements, house construction and fencing; fodder (grass) for livestock and grazing of livestock in forest; and collection of a range of marketable non-timber forest products (Nayak, 2014). Some communities also heavily rely on the forests for the supply of traditional medicines used to treat a host of illnesses at household level. Besides, the cultural and spiritual values also enhance social capital and the sense of wellbeing. Forests and natural diversity hold special significance for many communities, providing the basis for religious beliefs and traditional knowledge.

Primary data gathered from the forest dependent communities involved in this assessment shows that their social context is more or less similar to that described in the preceding paragraph. Although it was not possible to obtain statistics on the populations of each of the forest dependent communities involved in this assessment, respondents highlighted a number of characteristics that pointed to high population growth and density. These include; limited land for production, frequent land conflicts, lack of grazing land for their animals and congestion in some places. There was also evidence of a concentration of communities from various ethnic groups. Whereas Mount Elgon National Park is for instance largely surrounded by Bamasaba (Bagisu), Banyole and Bagwere, the park forest dependent communities also include other Bantu speaking ethnic groups such as Baganda and Basoga. In Rwoho and Kikonda CFRs, there was also evidence of a multiplicity of ethnic groups—some of which originated from the neighbouring countries of Rwanda and Congo.

In Cwero forest reserve, there is less ethnic diversity as most of the forest dependent communities are largely indigenous Luo speakers.

Even if there was evidence of access to education, health and education facilities by most of the forest dependent communities involved in this assessment, their overall livelihood is largely characterised by dependency on the forest resources through cultivation, hunting, gathering, timber-cutting and charcoal making. Firewood and charcoal remain the main sources of domestic energy exerting much pressure to the limited land and other natural resources on which they depend either as peasant cultivators or small scale animal keepers. Overall, the natural diversity found in forests helps to protect the forest dependent communities the adverse effects of drought, floods and the risks, uncertainties and market fluctuations that affect the prices of the commodities they grow for sale.

**Analysis:** Given the centrality of forests to the livelihoods of individuals and communities living within or adjacent to them, it is no major surprise that the quest for survival is in itself a major drive of the existing conflicts especially in the protected forest reserves. Even if respondents interviewed during the assessment (through FGDs and personal interviews) largely pointed to the broader conflicts such as controversy over the lack of an acceptable park boundary, selective application of the law by the enforcement agencies and the immigration of persons perceived to be ‘foreigners’ in the area, the search for livelihood opportunities visa-avis the need to conserve the forests appears to be the core conflict. The implementation of the REDD+ programme and the proposed FGRM must therefore, take special cognizance of this important finding.

### 3.2.7 The case of indigenous peoples

Although there is neither official definition of indigenous peoples<sup>134</sup> nor clear set criteria for their identification in Uganda, there are a number of groups of persons that have been identified as satisfying the international criteria for the identification of indigenous peoples (Mbazira, 2009). These include; the Batwa in Echuya CFR and Bwindi/Mugahinga NP, and the Batwa from Semliki NP and North Rwenzori CFR, the Benet in Mt. Elgon National Park and the Ik/Teuso in Mt. Timu CFR; the Tepeth in Moroto CFR in Karamoja sub region. Over the years, these communities have historically suffered and continue to suffer, disempowerment and discrimination on economic, social and cultural grounds. Their livelihood is threatened mainly by dwindling access they have to land and national resources on which they depend either as pastoralists or as hunters and gatherers. The Batwa—who live in the South-western districts of Bundibugyo, Rukungiri, Kisoro, Kanungu and Kabale—have for instance, historically depended on the forest for hunting and fruit gathering. The national park and the forest remain the main source of firewood and medicinal herbs. They also maintain a special spiritual relationship with the forest, which they believe to be their God-given source of livelihood and visit it regularly for prayers or offering sacrifice to their ancestors. Similarly, the Benet—who live on the slopes of Mount Elgon National Park in Eastern

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<sup>134</sup> According to the African Commission, the term indigenous peoples’ is a term and global movement fighting for rights and justice for those particular groups who have been left on the margins of development and who are perceived negatively by dominating mainstream development paradigms whose culture and ways of life are subject to discrimination and contempt and whose very existence is under threat (ACWGIP Report, 87).

Uganda—also depend on the forest as hunter-gatherers which has resulted in forced dispossession of their forest land through conservation programmes of the government (Oloka-Onyango, 2007). The Karimojong—who live in north eastern Uganda—have for decades had their lifestyle and cultures under threat mainly due to environmental changes and pressure exerted on the land. The quest for more grazing land has escalated into conflict both internally and externally, with other communities such as the Iteso of Uganda and the Turkana of Kenya.

### 3.2.8 Women, youth, PWDs and the elderly

Although women are important stakeholders in forest management, their involvement in decision making is limited and has not kept pace with current governance reforms in forest management in Uganda (AUPWEA, 2011). Despite increasing advocacy for gender mainstreaming in all spheres of development—including forest management—women, who are among the poorest of the poor in most forest dependent communities and the main dependants on forest resources for subsistence remain marginalized in the process of rule-making and in the distribution of the benefits of forest resources (Mwangi *et al.*, 2011). A key informant in Kampala said:

*“In general terms, the access to, control and management of forest reserves is male dominated and women are excluded from decision making roles. Women occupy the lowest level structure and their main responsibility of women is cultivation and child bearing. Women have also been excluded from participating in the implementation of major government programmes that have been implemented in the region”.*

Although the youth are largely involved in charcoal burning, firewood and timber cutting in most forests, their role in the management of the forests is not widely recognized. Similarly, PWDs and the elderly who are also actively involved in making crafts from forest resources and collecting herbal medicine from the forests respectively are also ignored during critical decision making processes on forestry management.

Interviews with forest stakeholders revealed that women, youth, PWDs and the elderly adversely suffer from insecure tenure over forest resources, mainly due to lack of ownership of land in their communities. There was also evidence of a host of gender barriers based on attitudes and cultural practices that undermine their status and confer greater privileges and status upon men and persons without disabilities. Inevitably, such groups of forest stakeholders are greatly affected by the imbalance in sharing any form of benefits from forest products, have unequal opportunity to access conservation education and training and an overall lack of consideration of their specific forest needs. A CSO activist had this to say:

*“The plight of these individuals in forest management is due to lack of participation in policy formulation. Policy makers who tend to be male, persons without disabilities and obviously not elderly lack the information or even the will to respond to the needs and aspirations of these individuals in the forest sector”.*

**Analysis:** Although literature suggests that most Ugandan forest policies and regulations are gender sensitive, it is clearly evident that there are still low levels of gender integration and affirmative action within the organisations involved in forest management and conservation. Information obtained from respondents and KIs for this assessment also shows that women, youth, PWDs and the elderly are yet to play a central role in the CFM and CRM arrangements. In light of this scenario therefore, it can be concluded that such groups still have limited or even no access to the existing forest conflict resolution mechanisms. Their special needs and interests therefore, needs to be taken into account while operationalising the new FGRM in tandem with the REDD+ programme.

### 3.2.9 The consequences of the social context on forest conflicts

The social context of the forestry sector in Uganda has a number of consequences on the existing and potential conflicts in the country. Given the varying magnitude, intensity and diversity of the drivers/triggers of the existing conflicts (see section 3.3), it is anticipated that the social context of the forest dependent communities will present further ramifications on the potential for more grievances and conflicts when the REDD+ programme is finally rolled out. These consequences will manifest themselves at four major levels namely: inter-personal, community, institutional and policy levels:

- (i) ***At the inter-personal level***, there is a high potential for grievances and conflicts due to the high expectations of the REDD+ incentive-based programme. Designed to encourage citizens who largely depend on land for livelihoods to invest in reducing deforestation and forest degradation, the provision of the REDD+ incentives will trigger differences between spouses and family members due to differences in social values, philosophies, thoughts, beliefs and worldviews on how to embrace REDD+. Such inter-personal conflicts will also be triggered by unmet psychological needs coupled with differences in development plans, goals, work methods and communication strategies. Given the gender (and other interest group) dynamics, livelihoods patterns, forest tenure systems and varying roles and influence of the existing formal and informal conflict resolution mechanisms in the forest dependent communities, it is clearly evident that some spouses and family members will feel marginalized during the decision making processes related to the sharing and distribution of carbon stocks. The design and implementation of an appropriate FGRM therefore, needs to put this conflict dimension into consideration.
- (ii) ***At the community level***, the social context also has major consequences on the manifestations and potential for conflict in the forest dependent areas. Although evidence from this assessment has demonstrated that existing conflicts among forest dependent communities are driven by land boundary disputes, family/clan history, leadership and inheritance issues, the implementation of the REDD+ programme is likely to exacerbate such conflicts and breed new ground for others. Disagreements between families and community members over the sharing of carbon rights benefits will for instance, spark anger, disappointment, sadness and even violence within a forest dependent community.

An opinion leader in Gulu had this to say about the ownership of rights:

*“REDD+ incentives are likely to cause further division and tension among some communities. Issues of forest tenure, women’s rights and carbon rights ownership are likely to be exploited by some powerful community members to exploit the less powerful which may heighten the level of conflicts”.*

Evidence from this assessment show that the key drivers to community conflicts in forest dependent areas include; dense populations, struggle for livelihoods, low environmental sensitization. It also demonstrated that community conflicts run deep in some forest areas due to varying value systems, identity and sense of ideology. The situation is likely to worsen among indigenous peoples such as the Benet, Batwa and Karimojong who have for long complained of denial of land rights and overall loss of control over the use of their traditional (livelihoods) resources. All, the implementation of REDD+ is mostly likely to cause intransigence among forest dependent communities and arouse the latent issues of contradictory forest tenure and competing interests from the environmentalists and indigenous communities whose traditional values and aspirations overlap. The fact that the issue of carbon rights is a new and unique form of land interest that confers upon a holder the right to an intangible benefit of carbon sequestration or appropriation on a piece of forested land (Uganda-RPP, 2011), some communities are likely to face a host of contradictions which may do harm than good to the implementation of REDD+.

- (iii) **At the institutional level**, the multiplicity of the legal, policy and management instruments for managing forests juxtaposed with the social dynamics of forest dependent community is a recipe for potential conflicts in light of the implementation of the REDD+. Although the mandates of the various cultural, religious and other social institutions are clearly stipulated in the Uganda Constitution and other pieces of legislation, it is inevitable that competing interests coupled with the pressure from various stakeholders for the control and utilization of forest resources will fathom discontent and conflict. A member of the Civil Society said thus:

*“The ongoing conflict between the central government and the Bunyoro cultural institution over the ownership and control of parts of a central forest reserve in the region is a typical example of this type of conflict. Population pressure and the search for identity could be among the triggers of the conflict. But it can reach new heights when REDD+ becomes fully operational”.*

Overall, power struggles among individuals in varying hierarchical political, military, religious, educational, cultural or even corporate organisations are likely to trigger all forms of institutional conflicts as they jostle for powers to control forest resources with hidden insights on tapping into the REDD+ Holy Grail. So whereas the agitation by some local government (district) officials to be granted powers over the management of central government reserves may be seen as a genuine attempt to consolidate their powers and influence in line with the decentralization policy, it could as well be a pointer to quiet grumbles over the size of the forests ‘benefits cake’ that they would wish to have a bite at. Similarly, the muted squabbles among various ministries and government departments over

who should manage particular forest reserves should as well put the REDD+ secretariat on red alert over the potential grievances and conflicts ahead.

- (iv) **At the policy level**, communities that own and manage forests under the communal tenure system are most likely to be further bedevilled by grievances and conflicts arising from the policy gaps in the numerous Acts, policies and regulations used to manage the forest sector in Uganda. Already dogged by perceived controversies over the overlapping land rights created by the Land Act, some forest dependent communities in regions where cultural leaders are widely respected are set for more grievances and conflicts likely to be triggered by the undefined tree tenure and carbon rights ownership gaps when the current REDD+ expectations eventually become a reality.

### **3.2.10 Conclusion**

Bearing in mind that REDD+ is—by design and implementation—expected to be a financial instrument to incentivize conservation and sustainable management of forests and thereby reduce emissions from deforestation and forest degradation, its roll out will undoubtedly improve the livelihoods of forest dependent communities through enhanced income and employment opportunities for varying categories of the social classes. By compensating forest/tree owners for conserving the environment by putting a value on the forest carbon stocks, such communities will inevitably be incentivized to promote sustainable tree harvesting practices. The socio-cultural issues examined in this section of the report not only provide vital insights into the melting of remarkable vitality that could define or even redefine REDD+, but also send out warning signals to the implementers of the proposed FGRM that it could be the socio-cultural issues that could perhaps present the most challenges to its operations than anything else.

## **3.3 The Conflict Context of Forestry Management in Uganda**

### **3.3.0 Introduction**

The assessment revealed that the major underlying causes of conflicts and grievances include: the threat to the livelihoods of the forest adjacent communities – both pastoralists and cultivators; limited access to arable land by the forest adjacent communities; as well as the need for improved food and income security for the households and communities that are partly dependent on forests. However, these underlying causes were not explicitly stated by the respondents as most of them identified drivers of the conflicts as the root causes.

In the context of this study, conflict is defined as a social situation in which a minimum of two actors (parties) strive to acquire, at the same moment in time, an available set of indivisible scarce resources as a result of relative deprivations (Wallensteen, 2002). Conflict occurs when individuals or groups give high priority to defending their own interests or positions (Carment & James, 2002). According to Ggombya-Ssembajjwe (1998), forest conflicts can be considered to be disagreements between forest owners/managers and users that originate from the way forests are managed and used. They are more than quarrels between two groups, as in some cases loss of property and threat to human lives may result from such disagreements.

Findings of this assessment revealed that conflicts are sustained by a number of causes and drivers. This study defined conflict causes as those factors which contribute to people's grievances. It also categorized conflict causes into: structural causes, proximate causes and triggers. Structural causes are pervasive factors that have become built into the policies, structures and fabric of a society and may create the pre-conditions for violent conflict. Proximate causes are defined as factors contributing to a climate conducive to violent conflict or its further escalation, sometimes apparently symptomatic of a deeper problem while triggers are single key acts, events, or their anticipation that will set off or escalate violent conflict.

This study identified the main causes and drivers of conflict as : the unclear boundaries of the protected areas - especially forests; disputed forest borders and expansion of forests; exclusion of local governments from the management of central forest reserves; exclusion of forest adjacent communities from the management of forests; conflicting information given by political leaders and district technical staff regarding forest boundaries; failure by relevant government institutions to fulfill their mandate; and landlessness resulting from high population growth.

In addition, the assessment established that the conflicts are driven by disputes over land access and use; the community perception that forests are the only source of livelihood; the community mentality that forests are still plenty/abundant; conversion of forest land to agricultural use; settlement in forests; the perception that forestry officials are engaged in unethical conduct and abuse of office; denial of access to the forest area for various purposes by forest adjacent communities; interference by politicians in the management of the forestry sector; interests of the local politicians who exploit the plight and ignorance of the local people; perception by the forest adjacent communities that government is unfair to them; and ; disrespect and disregard of state institutions by encroachers. During this assessment, all these issues were presented as key causes of the conflicts in the forestry sector in the case study areas.

Although the root causes identified, as well as the drivers and triggers, were more generally related to general forestry issues, they are expected to intensify with the implementation of the REDD+ strategy in Uganda. It is worth noting, that to the ordinary people in the areas where this assessment was undertaken, there is no clear distinction between causes, drivers of conflicts and are generally regarded to be causes of conflicts. When the national REDD+ strategy is implemented in Uganda, the causes and drivers are likely to be triggered by disagreements over the sharing of financial incentives and benefits.

### **3.3.1 Existing and potential conflicts**

This section will present the existing and potential conflicts in the case study areas. The conflict issues identified from the case study areas will be discussed from a national perspective so that a national outlook of the same conflict issues is developed. The existing and potential conflicts will be presented in an integrated manner and supported with relevant quotations and voices from some of the respondents interviewed during the assessment. This section will be concluded with a summary of the existing and potential conflict issues.

### 3.3.1.1 Existing conflicts and grievances

Like in any other natural resource endowed community, the nature, trends and pattern of grievances and conflicts in the case study areas is largely spurred by the contradiction between the interests of the community members and those of the state that seeks to ensure its sustainable use. This section present the nature of such conflicts especially in regard to the implementation of REDD+ initiatives.

Three of the four case study sites (Rwoho forest reserve; Kikonda forest reserve; and Mt. Elgon National Park) share most of the characteristics. The fourth, Cwero local forest reserve, is different in a number of aspects due to the fact that the district was affected by war for more than two decades (1987-2006). Nonetheless, the nature of grievances and conflict—existing and/or potential—in Cwero Local Forest Reserve is synonymous with that of conflicts afflicting other resources managed by the local governments under the decentralization system. Largely attributed to the perceived contradictions within the decentralization policy framework, such conflicts often tend to receive little attention from the authorities than the larger political issues afflicting the local governments. In this sub-section, it is only those grievances and conflicts related to future REDD+ initiatives that are presented.

#### **(i) Conflict over the boundaries of forest reserves, conservation areas and national parks**

In all the cases study areas (Kikonda in Kyankwanzi district, Rwoho in Mbarara district, Cwero in Gulu district, and Mt. Elgon National Park in Mbale), conflicts over the boundaries of the protected areas, conservation areas and forests were prevalent. Around Mt. Elgon National Park, the conflict over when and how the boundary between the national park and its resources' dependent community was the most pertinent. Not only was there controversy over the actual demarcations of the national park boundary but also on how the boundary marking process was undertaken.

*“For us, there are two boundary lines—that of 1993 and that of 2005. Whereas we agree with the one 1993, we totally reject the boundary of 2005 because UWA officials came without informing us and simply grabbed our land using guns. In the process, they destroyed our crops and property as well” (Participant in a focus group discussion, Busano sub-county, Mt Elgon National Park).*

However, this claim was refuted through interviews with UWA staff in Mbale. They attributed the perceived conflict over boundaries to interests of local politicians:

*“I am not aware of any boundary in the Mt. Elgon National Park. The boundary demarcation process is just underway and it is a consultative process involving the community leaders, NFA and UWA. The issue of two boundaries is just being peddled by local politicians who want to confuse the community for their own motives” (Key Informant Interview with UWA officials in Mbale District).*

Key informants from Mbale viewed conflict over the boundary of the national park have escalated due to politicians inciting local people against technical officers:

*“The lack of unity between political leaders and the technical staff and technical agencies (UWA, NFA and Local Governments) has created more trouble because the politicians incite the local people. In fact, the politicians should get off these issues; their role should be to support technical officers who have the capacity to address the issues in the forestry sector more effectively”*

Whether or not there are two boundary lines - with the second drawn twelve years after the first one, it is evident that this conflict remains the most contentious and probably the most prominent in the region. Undoubtedly, it forms the foundation of the other forms of grievances and conflicts that have bedeviled this area.

Kikonda forest reserve, in Kyankwanzi District also experiences conflicts over the boundary. When NFA granted a tree farming license to Global Woods - a German forest company in 2001, one of the major undertakings by the former was to mark the boundary between Kikonda forest reserve and the local community. Over a decade later, the issue of the boundary line demarcating the forest reserve remains one of the most contentious subjects. In this regard, one FGD participant at Nsambya sub-county, Kyankwanzi district, had this to say about their knowledge of the forest boundary:

*“Neither Global Woods nor us—the community members—know where the boundary line for the forest reserve is. The NFA surveyors have not come out yet to help and the issue of the boundary is a major conflict”.*

Although the management of Global Woods insists that it opened a 98 kilometre boundary line for the forest reserve over a 3 year period, it acknowledges that this is not acceptable to the majority of the forest dependent communities. One of the Senior Managers of Global Woods company said this:

*“This [the boundary opening exercise] was a very expensive undertaking on our side but we had to do it with the NFA surveyor. But it is still one of the conflicts we live with”.*

Around **Rwoho Central Forest Reserve**, the conflict over the forest reserve partly has to do with boundary lines within the three districts that share the forest, i.e. Mbarara, Ntungamo and Isingiro. Although it is well established that the central forest reserve covers approximately 9,070 hectares in the districts of Mbarara, Ntungamo and Isingiro, there is a latent conflict over both the actual boundary line between the forest and the forest dependent communities and the boundary lines demarcating the forest area in each of the three districts. Key Informant Interviews with an executive member of the Mbarara district council, it was mentioned that:

*“As members of the former greater Mbarara district, we are yet to be invited for the boundary opening of the forest reserve for both Isingiro and Ntungamo districts. We just guess the boundary lines and this needs to be sorted out pretty fast”.*

Through FGDs and KI interviews held in Mbarara and Ntungamo districts, it was noted that numerous conflicts arise out of the failure to demarcate the forest boundaries for each of the

districts that share the forest reserve. For example, one KI from in Ntungamo district had this to say:

*“May be government thinks that it [the forest boundary issue] is all fine but it is not. The new districts in particular want to know what their true share of the forest is”.*

The boundaries of **Cwero forest reserve** in Gulu district are also contested. . Although interviews with a senior district local government official revealed that the forest reserve boundary was clearly demarcated during the gazettelement of the forest in 1956, local community - notably the people from the Pucong clan - refute the assertion. To them, the boundaries of the forest reserve have never been demarcated and that any future attempt to do so must be resisted. An FGD participant at Pagik parish in Cwero said thus:

*“We are going to fight any central or local government surveyor who comes to demarcate our land under the guise of re-drawing the boundaries of the forest reserve. If they want, they should bring the original maps used to gazette the forest by the colonialists. Other than that, the community will rise up”.*

It was noted that conflict over land ownership and use in Gulu district are fueled by the realities created by conflict. For example following the end of the two-decade civil war (1987-2006), most people previously in the IDP camps were unable to return back home and settle in their original land. In some cases, such their original land had been illegally taken over and occupied by other people who either did not settle in IDP camps or had returned from the camps earlier than the rightful owners. In other cases, some vulnerable individuals have been forcefully manipulated to surrender their rights over such land. To this end, a senior leader in Gulu district indicated that the people settled on the contested area are not legitimate claimants of that land, hence leading to conflict:

*“The fact is that some people who gained access to the land where they had settled before the war are the ones who have settled in such areas as Cwero local forest reserve. When you evict such people, where do they go? It is now one of the conflicts in the area”.*

Given that land is one of the important factors of production – land, and all its associated grievances and conflicts over its management and use needs to be managed well in light of REDD+ initiatives. Whereas it would be unrealistic to equate the magnitude of the boundary conflict that is likely to erupt in Cwero forest reserve to any other in the protected areas of the country, its effect on the implementation of REDD+ initiatives should not be underestimated.

The prevalence of boundary conflicts in all the four case study areas, is a clear manifestation that this conflict issue exists in most of the districts countrywide. There have been reports of contested boundaries elsewhere in Uganda, leading to disputes between government institutions and the forest adjacent communities. The issue of boundaries is reported to be one of the causes of encroachment and the existence of claims on the same land.

## **(ii) Conflict over the authenticity of some of the land titles**

The questionable authenticity of some land titles is a major issue in many areas in Uganda, especially in areas where land is considered to have more value, most notably in urban areas and in some rural areas where highly sought after natural resources are found. This has execrated the availability of land titles that are believed not to be genuine.

It was revealed that following the creation of Kyankwanzi district in 2009, some influential local politicians used their connections to the land offices at various levels to acquire land titles in the forest reserve for themselves and some of their friends and relatives. Since then, they have established large farms, private tree plantations and other forms of investments in areas meant to be under forest cover. Despite several attempts by the NFA to evict these ‘land owners’ from the forest reserve, such effort is yet to yield any fruit. A forest supervisor in Kyankwanzi district had this to say:

*“The Members of Parliament and local government leaders have intensified conflicts in Kikonda forest reserve because they acquired the land titles through improper procedures. Such politicians have continued to destroy the forest and this has frustrated our efforts to preserve what is left of it or even plant more trees where there is open space”.*

Other KIs and opinion leaders also highlighted the acquisition of what is perceived to be ‘fake’ land titles by some politicians and other influential leaders in the district as causing friction between such ‘land owners’ and NFA. Unless the political dynamics change significantly with time, such conflicts will have a major effect on the implementation of the REDD+ programmes.

Although the issue of unauthentic land titles was not identified as a key issue in Gulu, Mbarara and Mbale, it is a matter that has frequently been a source of land disputes at family, community and institutional level. It is an issue that government and other stakeholders are grappling with due to its ramifications on national stability and economic development.

## **(iii) Conflict over revenue sharing**

Under the revenue sharing agreement between UWA and communities neighbouring the Mt. Elgon National park, communities are meant to receive 20% of the revenue collected from tourists who visit the park. However, findings revealed that UWA does not remit the stipulated proportion of the revenue to the beneficiary districts on time. Furthermore, communities are also dissatisfied with the mode distribution and sharing of the revenue, whereby not all the districts should receive equal share yet there are varying numbers of community members neighbouring the park. In fact, as one Key Informant and district official from Mbale district said, some districts are yet to receive their share of revenue from UWA:

*“UWA is either playing games with this money or there is actually no money. We are not benefitting from the tourists coming here, so let them allow our people to use the park as they wish”.*

However, interviews with UWA staff acknowledged the problem, and noted that UWA does not withhold the funds but the funds meant to be shared were not as forthcoming as expected due to the reduction of the number of tourist visiting the park. A key informant from UWA had this to say:

*“To be honest, there isn’t much money coming in from tourists. We need to promote the park more through sport hunting so that we can raise more money to benefit the districts as expected”.*

Even if this is one of the latent conflicts in the Mountain Elgon National Park, its ramifications on the perceptions and attitudes to the national park by the residents living around the park cannot be underestimated. Given the ever increasing demand for funding for local government activities in the region, the conflict can easily take on another dimension if not addressed sooner than later. Conflicts over revenue sharing could escalate further during the implementation of the REDD+ strategy. Thus prompt ploughing back the statutory funds (20%), through local governments and other corporate social responsibility arrangements, would enable the communities neighbouring the national parks to feel that they have a stake in the park, hence contribute to the conservation agenda.

**(iv) Conflict over the selective application of the law by the authorities**

Most forest adjacent communities and some local leaders noted that institutions responsible for managing forests and other protected resources is apply the law selectively when apprehending and prosecuting offenders. Through interaction with communities adjacent to Mt. Elgon area, particularly those in Busano and Bubyangu sub-counties, Mbale district, it was noted both UWA and NFA staff selectively apply laws related to the exploitation of the forest resources. It was noted that some people are allowed to settle and cultivate crops both for domestic and commercial purposes while denying others access to the park. They described such treatment as a form of ‘inequality and unfairness’ by the government authorities. It was also noted during FGDs that the responsible government agencies do not fulfill their mandate of enforcing the law. An FGD participant in Bungokho county, Mbale district has this to say:

*“Institutions are not fulfilling their mandate. UWA and NFA are not enforcing the law. Those who are supposed to enforce the law are the ones breaking the law. They have particularly failed to prevent the alarming levels of deforestation and the diminishing forest cover. If the government does not take the matter of deforestation very seriously, all trees will be wiped out and this will lead to a lifetime crisis. In fact, unless a very strong law is introduced, the forests will be wiped out”.*

**(v) Conflict due wildlife/forest conservation, restricted exploitation of natural resources and the search for livelihoods for local communities**

It was noted that there are competing interests of protecting Mt. Elgon National Park from poachers and all forms of encroachment vis-à-vis the community’s need to tap into livelihood opportunities for survival has for long been a source of conflict in the area. Whereas UWA and NFA have often

stuck to their mandate - to ensure sustainable use of the park resources, the local community sees an opportunity to cultivate the fertile lands of the park and graze their animals without any restrictions. One FGD participant placed emphasis on this point thus:

*“Our view is that we benefit less from the national park so government should allow us to grow food, hunt wild animals and collect firewood and herbs. This is our natural resource. Why should wild animals be protected when we need to grow food for our survival?”.*

Although there are no indications that the government agencies given the mandate to protect the park are not about to relent on this issue, the increasing need for food and other basic needs will only exacerbate this conflict.

Around Cwero Local Forest Reserve, existing conflicts resulted from over the exploitation of forest resources. As in most post-conflict parts of Northern Uganda, the community surrounding Cwero Local Forest Reserve is locked in a long standing conflict over how to exploit resources in the forest reserve - notably charcoal, timber and firewood. Spurred on by claims that much of the natural forest cover was exploited by unknown peoples during the two decade insurgency, the community now feels a sense of entitlement to exploit what remains of the forest today. As a Senior Forest Official is Gulu district disclosed, the community wants to cut down the trees to meet their livelihoods needs:

*“It is a major of contention. The community members living around the forest want to cut down the remaining forest because they are angry with what happened to it when they were in the IDP camps. We have a tough task on our hands to conserve the forest”.*

Community members living adjacent to Cwero were incensed with the private charcoal burners and timber loggers who come with mobile saw mills and transport the charcoal and timber to Kampala city and other towns without the intervention of the district administration—an issue duly acknowledged by a senior Gulu district leader during an interview:

*“Our main problem is that the people settled around that area do not have gainful employment. It is the charcoal they burn and the crops that they produce that sustains their lives. So each time you try to get the people out of that land, you cause a lot of grievance and conflict”.*

Amidst such dilemma in the management of this conflict, it is most likely that grievances and conflicts related to the exploitation of forest resources in an area ravaged by civil war is likely to undermine future REDD+ programmes.

Around Rwoho Community Forest Reserve, intense conflict were a result of restricted exploitation of forest resources. The local community’s search for food, firewood, timber, herbal medicine and other resources in Rwoho forest reserve has always pitted it against the NFA and other government law enforcement agencies. The situation has been compounded by claims that senior government officials tend to bring workers from outside the three districts that border the forest reserve to work as pit sawyers instead of giving such jobs to the local community members. And FGD participant at Nyakigufu village emphasized this point further:

*“If they want us to stop encroaching on the forest resources, they should stop bringing people from other parts of the country to cut down the forests using sawmills. This is our forest reserve and we should be the first beneficiaries of its food resources, firewood, timber and other resources”.*

Available records at Rwoho police post also confirmed that there have been reports of murders in the forest reserve resulting from conflicts over the restricted exploitation of forest resources. A senior Police Officer in Rwoho had this to say:

*“Even if we don’t get the postmortem reports, such murders are probably a result of fights over timber exploitation between the local community members and the foreigners who are brought to cut timber using mechanized saw mills”.*

Conflict between NFA and the community around Kikonda Forest Reserve were a result of over grazing, land and exploitation of other forest resources. NFA officials in Kyankwanzi district are in conflict with the forest dependent communities over which part of the forest reserve should be allocated to the latter for grazing and other purposes. A senior member of the Kyankwanzi district forestry technical team said thus:

*“Whereas we would wish to stick to our mandate of stopping all forms of encroachment, the local communities want to earn a livelihood by grazing their animals, growing crops, cutting trees for timber and charcoal and extract herbal medicine. This always puts us at loggerheads with them which is really unfortunate”.*

Interviews with other stakeholders in the forest sector in the district also alluded to the competing interests between the government agencies in conserving the forest and the increasing demand for exploitation of forest resources as one of the conflicts in Kikonda central forest reserve. Global Woods Company is also in conflict with the pastoralists who use part of the forest allocated to it by NFA to graze their animals. Undoubtedly, it is one of the conflicts that requires to be resolved in an effective and timely manner if REDD+ initiatives are to succeed.

The situation above supports the view that conflict occurs when individuals or groups of people pursue, or are perceived as pursuing, incompatible goals, and when there is a lack of compromise on the negotiable interests of conflicting parties, which are largely embedded in their needs (Wallenstein, 2002). Specifically regarding conflicts that may emanate from the utilization of resources from the forestry sector, many communities in Uganda regard public forests as common pool resources (CPRs), hence leading to conflicts. As noted by Ostrom (1990), common pool resources (CPRs) are natural or man-made resources that are sufficiently large as to make it costly to exclude potential users from using them.

Overall, the tensions over access to forest resources for livelihood purposes by community members is worsened by the latter’s entitlement mentality. The community members contend that they are not encroachers on the forest, arguing that before the arrival of the colonialists, they lived harmoniously with the forests and sustainably utilized them, but when the forest reserves were demarcated and gazetted, government authorities allegedly evicted them without any form of

compensation. Yet, as Olufunso Somorin (2010) notes, the long term contribution of forests to the livelihoods of the rural poor had been long appreciated. According to Olufunso (2010), more than half of Africa's fast-growing population rely directly and indirectly on forests for their livelihoods.

The above notwithstanding, it should be noted that, there will continue to be numerous conflicts if the communities' livelihood and other needs are not satisfied. According to Simon Fisher et al (2000), human needs theory holds that deep-rooted conflicts are caused by unmet or frustrated human needs – physiological, participation, physical, social, security, autonomy, identity & recognition. In fact, conflicts are a manifestation of deep-rooted unmet needs. As such, the best way to forestall the pervasive conflicts is to intensify all efforts aimed at meeting the varied needs of the communities that are adjacent to the forests.

#### **(vi) Conflict over the type of trees to plant in the forest**

Related to the issue of conservation discussed above is an issue that has to do with the choice of trees that should be planted in the protected forests. The question is: should it pine, eucalyptus or...? This is one of the major grievances and basis for conflict in Cwero forest reserve, Gulu district.

Largely informed by claims that the two types of trees are unfriendly to soil fertility and water retention, residents living around the forest reserve have for long resisted the local government's efforts to plant either pine or eucalyptus trees as part of the re-forestation efforts. As one of the FGD participants at Pagik parish, Cwero, Gulu district stated,

“It is sad to see that our local tree species which provided with good timber, firewood and medicine are now being replaced with pine which is very dangerous to our soil. Even if some people have accepted to plant such trees, we shall continue resisting this practice”.

Although Gulu district officials interviewed indicated that they have launched a sensitization campaign against negative perceptions surrounding pine and eucalyptus trees, it was evident that the question of which appropriate type of trees to plant in the forest reserve is one of the issues that need to be tackled in light of the implementation of REDD+ programmes.

#### **(vii) Conflict over land use**

Since significant areas of the forest have—for varying purposes—been cleared of forest cover, the neighbouring communities tend to clash over the use of such pieces of land for cultivation. In some cases, the community members approach the NFA field supervisors and patrol men to give them special permission to plant only perennial crops in the areas cleared of forest cover. But therein lies another silent but critical conflict, as the team was informed by a Senior Police Officer at Rwoho Police Post:

*“Some NFA staff give permission to two or even more people to cultivate a certain piece of land in exchange for some little money. But the parties can sometimes fail to agree on how to utilize the allocated piece of land and such a conflict can result into fighting or injury”.*

Several FGD participants also re-affirmed that the forest reserve has of recent been characterized by grievances and conflicts over multiple allocations of land to community members by NFA staff.

According to Wehrmann (2008), use of land for different purposes by different groups of people is the single most important cause of land conflicts in Africa. Babette contends that when the land use system goes to contrary to formal legal and policy mechanisms, there is likely to be conflict between the users and the state. In Uganda's case, this is true as is reflected in the varied land use patterns that are influenced by the socio-economic and cultural systems of the different communities.

**(viii) Conflict between the local government and the Pucong clan**

This conflict issue is peculiar to Gulu district. Prior to colonialism, the land on which Cwero local forest reserve sits was owned by the Pucong clan as part of the customary land tenure system in this part of the country. When the area was gazetted as a forest reserve by the colonial government, the Pucong clan lost any claim to the land until the early 2000s when some clan members started to lay claim to the land following the two-decade civil war that had forced many community members to Internally Displaced Peoples (IDP) camps). Today, the claim has slowly but steadily turned into one of the main forms of conflict in the area. As a local leader from Paicho sub-county in Gulu district reported, both community members and Gulu district local government claim ownership of the forest.

*“These people from the Pucong clan are just being stubborn. Although they are fully aware that the forest reserve belongs to the local government, some of their members have even threatened to go to court over this issue”.*

Even efforts to interview the Pucong clan leadership were in vain, other FGD participants and KIs interviewed referred to this conflict as the main threat to the implementation of any REDD+ initiatives in the area. Specifically, they referred to a few highly educated clan members who are using the forest reserve conservation issue to attain political capital and other unclear motives. Given the increasing agitation for private land ownership in the region in the wake of private sector investment, this form of conflict—which has already manifested itself in family quarrels and minor fights is likely to undermine the implementation of REDD+ initiatives.

**(ix) Conflict over migration of peoples from the south-western region and Rwanda**

For decades, Rwoho forest reserve in Mbarara district has received migrants from Rwanda and the south-western districts of Kabale and Kisoro. In addition to creating population pressure on land, the influx has also led to a multicultural set up in the forest reserve which has turn resulted into a multiplicity of social problems. A Police Officer from Rwoho had this to say:

*“We always receive a lot of reports of conflicts resulting from the social relations with the different groups of individuals who are not liked for their behavior. There is fighting over women, alcohol and money between the migrants and the local people”.*

Although such conflicts have not resulted into major fights, there are reports of assault and minor injuries to the Bakiga, Bafumbira and Banyarwanda who are largely perceived to be ‘foreigners’ to the forest and must not therefore exploit the forest resources.

(x) ***Conflict over the use of chemicals to control weeds by Global Woods company***

Communities living in areas adjacent to Kikonda Forest reserve expressed concern over the chemicals/herbicides used by global woods in the management of weeds. Owing to limited knowledge of the content of the chemicals, the community members feel that the company is endangering their lives by using the chemicals which are often washed into their water sources, gardens and compounds after raining. In this connection, a FGD participant had this to say:

“These people (Global Woods company management) spray their weeds with herbicides which are harmful to our animals and the water they consume. We have tried to raise this issue several times with them but they have kept a deaf ear. It is an ongoing conflict between us and them”.

Both NFA and Global Woods Company acknowledge the concerns of the local community on the use of the chemicals but the latter insists that they do not pose any danger to the community or their animals.

(xi) ***Conflict over deployment of forest patrol men to monitor forests***

Communities around forest reserves mentioned that NFA employs patrolmen who are not natives of the area, harsh and insensitive to the needs of the local people. Consequently, NFA’s policy of employing patrol men that are not natives from areas being patrolled could potentially result into conflict if not checked. Whereas the community members do not necessarily have major issues of contention over the performance of the patrol men, the fact that these men are selected from areas considered ‘foreign’ is quite contentious. One FGD participant had this to say:

“The patrol men who were all picked from Kabuyanda village are not liked by the local community here. They are too rude and untouchable. The fact that NFA has refused to select patrol men from our side of the forest is likely to spark conflict in the near future”.

### ***3.3.1.2 Potential Conflicts and grievances***

In the context of this study, potential conflicts are those conflicts that are likely to arise in communities in Uganda generally due to the implementation of the REDD+ strategy. As a result of these conflicts, the REDD+ strategy is likely to face a number of challenges. The likely conflicts may include:

(a) ***Poor relationship between government institutions and communities***

Conflict can be both constructive and destructive. According to Galtung (1996), constructive conflicts are not the absence of destructive elements, but a conflict situation in which there is constructive escalation by way of interaction between conflicting parties; presentation of flexible goals/objectives guided by belief that all parties can win. In such conflicts, constructive agreements strengthen relationships; they restore equality; they recognize the other parties as legitimate; they

use benefits/promises rather than threats/coercion; they find mutually acceptable solutions, and usually conflict is actually solved.

Specifically regarding this study, the conflicts that exist between government institutions and the communities are generally destructive. **In Mbale district**, underneath the heightened forms of conflict, the Mt. Elgon National Park remains one of the protected areas with a high potential for grievances and conflict over the use of its resources. First, the population dynamics of the region surrounding the park is in itself a recipe for conflict. Whereas there are large ethnic groups that do not need to fight for their recognition and fair share of the park resources, the region is also home to minority ethnic groups such as the Benet who have for long decried marginalized and targeted displacement by UWA and NFA officials. If not nipped in the bud, this could result into an ethnic conflict with disastrous consequences. Secondly, there is potential for the escalation of the bad blood between NFA officials and some communities neighbouring the national park, as the research team was informed by an FGD participant in Mbale:

*“The feeling among most people here is that NFA officials in Mbale district connive with their counterparts in the other smaller districts to use part of the forest reserve for cultivation with impunity. This has a poor relationship between them and the community. In fact, some of them can no longer visit the communities surrounding the national park without armed escorts”.*

Given that there has for long been no major initiatives to deal with the increasing animosity between the government bodies and the local communities surrounding the national park to diffuse the tension over the perceived bias of the former, grievances and conflicts are more likely to intensify with the implementation of REDD+ programmes.

Using Galtung’s (1996) framework, the nature of the relationship between government and communities above seems to be destructive because it is characterized by limited flexibility; goals of government and the community are narrowly defined and rigid; and the primary goal of each party is to defeat the other party – each party assumes the other side must lose; and the conflict seems to have become protracted and intractable. In addition, the destructive conflict seems to have damaged the relationship between government institutions and the community; the conflict seems to promote inequality and power imbalance; the outcomes seem to be imposed unilaterally by government; the conflict appears to require redress or revenge; the outcomes appear to oppress the community, and the conflict does not solve underlying causes.

Overall, the implementation of the REDD+ strategy is likely to be challenged by the tensions between the relevant government institutions and community members who perceive the former to be inconsiderate and insensitive to the needs of the community members whose livelihoods largely depend on access to, and utilization of the forest resources within their communities. This challenge notwithstanding, the REDD+ implementation will have to deal with what Buyinza and Nabalegwa, cited in Kugonza, Buyinza & Byakagaba (2009) describe as the government’s lack of both financial and human resource to monitor the use of forest resources effectively mainly because the forest patches are small and scattered over a large area.

### ***(b) Conflict over CFM benefit/revenue sharing***

Despite the fact that Rwoho central forest reserve is one of the case studies of successful implementation of the CFM approach, it also has a high potential of grievances and conflicts related to benefit/revenue sharing. The quotation from a member of RECPA is important:

*“Much of the benefit sharing-related conflicts are largely due to the non-adherence to the guidelines and procedures set out in the CFM agreements by either one of the parties or even both. Overall, there is limited awareness and common understanding of the benefits of collaborative forestry management by the local community”.*

Another KI of the Kagoto Foundation for Development Association (KAGOTO) blamed the potential of more grievances and conflicts over CFM benefit sharing on the persistent failure by NFA to honour the terms and conditions of the agreement signed.

*“NFA has not for instance, honoured its commitment to provide seedlings to the CFM members. Instead, NFA wants them to pay for these seedlings which contravenes the agreement and is likely to spark further conflict”.*

From the findings of this assessment, grievances and conflicts in Rwoho Central Forest Reserve are as varied as the mix of its inhabitants. As one of the forest reserves with what would arguably be regarded as successful models of the CFM approach, Rwoho has had its fair share of best practices and conflicts—some of which nearly ended up in court rooms. This, however, does not negate the many positive attributes of a functional CFM model that should be replicated in other areas.

Suffice to say, nonetheless, the un-equitable or inequitable sharing of financial benefits associated with REDD+ projects may act as a trigger of conflicts and grievances at family, community, institutional and policy levels. In line with issues already discussed extensively under 3.3.9 (the social context), it will be vital for the REDD+ strategy implementation mechanism to be cognizant of the attendant interpersonal, communal, institutional and policy dynamics that will be experienced during the implementation phase.

### ***(c) Conflict over land/forest/tree tenure insecurity under CFM arrangements***

Although there are currently no signs of simmering tension over this issue, the fact the land which the community uses under the CFM arrangement is expected to revert to NFA after a specified period of time is a recipe for potential conflict.

### ***(d) Other potential conflict issues***

In Gulu district, conflict over the legal status of the forest remains a big issue. Although the present legal status of Cwero forest reserve is that it should be managed by the district local administration, some members of the Pucong clan are determined to reverse the situation. Specifically, plans are underway to seek court interpretation of the legal ownership of the forest reserve within the context of the communal land tenure system in northern Uganda. “Whether or not the clan members will win the court case, it is another potential conflict that we could do without,” remarked an opinion

leader in Gulu town. Overall, findings of this assessment show that some clan members have lost faith in the local government administration of the forest reserve and would now want to either manage what remains of the forest today or receive compensation for the damage caused to the forest during the insurgency period. One opinion leader from Gulu had this to say:

*“In most people’s opinion, there is no more forest in Cwero so the district has no moral authority to administer it any more. That is why some people feel that court should give it back to the Pucong clan and the court process is likely to start soon”.*

Whichever way you look at the potential impact of this conflict on the management of this forest, it presents another challenge to the implementation of REDD+ programmes.

**In Kyankwanzi district**, the nature and trend of grievances and conflicts in Kikonda central forest reserve are shaped by the political dynamics of the newly created Kyankwanzi district. Given the fact that most local leaders in the area are always on the lookout for a specific arena in which they can flex their political muscles, Kikonda forest reserve has been one of their soft targets. As a result, the forest reserve has been embroiled in varying forms of conflict largely spurred on by the political voices.

As a consequence, a number of potential conflicts can specifically be identified for Kyankwanzi district. It should be noted that most of the potential conflicts are likely to emerge from the operational procedures of Global Woods Company which are unpopular with the forest dependent communities. These conflicts might include:

- (a) Conflicts over failure to address allegations of sexual exploitation by Global Woods employees who are normally hired from other parts of the country;
- (b) Conflicts between the company guards and the cattle keepers groups who graze in areas where the company has just planted trees;
- (c) Conflicts over NFA’s failure to implement the CFM approach;
- (d) Conflicts over what is perceived by the community as Global Woods company’s ‘militaristic style’ of using police and other security forces to settle minor forest grievances;
- (e) Conflict over the failure by both NFA and Global Woods Company to provide the 5% proportion of the forest reserve to the forest dependent communities to support their livelihoods.

### ***3.3.1.3 Existing and potential conflicts that could arise during REDD+ readiness***

During the REDD+ readiness phase, it is anticipated that the forestry sector will experience a unique setoff grievances. These grievances will arise because of the current social, legal and conflict situation in Uganda’s forestry sector. It is expected that these grievances will be registered at the local, district, regional, national and international level. The following are the major grievances related to REDD+ during the readiness phase:

- (i) Grievances related to access to, and use of forest resources by forest adjacent/forest dependent communities. This grievance appears prominently because the livelihood of majority of the population, particularly in rural areas, largely depends on land.
- (ii) Grievances related to land occupied by populations in distress, such as refugees, people displaced by disasters such as landslides, and groups of people evicted from public land, wetlands and conservation areas in some parts of the country.
- (iii) Grievances related to the use of the forests, where some encroachers have attempted to acquire forest land titles fraudulently.
- (iv) Grievances related to land use by individuals: the land use pattern has changed significantly because of government policy. Local people now give away large pieces of land for large scale cash crops such as sugarcane growing. Investors have made attempt to obtain massive pieces of land for investment. However, some investors have also engage in fraudulent land transactions either directly or through their local agents.
- (v) Grievances related to selling of forest products; this is because of the availability of an unsatisfied market for forest products.
- (vi) Grievances related to the unethical/unprofessional conduct by personnel working in the forestry sector.
- (vii) Grievances related to the roles and mandates of local governments and central government over jurisdiction regarding forests and conservation areas within their districts.
- (viii) Grievance related to the absence of sufficient personnel to effectively patrol and secure the protected forests; this situation makes the forests and forest reserve susceptible to abuse and exploitation.
- (ix) Grievances related to the community's lack of clear information regarding who has overall responsibility for the forests – is it NFA or the district local governments?
- (x) Grievances related to the exercise and use of power and authority by some of the duty bearers, especially politicians and political leaders. Such grievances have often arisen from statements and decisions made by politicians and political leaders.
- (xi) Grievances related to the unclear boundaries of most forests and forest reserves, both central forest reserves, district forest reserves and private forests. The absence of clear boundaries are responsible for most of the conflicts and grievances in the forestry sector.

#### ***3.3.1.4 Key drivers and actors in the existing and potential conflicts***

Conflict is driven or sustained by a number of factors, including poverty, land disputes, ethnic and cultural identity, political and ideological issues, poverty and economic crisis, unemployment, as well as unplanned population growth (World Bank, 2011). Drivers of conflict may be those structural and systemic factors that “drive” and sustain a conflict. In Uganda, the most common drivers of conflict include youth unemployment, land conflicts, poverty, population pressure, political tension, as well as ethnic tensions (ACCS, 2013). These drivers are complicated by a number of conflict triggers.

Triggers are single key acts, events, or their anticipation that will set off or escalate violent conflict (ACCS, 2013). No conflict can arise on its own. There has to be an event which triggers the conflict. The most common conflict triggers in Uganda have been identified as elections, arrest of key political leaders or political figures, drought, weakening of the local currency, military coups, high rate of unemployment, floods, and increased price/scarcity of basic commodities. According to ACCS (2013), latent conflicts can escalate into overt or violent conflicts if trigger events push individuals or communities into mobilization around the historic or current grievances that have fed the latent conflict in the first place. Triggers can be any event or threat of an event that causes fear or instability.

According to the Advisory Consortium on Conflict Sensitivity (ACCS) (2013), the main drivers of conflict in Uganda include: regional instability; economic disparities and unequal distribution of wealth; resource competition; poor governance and democratic deficits; human rights abuses and erosion of civil liberties; politicization of ethnic identity; lack of truth, reconciliation and transitional justice; North-South fault line; corruption and personal greed; tensions between cultural institutions and government. Further analysis of these drivers would enable one to place them into two major categories, direct and underlying.

Specifically related to the forestry sector and REDD+ initiatives in particular, the main drivers of conflict include the conversion of forest land to agricultural use by community members; unethical conduct and abuse of office by duty bearers; the business/commercial activities involving the sale of forestry products; the encroachment on forest land by herdsman; encroachment on forests to burn charcoal; destroying woodlots out of malice; and harvesting timber for commercial purposes. Also related to the forestry sector, Kazoora (2001) categorizes conflicts into three broad categories, namely: utilization conflicts, management/rights conflicts and conflicts between traditional use of forests and commercial exploitation.

**During the assessment, the main drivers of conflicts and grievances in the forest sector identified included the following:**

(i) *Alleged unethical conduct and abuse of office by UWA and NFA officials*

Several respondents reported how officials from Forestry agencies (mainly NFA but also the District Forestry Department) and private sector companies were allegedly involved in soliciting of money (rent seeking) and extortion before allowing local people to collect firewood, collect herbs and grow crops in the protected forests. An FGD participant in Mbarara said:

*“Local people are asked to give money to NFA staff to allow them to collect firewood and to grow crops in the forest. The forest has turned into a business venture for forestry officials; we pay Shs. 50,000 per family to grow crops per season; we grow crops such as ground nuts, beans and Irish potatoes”.*

**Another FGD participant explained:** *“Some NFA officials get money from cultivators to allow them in the forest reserve. Before they harvest their crops, they are chased out and their crops*

*are destroyed. The other form of corruption involves giving harvesting permits to private sector companies during forest thinning and auctioning of forestry products. In these processes, local communities are side lined and opportunities given to people who come from far; what a disappointment!”*

It was noted that NFA officials collude with business people dealing in forestry products; herdsmen who graze in protected areas; and cultivators who engage in extensive/commercial farming in protected forests. A key informant in Gulu district said: *“I am worried that even with good laws and by-laws, the level of corruption by forestry officials does not allow the preservation of forests”*.

(ii) *Disrespect for government institutions and laws*

In all the field case sites, respondents reported that influential and highly connected individuals from the political, military and business sectors reportedly use their positions to abet large scale deforestation. They use their positions and influence to flout laws and government institutions, effectively undermining the forestry sector guidelines and regulations. When the relevant institutions fail to reign in these “powerful” individuals, the local communities see unfairness since they are not permitted to access even the most basic material (such as herbs and firewood) from the forests. In apparent reference to some of the powerful individuals involved in forest degradation, one of the **key informants in Gulu district** explained:

*“In the past, no one encroached on the forests; people respected the state and its institutions, but today the Military Officers are part of the problem. Zoka forest in Amuru district was never reached or penetrated because it was thick. But during the war, the Military Officers led the way of cutting it down, and now the locals have followed the bad example.”*

In Kyankwanzi district, the conflicts in the forestry sector are as a result of the relationship between the local communities and the management of Kikonda forest reserve, currently managed by Global Woods AG. There also exists conflict between the local community and NFA. The conflicts stem from the denial of access to the forest by local communities. Prior to gazetting of the forest, the local community used to access the forest for grazing, crop production, hunting, collection of firewood and herbs, among other purposes.

(iii) *Boundary disputes*

Conflicts between the community on one hand and NFA and Global Woods on the other stem from boundary disputes. Apparently, the boundary of Kikonda Forest reserve is contested, with community members and area local leaders saying that the management of the forest reserve has encroached on private land belonging to individuals in the communities. **One key informant** said:

*“Over the years, during NFA tenure, boundaries of forest reserves have continued to change, and NFA keeps encroaching on private mailo land belonging to community*

*members. This has led to conflicts between the community and management of the forest reserves”.*

**Another respondent** emphasized that NFA was responsible for the conflicts in the Kikonda forest area since it mainly stems from an unclear boundary:

*“The National Forest Authority is the main problem because it is responsible for leasing this forest reserve despite the unclear boundaries. There is a lot of harassment from Global Woods towards the community members as a result of the violation of the boundaries of the forest reserve”.*

(iv) Inadequate supervision and monitoring

It was noted that some conflicts stems from the inadequate supervision and monitoring of the activities of the private companies leased to plant trees in the CFRs. Communities around Kikonda Forest Reserve noted that the near “absence” of the NFA from the community has inadvertently given a lot of power and authority to Global Woods. In effect, as a result of this situation, Global Woods has assumed the role and mandate of NFA. **One of the FGD participants** at Nsambya sub-county, Kyankwanzi district illustrated how powerful the private investor is, saying “*you might think that Global Woods is the government*”.

This perceived assumption of power by Global Woods has meant that the tree farming company is both a licensed private sector company, a policy implementer as well as an enforcer of the law. For example, it was reported by one of the Key Informants<sup>135</sup> that NFA and the District Surveyor were not involved in the surveying of the forest reserve area, but instead the surveying was undertaken by Global Woods; the company hired and paid their own Surveyor who is not accountable to any other authority other than Global Woods. Because of this dual role, Global Woods is abusing the rights of the people and exploiting them. To this end, **a member of the Area Land Committee in Kyankwanzi district** remarked:

*“NFA has not adequately supervised the companies licensed to operate the forest reserves, so the private sector companies are exploiting the population”.*

The fact that NFA is thin on the ground, coupled with the limited coordination and collaboration with local governments and the District Forestry Officer (DFO), frustrates its supervision role. Further, the limited facilitation and logistical support given to some of the NFA staff in the field affects their efficiency and effectiveness.

Limited investment in the forestry sector was also mentioned as one of the drivers of grievances, whereby some districts have no substantive District Forest Officer (DFO). For example Mbarara District had only one staff to managing the district forest estate, significantly affecting the capacity to respond to conflict and grievances in a timely and effective manner. A Forestry Officer in Mbarara district explained:

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<sup>135</sup> Key Informant Interview at Global Woods, Kikonda Central Forest Reserve,.

*“I am the only staff in the district in the area of forestry” so the response to any grievances concerning forestry is not quickly addressed because of lack of staff. Also, the district does not have a realistic budget on forestry and tree planting. The forestry department is not taken as a key sector and only depends on local revenue which does not easily come regularly”.*

To further illustrate the capacity challenges of the forestry sector, for both NFA and the District Forestry Department, ***one of the senior officials of Global Woods Company*** explained:

*“The NFA Sector Manager in this area does not even have a bicycle, but NFA expects her to do her work. The forest rangers struggle to hire motorcycles to do their work. It seems NFA is dysfunctional”.*

The near absence of the NFA from some of the central forest reserves has necessitated that some of the licensed private sector companies take up the roles that are supposed to be played by the NFA. The ***senior official of Global Woods Company*** added:

*“If the NFA was present, our contact with the community would have been a lot lighter. But because they are not effectively here, we end up engaging with stakeholders we’re not meant to engage with”.*

(v) *Inadequate sensitization of local leaders and forest adjacent communities*

Grievances and conflicts in the forestry sector in the district were attributed to the failure of forest agencies (NFA) to hold regular sensitization and dialogue meetings with the local governments and the forest adjacent communities. ***A participant in an FGD at Nsambya Sub-county***, Kyankwanzi district explained:

*“NFA collaborates more with the investor (Global Woods) than with the Local Governments and the local population. It would appear as if they are agents of the investor”.*

The absence of such regular interaction creates room for speculation as to the motive of NFA, resulting into what Chris Moore (2003) describes as data conflict<sup>136</sup>. In fact, one of the key informants expressed fear that there could be collusion between NFA and Global Wood, as explained by one of the sub-county chiefs in Kyankwanzi district:

*“There seems to be connivance between NFA and Global Woods. NFA does not interface with local leaders. It is the investor that deals with the local governments and the local population, and is also the one that evicts the local people when they enter the forest area”.*

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<sup>136</sup> Data Conflict is the type of conflict that is experienced as a result of lack of essential information as well as differing views on what data are relevant, the interpretation of that data and how the assessment is performed.

(vi) Exclusion of the local governments from the management of central forest reserves

Most local governments feel neglected partly because NFA does not consult them in the management of CFRs yet the Uganda Forestry Policy (2001) calls for the sharing of roles between the local governments and the central government agency responsible for the management of central forest reserves. Understandably, this perceived exclusion complicates the relationship between the local governments, local communities and the management of these forests. As a result of this perceived exclusion, communities do not see themselves as stakeholders in these forests. They do not feel any sense of ownership and do not see any benefits they derive from them. **A key informant in Kampala** district explained:

*“Forest dependent/forest adjacent communities should not merely be adjacent to forests, they should transform themselves into associations that can effectively engage NFA and other stakeholders on matters concerning the forestry sector”.*

Similarly, an FGD participant at Nyakigufu trading centre in Ntungamo district highlighted the potential absence of local forest protection mechanisms as a result of lack of ownership of the forest Local governments and forest adjacent communities, and emphasized that, if community member live with a resource and do not benefit from it, they are less likely to protect it:

*“We have lived and protected this forest for a long time but as of now under NFA supervision we have been sidelined from it, hence we have decided not to go to its rescue when it is on fire; residents just sit at home and let the fire consume the forest. For NFA protected areas, the neighboring community lives with the resource but never get benefits that accrue from it, and instead, people from elsewhere enjoy the benefit”.*

Although the existing legal and policy framework does not provide for explicit and deliberate collaboration and coordination between NFA and local governments, there is a general expectation that NFA officials will inform the local governments of their activities. This, however, undermines the sustainable management of forests as the local governments do not feel that they “own” the forests. Yet, as **one of the key informants in Kampala district** noted,

*“The laws (NFA Act, etc.) are not cast in stone; if there is a chance to review them, they should be reviewed for the sake of forest conservation”.*

**A senior district official in Mbale district** was, however, of the view that the current laws and policies are sufficient but have not been fully implemented:

*“The policies, laws and institutions such as the Forest Act, NEMA Act and Land policies that are in place are sufficient but the challenge is in the implementation”.*

It should be noted, further, that across all sectors of government, coordination between government departments is not a legal requirement, hence this affects the benefit of information sharing.

There seems to be poor communication between the local governments, NFA and Global Woods, the company that manages the forest reserve. Although there has not been any recent

gazettment of forests, some key informants believe that government continues to gazette forests without their involvement. *One of the key informants in Kyankwanzi district* explained:

*“The local governments were not involved in the process of gazetting the central forest reserve. The local governments do not have a role in the management of the central forest reserve. NFA has not involved the local governments, especially the sub county local governments with jurisdiction over those forests, neither has NFA involved the Area Land Committees (ALCs); all these institutions do not know what to do in the event of an emergency or when the community approaches them for help”.*

These sentiments regarding the perceived exclusion of local governments as well as other segments of society from the management of forests, particularly the central forest reserves, will pose risk and heightened tension when the REDD+ strategy is implemented. The power relations between NFA, local governments and the local communities are likely to intensify and worsen the existing conflicts if no remedial or corrective action is taken in the form of, revision of the current policy and legal framework that guides the management of central forest reserves, to provide for the role of local governments. The anticipated economic benefit, as well as the desire to control resources with financial value, might motivate local governments to seek avenues for playing a significant role in the management of central forest reserves. From this perspective, it is apparent that the Uganda Forestry Policy (2001) calls for the sharing of roles between the local governments and the central government agency responsible for the management of central forest reserves. However, the National Forestry and Tree Planting Act, 2003 does not provide for this.

(vii) Limited access and use of forest land

It was noted that some grievances and conflicts experienced around forest reserves are driven by limitations to access and use of forest land, especially by farmers - both herdsmen and cultivators. In addition, conflicts arose from some people that have or claim to have titles, as well as those that either settle on or want to use the forest land for grazing and crop cultivation. This was evidenced in and around Kikonda forest reserve and has resulted into undesirable conflict situations. For example, the forest workers have physically assaulted herdsmen and cultivators that come into contact with forest land. Global Woods staff were also accused of impounding and stealing cattle belonging to community members found grazing in the reserve. There were also allegations, against the staff of Global Woods, of sexual exploitation of women in the local area, although this was not independently verified whether there were report to the local police station to this effect. While the herdsmen and cultivators prefer to access and use some sections of the protected forest area, denial of access from relevant authorities continue to be the source of conflict between the communities, NFA and the licensed private sector companies.

(viii) Unchecked population increase

It was noted that as a result of the high population growth, immense pressure has been exerted on the land as the demand for land for cultivation and grazing increases significantly. For

example both the District local government and the Pucongu clan now lay claim on the land from Cwero local forest reserve. It should be noted, however, that following the prolonged war in Northern Uganda and the sudden return of former IDPs from the IDP camps, Cwero forest has practically been cleared, with the Pucongu clan members claiming ownership of the near-bare land and obstructing any plans for planting more tree on the land by the district local government. The contested ownership of the forests greatly affects the protection of the forest as well as the conservation of the forest. This scenario is one of the main drivers of conflict in the areas with different types of forests.

Similarly, the conflict around Rwoho central forest reserve in Mbarara, Isingiro and Ntungamo districts is about access to and use of the forest reserve. Because the forest is located in three districts, the other unique conflict element concerning the forest is that the community members sometimes do not know where to report a conflict or where to register their complaint. On the other hand, the three responsible districts are reportedly unsure about how to intervene in conflicts and grievances of communities around the forest since the jurisdiction over the forest is shared by three districts. Whenever there are disputes, this uncertainty over jurisdiction often results into either slow or non-response from the three local governments.

The community members' need to access and use the forest reserve for purposes of sustaining their family livelihoods. They need to graze their animals and also collect firewood for their households. However, this is not encouraged by the forest managers—as explained by *an FGD participant in Nyakigufu trading centre* in Mbarara district:

*“The Community members are not allowed to graze their goats in the forest; Forestry Management does not allow residents to collect firewood. In fact, many times NFA workers crudely and inhumanly harass the innocent community children who go to the forest to collect firewood”.*

As a result of the existing conflicts and grievances, the affected areas are reported to be experiencing relatively higher levels of poverty. In addition, these communities are also experiencing relatively higher levels of famine and food insecurity compared to communities that have relatively free access to the forestry resources. Furthermore, communities that have been prevented from accessing the forests are reported to experience higher incidents of crime and domestic violence.

In addition, it is reported that alcoholism, sports betting and gambling, as well as school dropout and early marriages, are much higher in communities restricted from accessing forest resources compared to those with relative access to the forest resources. However, it was established from key informants that the policy for allowing the local population to access the forests resulted into abuse. This is attributed to the limited livelihood options as well as the limited physical space for use in the different social and economic activities. Unfortunately, the existing mechanisms, primarily the local council system, has not been very effective in addressing the conflicts and grievances identified above.

### ***3.3.1.5 Potential grievances that could arise during implementation of REDD+ strategy/activities***

According to ACCS (2013), grievances are actual or supposed circumstances regarded as just cause for complaint that create a sense of injustice amongst individuals or groups. The Cambridge International Dictionary of English, states that a grievance may be viewed as a complaint or a strong feeling that you have been treated unfairly. Grievances can fuel latent conflict by supporting conflict drivers, e.g. perceptions of neglect by the authorities or unequal access to services. A complaint is generally a formal statement that may be an expression of discontent or displeasure with the actions of an individual or a group of people. In the context of FGRM in the forestry sector, a grievance can a complaint about a wrong decision or action by any authority regarding the rights of community to access some of the basic resources from a protected forest area.

During the implementation of REDD+ activities, a number of conflicts and grievances are likely to be experienced. The main type grievance is likely to be related to access to and use of forest resources by forest adjacent communities. This kind of grievance will appear prominently because the livelihood of majority of the population, particularly in rural areas, largely depends on land, which is already limited due to rapidly growing population. In addition, more land will be required to host populations in distress, such as refugees, people displaced by disasters such as landslides, and groups of people evicted from public land, wetlands and conservation areas in some parts of the country.

Given the growing population in Uganda, there is a high likelihood that forest adjacent/forest dependent communities will increasingly encroach on forests and forest resources, mainly for purposes of food production, grazing, hunting, obtaining building materials but also in search for herbs and firewood. The encroachment might involve occasional use of the forests, but some encroachers may even attempt to acquire land titles and effectively “own” land belonging to protected areas.

In response to the encroachment, forestry authorities, security agencies, the private sector companies licensed to grow trees, and other relevant authorities responsible for the forestry sector are likely to come into conflict with the forest adjacent communities. The concern, however, is not the anticipated conflict situation, but the likelihood that in the process of enforcing the law, there might be violation of the rights of the community members.

Grievance related to land use are also likely to be experienced. Land use patterns are likely to change in response to government policy and on-going economic infrastructural development in the in Uganda. Currently the government of Uganda allows investors to engage in mechanized agriculture, industrial development and large scale plantation farming, and this is likely to result in degazettement of forest conservation areas to provide land for commercial agriculture and industrialization. This is likely result in reduction in forest cover and a general trend where forests will shrink under the direct intervention of government. These developments are also likely to trigger protracted debate as to Uganda’s ability to strike a balance between conservation and development.

Further, the availability of an unsatisfied local, national, regional and international market for forest products will eventually increase the temptation for increased deforestation and indiscriminate harvesting of trees to meet the demand. An associated concern here is the growing private sector dealing in forest products. The private sector has, accordingly, generated demand for forest products. This demand will also increase encroachment and other criminal activities by forest dependent and forest adjacent communities. In addition, it is likely that staff/personnel working in the forestry sector will engage more in unethical/unprofessional conduct. Some of the personnel are likely to collude with forest adjacent communities and business people to exploit the forests and the forest resources. Accordingly, there will be tensions and animosity around the forestry sector.

This study revealed existence of a latent conflict between local government and central government over jurisdiction regarding forests and conservation areas within their districts. As such, tensions and role conflicts between local governments and central government agencies responsible for the forestry sector are likely to occur during implementation of the REDD+ strategy, it is likely that there will be. The findings further revealed that during implementation of the REDD+ strategy, the [already limited] capacity of the central government agencies (NFA, UWA, etc.) is likely to be overstretched because most local governments do not have sufficient legal mandate to intervene in issues affecting central forest reserves.

The other type of grievance likely to arise is related to the exercising and use of power and authority by leaders and those with authority to formulate policies. In particular, grievances are likely to arise from statements and decisions made by politicians. These decisions and statements may be intended to give political mileage to the political class yet these decisions and statements may be illegal, and in outright violation of the law and the rights of others. Past practice and experience in many parts of Uganda, has shown politicians making decisions and statements that incite the population against forest staff and park managers, resulting into encroachment. In other cases, politicians have blackmailed and threatened technical Officers managing the forests and sometimes overrode technical and legitimate decisions and standing orders regarding forests and other protected areas, resulting into encroachment and settlement on forest reserves. Such statements and decisions enhances politicians' political capital, especially during the election season. Thus during the implementation of the REDD+ strategy, numerous grievances are likely to arise as a result of the actions of politicians. There is also likelihood of some community members blackmailing and putting their political leaders under pressure to advocate for the degazetment of some forest reserves.

Unclear boundary is another source of grievances in most forests, central forest reserves, local forest reserves and private forests. It was noted that all forests visited had boundaries under contestation. It was noted that most forest adjacent communities are aware of the existence of unclear forest boundaries. Due to unclear boundaries, local people exploit this loophole to abuse and encroach on the forest. As such, grievances related unclear boundaries are likely to intensify during the implementation of the REDD+ strategy. Forest adjacent communities are likely to plant

their own trees/woodlots close to those of government/private in order to, over time, encroach on the land, trees and other resources in the government forest.

These potential grievances are likely to be compounded and complicated by the existence of financial incentives, carbon credits and other benefits that will be available to people who will be eligible. There is likelihood that individuals, families and communities will conflict over the sharing of resources realized through the carbon fund. It was noted from this study that while the carbon fund is important and has the potential to facilitate forest conservation, it will be important to ensure that in areas where land is managed under the customary arrangement, all clan members get a share of the carbon money. The key informant in Gulu District noted:

*“The carbon fund is very important and it will help the community to preserve forests and the environment in general. However, in a customary setting, the community has to be involved, and has to benefit from and get a fair share of the carbon money. This has to be done across the clan and community otherwise there will be widespread conflict”.*

The nature and types of causes, drivers and triggers of conflict depend on the role and category of stakeholder concerned. For example, most of the likely grievances are from the perspective of the forest adjacent communities and local (political) leaders. From the point of view of the technical officers, including the forestry officers and conservation area managers, causes of conflict may include violation of the law through continuous encroachment on protected/conservation areas, and the illegal use of forest resources. The cause of conflicts resulting from the activity of forest users may include competition for and use of forest resources. Conflict triggers include destruction of infrastructure belonging to government (UNFA, UWA), confiscation of animals found grazing in the protected areas, as well as fights between encroachers and government officials working for NFA or UWA.

### 3.3.2 Existing mechanisms to detect, prevent and minimize the escalation of conflict and grievances

#### **3.3.2.0 Introduction**

FGDs, KIIs and other forms of data collection yielded results that point to an array of efforts to resolve forest-related grievances and conflicts in all the field case studies involved in this assessment. Although such data does not necessarily point to ongoing processes specifically tailored to detecting and preventing or even minimizing such grievances and conflicts, there are multiple formal, informal and in some instances—*ad hoc* processes to address REDD+ disputes.

#### **3.2.2.1 Formal mechanisms**

The main formal mechanisms for resolving conflicts in forest dependent communities identified during the assessment exercise included use police force, local councils, office of the president and the judiciary, among others. These are described in detail in the subsequent subsections:

##### **(i) The Police Force**

Most respondents indicated that the police force as their point of call whenever they feel like reporting a forest related conflicts that occur. Notable Among the conflicts reported to police by

communities included disputes over encroachment on the forest reserves, illegal cutting of timber and firewood and trespassing on land by other community members. It was noted that in such cases, police intervenes to arrest and apprehend the accused person(s) even before investigations into the allegations are conducted. It was also noted that under this mechanism, suspects regain their freedom either through a suspicious investigative procedure that yields no concrete evidence to warrant their prosecution or even ‘buy’ their way out of jail. However, this mechanism remains one of the most readily available to many forest users embroiled in conflicts over resources. *“Involving the police in settling forest conflicts has undermined social harmony in many communities by imprisoning even innocent people with thorough investigations. But we cannot just wish it away,” said a KI in the civil society sector.*

### **(ii) The Local Councils (LCs) and other area politicians**

Although the lower LCs (LCIs & LCIIIs) are at the time of writing this report considered unrecognized legal systems of administration and dispute resolution in Uganda, evidence gathered during this assessment exercise shows that many forest users at one point had reported their grievances and conflicts to them. In most areas, LC leaders are not perceived to be popular but also as influential figures in regard to dealing with individuals who are regarded as ‘powerful’ or ‘untouchable’. Some FGD participants and KIs reported during this assessment that they have ever reported forest conflicts to LCs and seen the adjudication process go through the entire hierarchy of the system up to LCV (district) level. Others reported that they reported their conflict to area Members of Parliament (MPs) who helped them by either mediating in their conflict or offered them the financial resources and advice to use other available means of conflict resolution. *“LCs work for us because they are cheap and accessible to us. Even our MPs and other politicians have helped us a lot in resolving these conflicts. The main problem is that some of them have tended to be impartial during the mediation process because of either corruption or conflict of interest in the conflict,” said an opinion leader in Gulu district.* A KI in the *Kanywamaizi Development Association (KDA) in Rwoho central forest reserve* explained: *“The LCs use a soft voice when they are dealing with the thieves who cut trees in the forests. They use reconciliation and counseling. They avoid confrontation which could lead to burning of the forest.”*

### **(iii) The Office of the President**

It was noted that community members directly petitioned the office of the President to intervene in their grievances and conflicts. In such petitions, the President’s office often assign its own staff or delegate other individuals to either mediate in the conflict or implement the Presidential directive without necessarily calling the conflicting parties to a ‘problem solving’ workshop. It was noted that members of the community seek the intervention of the Resident District Commissioners (RDCs)—who also work under the Office of the President--whenever forest conflicts arise. RDCs either chose personally to visit the areas of conflict with a view to finding a consensual agreement or issue directives stopping one of the warring parties from effecting the eviction of forest encroachers on the contested area. *“Overall, the President’s office and those of the RDCs are doing well in helping resolve some of these conflicts. The main problem is that these offices are only accessible to a few politically connected individuals. Worse still, much of their intervention tends*

*to come during the time of political campaigns and there is no follow-up after the elections,” said an FGD participant in Kikonda forest reserve.*

**(iv) The Judiciary**

Even if there was little empirical evidence to suggest that there are forest conflicts in the courts of law, respondents indicated that such an option was readily to them in case they considered viable in resolving their conflict. However, it emerged through this assessment exercise that this form of formal conflict resolution is not as popular largely because it is expensive, time consuming and often dogged by allegations of corruption. *“The courts are available but they are for the rich who can buy justice. Poor people have no business going to courts to report forest conflicts against the rich and powerful,” said one community member in the Mount Elgon National Park.*

**(v) Collaborative Forest Management (CFM)**

Collaborative Forest Management (CFM) were mentioned as one of the formal mechanisms for detecting, preventing and minimizing the escalation of grievances and conflicts in some forest reserves. In Rwoho central forest reserve where CFM is operational for instance, the mechanism has—over the years—been used to resolve conflicts. Key informants and other experts interviewed clearly indicated that CFM was set up for other broader purposes, the participatory approach used in its management renders it a relevant formal mechanism of forest management in Uganda.

**(vi) Collaborative Resources Management (CRM)**

Uganda pioneered Collaborative Resource Management (CRM) in the early 1990s whereby groups of resource users or a community are allowed, through negotiated agreements, access to selected natural resources in a National Park or Forest Reserve (Kazoora, 2006). In addition to contributing towards ensuring ecological integrity of the forest national parks, the CRM approach has also been critical in improving the livelihoods of the communities living within these national parks. Empirical evidence—largely based on studies in the Mount Elgon National Park—has shown that CRM is an important formal mechanism due to the simplicity of the guidelines for its implementation (2006). It is credited for the way UWA and NFA clearly stipulate the resources to be harvested and the amounts (quotas) to be harvested. Another key strength of the approach is the way sanctions for non-compliance with the CRM agreements are clearly stated. As noted by Nakakawa *et al*, (2015), CRM is ideally intended to offer access and reduce potential costs and conflicts. However, some conflict ridden communities continuously challenge the legitimacy of the existing agreements and have in some cases opted not to negotiate any agreements, resorting to clandestine use of park resources (Cavanagh, 2012) and contributing to increasing deforestation and forest degradation in areas without CRM (Sassen *et.al*, 2013). Despite the fact that CRM is based on a sound policy, legal and institutional framework; its implementation also faces challenges caused by the lack of strong community institutions to work with. Besides, it is also beset by the fact that some of the sanctions like the conviction of illegal activities are beyond the powers of the communities and sometimes NFA and UWA to enforce (Kazoora, 2006).

### **(vii) Forest Management Plan**

Under the National Forestry and Tree Planting Act (2003), a forest reserve or community forest is mandated to prepare its management plan in consultation with the local community. Such a plan contains a description of all matters relating to the forest, the forest produce and the use currently being made of the forest produce. Such a plan also states the type of activities to be carried out in the forest and the measures to be taken for the sustainable management of the forest, the resources likely to be available for the execution of the management plan. Subject to the approval by the Minister for Environment—or a person designated by the Minister for that purpose, the Act makes the management plan binding on all persons having dealings with or interests in the forest. Although the Act requires that a management plan shall be prepared within one year after the coming into force of the Act, for every forest reserve declared under the Forests Act, and in existence at the commencement of the Act, there was little evidence that the FMPs were as active in the prevention and management of conflicts within forest dependent communities.

### **(viii) Civil Society Organisations (CSOs):**

Civil Society—largely defined as the arena of voluntary collective actions around shared interests, purposes and values, an “intermediate associated realm between state and family populated by organisations which are separate from the state and enjoy autonomy from the state” (White 2004)—has increasingly become active in conflict prevention, peacemaking and peace building activities. In the case studies used for this assignment, CSOs were noted to be actively engaged in early warning activities, preventive diplomacy through third party intervention, facilitation of dialogue workshops and mediation, negotiations (peacemaking), networking and initiatives for cross-cultural understanding and relationship building. *“Following the end of the insurgency that ravaged large parts of Northern Uganda between 1987 and 2007, CSOs have greatly contributed to maintaining or improving relationships by fostering action across conflict lines and ethnic divides through informal exchanges and joint projects. They also played a critical role in post-conflict regeneration and peace building which is important for the prevention and resolution of forest conflicts,”* **said one key informant in Gulu.**

It was also noted that CSOs play a significant role in the prevention and management of forest conflicts by empowering women (through gender rights campaigns), protection of endangered individuals and providing security for minority groups (including the indigenous peoples) and monitoring human rights abuses among the forest dependent communities.

Other formal mechanisms for resolving forest conflicts cited during the assessment include; sub-county area land committees, Community Development Officers (CDOs) and District Natural Resources Officers (DNROs), District Forestry Officers (DFOs) and District Environmental Officers. In addition, the existing formal mechanisms broadly include the entire array of enforcement agencies and groups, such as crime preventers, forest patrol men, police, community based monitors mainly sponsored by NGOs, environmental police, networks of informers, timber tracking units, as well as guards under the Uganda Wildlife Authority (UWA).

Despite accusations of formal mechanisms being a result of our colonial heritage and other limitations, the formal mechanisms of conflict resolution are being used to resolve forest conflicts. Whereas their ability to detect, prevent or minimize grievances and conflicts are subject to debate, such mechanisms should not be undermined or wished away.

### 3.3.2.2 *Informal mechanisms*

Informal mechanisms are arrangements put in place to deliver justice without relying on the state (Kegoro, 2011). Based on negotiation between the conflicting individuals or communities, informal mechanisms often seek to foster relationships between the disputants and ensure that they (the disputants), as much as possible, keep their face within the community (Chetri & Kattel, 2004). The informal dispute resolution mechanisms that emerged during the assessment include:

- (i) **Traditional/and or cultural leaders:** In areas like Northern and parts of Eastern Uganda where traditional leaders are widely recognized and accepted, they are regularly involved in handling conflicts over illegal grazing in the protected forest reserves, theft of timber and firewood and disputes over boundaries. Through persuasion and influence, such leaders either invite the conflicting parties to their residences for arbitration or even physically visit the affected communities and/or individuals to explore ways of reaching amicable solution to all parties involved. *“Traditional leaders are important in resolving conflicts over forest use because they carry the blessings of our people. We act like foreseers in times of war and conflict so we are one of the best in dealing with this issue,” said one cultural leader interviewed in Gulu town.*
- (ii) **Religious leaders:** Like traditional leaders, religious leaders often mediate in conflicts over the use of forest resources in many protected areas. By virtue of their offices, such leaders are perceived to be of high moral standing, impartial and are therefore acceptable to the conflicting parties. Whereas some of their verdicts in the cases they adjudicate might be questioned by a few parties to the case, the chances that the conflicts would not be taken to another level of appeal are quite high. *“In Islam, Prophet Muhammad preached that trees are not supposed to be cut anyhow. The Q’uran says the vegetation is good. Islamic religious leaders are emphatic on issues of conserving the environment. They are therefore respected when they mediate in forest conflicts,” said a prominent Sheikh interviewed in Gulu district.*
- (iii) **Family and clan systems:** Family heads, relatives, friends and in-laws can be approached to mediate in a grievance or conflict over boundary, abuse of a forest resource or any other form of conflict involving members of the same family. In regions where customary land tenure system is still practiced, clan members involved in a dispute over a forest resource can seek the intervention of the clan to reach a quick resolution of the issue. In most cases however, family and clan systems are only used to settle minor forest conflicts. *“Family heads and clan leaders are playing an important role in resolving conflicts over using forest resources. Their role in this matter should never be underestimated,” said a Local Councillor leader in Gulu district.*

- (iv) **Opinion leaders:** In almost all areas, there are opinion leaders whose word is considered vital and useful in any social, political or economic issue at stake. In case of forest conflicts, such leaders are often called upon to give their opinion; including offering their ‘wisdom’ on resolving a conflict over the use of forest resources. Even if their opinion might never be considered binding to the conflicting parties, it could—to a large extent—serve as the extinguisher for the ‘fire’ that stoked up the conflict in the first place.

### 3.3.3 Weaknesses in the mechanisms to detect, prevent and minimize grievances and conflicts

One of the inherent weaknesses in the formal and informal mechanisms is their failure to detect and prevent or even minimize grievances and conflicts in forest reserves. It was noted that both the aforementioned formal and informal mechanisms lack in-built systems to detect such conflicts. They are often called upon to deal with an already simmering situation. In some cases, the situation could be already out of hand. “All the systems could have done well in detecting these conflicts but many of them are poorly funded and lack the required staff to do the job. And when it comes to the informal mechanisms, some of them suffer from the lack of recognition and presence in some areas of the country,” said a senior official of the Ministry of Water and Environment.

Generally, informal and formal mechanisms to detect, prevent and minimize grievances and conflicts have the following gaps:

- i. Lack of legal backing to perform their conflict resolution duties (the lower LCs);
- ii. Conflict of interests in the issues being contested in the forest areas by some politicians;
- iii. Limited access to the Office of the President and the RDCs by poor and vulnerable forest dependent communities and individuals;
- iv. Allegations of corruption by the Police in handling such disputes;
- v. Understaffing, corruption allegations and case backlog by the judiciary which undermines timely and effective delivery of justice;
- vi. Waning influence and respect for traditional and religious leaders in some communities. There is also little regard for the ‘wise counsel’ of opinion leaders by the youth in some areas.

Overall, politics is a factor that drives many of the conflicts in the districts. In many instances, politicians simply politick when they make statements they cannot fulfil when the campaign period ends. It is common to find that central government is accusing Local Governments of misuse of local forest reserves, and focusing on revenue collection, thus leading to degradation and deforestation. On the other hand, it is common to NFA accusing District Forestry Services and vice versa. In some instances, you find that UWA officials have some grievances against the operations of the NFA vice versa which go unresolved largely through the failure or refusal to report them to the existing conflict resolution mechanisms.

## CHAPTER FOUR: PROPOSED FEEDBACK & GRIEVANCE REDRESS MECHANISM (FGRM) FOR REDD+ IN UGANDA

### 4.0 Introduction

The proposed FGRM is designed to contribute to conflict detection, prevention and resolution, as well as the transformation of the conflict into peaceful co-existence and community cohesion. The FGRM emphasizes conflict transformation because of its critical and potential role in improving and restoring the relationships among communities affected by conflict. In addition, the proposed FGRM is designed to channel grievances into an acceptable, institutionalized system for resolving conflicts that are likely to occur during REDD+ readiness and implementation. The proposed FGRM focuses on dialogue and problem solving as an intermediate way for stakeholders to discuss and resolve conflicts. The FGRM is expected to primarily address interest-based REDD+ conflicts, meaning conflict in which groups with some form of interdependency have a difference in (perceived) interest, for example, disputes related to benefit sharing, forest use, forest boundaries and forest ownership.

The FGRM seeks to streamline existing grievance redress mechanisms that are either informal or formal. The formal ones include the court system while the informal ones include grievance redress mechanisms used by religious and cultural/traditional institutions. The proposed FGRM is not intended to replace the existing grievance redress mechanism but to serve as a hybrid structure that create a more effective platform for resolving conflicts and addressing grievances resulting from the REDD+ readiness and implementation activities. In the event that people or communities affected by REDD+ related conflicts do not find the intervention and resolutions of the FGRM satisfactory, they may seek redress through the mainstream formal court system.

### 4.1 Objectives of the FGRM

The specific objectives of this FGRM will be to:

1. Detect and prevent the conflicts before they occur, and mitigate their consequences when they occur, as well as preventing them from escalating;
2. Contribute to the resolution of REDD+ related grievances and conflicts in a timely and efficient manner;
3. Contribute to the improvement and restoration of the relationships among people and communities affected by conflicts as a result of REDD+ activities;
4. Enable the voiceless, vulnerable (such as the poor, PWDs, the elderly, the landless, the women) and marginalized forest-dependent and forest adjacent communities to have a voice by submitting complaints and receive timely feedback on their submissions; and

5. Improve stakeholder participation and decision making through dialogues and registration of grievances and conflicts.

#### 4.2 The rationale for the FGRM

Findings from the FGDs, KIIs, Problems Solving Workshop and other forms of data collection used in this assessment indicate that forest stakeholders have varying forms of grievances and conflicts in the different regions of the country. In the Mt. Elgon National Park (Eastern Uganda), the assessment found a number of grievances and conflicts over the park boundary, revenue sharing, the perceived selective application of the law by NFA, UWA and other agencies and the overall conflict over the need for wildlife/forest conservation and the search for livelihoods.

In and around the Cwero local forest reserve (Northern Uganda), the main grievances and conflicts were over the exploitation of forest resources, the type of trees planted in the forests and the protracted conflict between the Gulu district local government and the *Pucong* clan. This situation is almost similar in the Rwoho forest reserve (Western Uganda) where conflicts over the migration trends and patterns of peoples from South-western Uganda and Rwanda, restricted exploitation of forest resources and the lack of clear forest boundaries between the three districts sharing the forest reserve were common.

In Kikonda forest reserve, stakeholders face conflicts over the authenticity of some land titles, lack of clear forest reserve boundaries, pollution over the use of chemicals to control weeds and conflicts between NFA and the forest dependent communities over grazing land and the exploitation of other forest resources. A review of literature on community and privately owned forest reserves in various parts of the country also revealed an almost identical set of grievances and conflicts among the various stakeholders.

The assessment also highlighted of the potential conflicts likely to emerge during the implementation of REDD plus programmes. These included; the simmering ethnic conflict over high population growth and perceived marginalization, the legal status of the forest, lack of commitment on the implementation of CFM protocols, the conduct of law enforcement personnel (especially the foot patrol men) and ethical issues affecting the use and management of the forest resources. During the assessment, a range of formal and informal mechanisms for resolving the grievances and conflicts in all forest areas in Uganda were noted and these included the formal mechanisms such as the Uganda Police, LCs/political leaders, offices of the President and RDCs and the Judiciary. The informal mechanisms included the traditional leaders, religious leaders, family and clan systems and opinion leaders.

Whereas the formal mechanisms were widely accepted and trusted by the forest dependent communities to resolve conflicts, they were perceived to be inaccessible to the majority of the stakeholders and also required more time and financial resources to resolve conflicts. Besides, they also played no significant role in detecting and preventing grievances and conflicts. On the other hand, the informal mechanisms were regarded as more accessible and credited for providing

restorative justice. However, they were considered weak and undermined by the lack of legal backing to perform their conflict resolution duties (the lower LCs) and perceived conflict of interests in the issues being contested in the forest areas by some politicians.

It is upon this basis the need to establish an effective mechanism for receiving, evaluating and addressing grievances and conflicts arising from the implementation of the REDD-plus project activities (as explained in the subsequent sections of this chapter).

### 4.3 The proposed FGRM

Findings from the assessment indicate that a number of grievances and conflicts exist in the forestry sector. As such, there is need for an all-inclusive FGRM that emphasize conflict detection, early warning, prevention, as well as conflict transformation. During the assessment, respondents proposed an FGRM involving religious leaders, cultural leaders, elders, CSOs, political leaders and government agencies. At the lower levels, the proposed FGRM should comprise CFM arrangements as well as Local Councils (LCs), Local Council Courts and local governments from the village level to the district levels.

Overall, respondents in this study argued that Local Council (LC) and local government structures are instrumental in the resolution of grievances and conflicts, as explained by one of the key informants:

*“LCs are generally trusted by the communities where they stay and work; the most helpful is the LC I. Usually when the LC I fails, the matter goes to court. The LC I knows all the issues and all the individuals in their community<sup>137</sup>”.*

Apart from CFM, LC structures and local governments, the proposed FGRM also incorporates Environmental Tribunal that will handle REDD+ grievances and conflicts that cannot be resolved by the lower level structures. It also collaborates with the national multi-stakeholder Forestry forum, Forestry Committees, religious/spiritual leaders and institutions, traditional/cultural leaders and institutions, elders and “Honorary Forestry Officers”.

The proposed FGRM should also provide for a collaborative arrangement with the established formal judicial system comprising the Chief Magistrate’s Court, High Court, Court of Appeal and Supreme Court.

#### 4.3.1 Guiding principles for the design of the FGRM

The FGRM for REDD+ stakeholders in Uganda has been designed according to eight internationally accepted principles for the design of grievance mechanisms as elaborated by the UN (UN Human Rights Council, 2011; UN REDD Programme and Forest Carbon Partnership Facility, 2015). These international principles among others include:

1. **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes. This principle aims at

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<sup>137</sup> Key Informant, Mbale

ensuring that parties to a grievance process cannot interfere with its fair conduct. This is one of the most important factors in building stakeholder trust.

2. **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access. The FGRM should have an in-built mechanism for addressing barriers of access including, lack of awareness of the mechanism, language, literacy, costs, physical location and fears of reprisal.
3. **Predictable:** providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation.
4. **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.
5. **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake. In doing this however, the confidentiality of the dialogue between parties and of individuals' identities should be protected.
6. **Rights compatible:** these grievance redress processes are generally more successful when all parties agree that outcomes are consistent with applicable national and internationally recognized rights.
7. **Enabling continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms. The FGRM should undertake regular analysis of the frequency, patterns, and causes of grievances; strategies and processes used for grievance resolution; and the effectiveness of those strategies and processes, to enable the institution administering the FGRM to improve policies, procedures, and practices to improve performance and prevent future harm.
8. **Based on engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances. For an operational-level grievance mechanism, engaging regularly with affected stakeholder groups on the FGRM's design and performance can help to ensure that it meets their needs, that they will use it in practice, and that there is a shared interest in ensuring its success.

Based on the consultant's own assessment, two additional principles have been applied in the design of the FGRM:

1. **Early detection and prevention:** the FGRM has been designed so as to ensure early detection, prevention or mitigation of grievances.
2. **Use of ICT tools to enhance the effectiveness:** The FGRM will utilise ICT solutions, especially mobile phones to enhance effectiveness in communication and feedback.

### 4.3.2 Description of the FGRM

At all levels, the proposed FGRM will be a multi-stakeholder entity with defined procedures and powers. The FGRM will be expected to objectively determine facts and draw conclusions from them so as to provide the basis for action. The FGRM is an inclusive and participatory entity that is aimed at facilitating communication between conflicting parties, promoting dialogue, and facilitating a reasonable agreement between the parties to a conflict. Ultimately the purpose of the FGRM will be to find a win-win solution and in case the FGRM fails, the parties to a conflict may be resort to the formal courts at any stage of the conflict resolution process.

#### *Collaborative Forest Management (CFM)*

At the very foundation of the proposed FGRM structure lies CFM arrangement, which is a critical element of the entire FGRM (see Figures 4.1 & 4.2). CFM is a form of participatory forest management provided for in the Uganda Forestry Policy, 2001 and Forestry and Tree Planting Act, 2003 as an instrument that can address disincentives of a protectionist approach to managing forests and destructive outcomes of open access (MoWE, 2001). Current CFM guidelines permit forest dependent communities to negotiate agreements with forest authorities; and also to develop constitutions that govern the membership of their associations. Where REDD+ grievances and conflicts arise, they will be handled in accordance with the rules and regulations agreed upon in their respective constitutions.

The CFM will be instrumental in ensuring continuous dialogue between different stakeholders at the community level, in both rural and urban areas. Due to the peculiar differences between urban and rural areas, the CFM arrangement in these two different settings is likely to deal with peculiar issues that are driven by the interests and needs of the communities in the two settings. Particularly regarding the unique characteristics of urban areas, the issues expected to be dealt with may include the livelihood needs of the urban population, the need for urban development and expansion of infrastructure, and the need by urban authorities to attract investors to urban areas.

It is proposed that in all communities that are adjacent to the forests, appropriate CFM arrangements should be established. The CFM arrangements will work closely with Forestry Committees where they exist, among other stakeholders. Data obtained during the assessment suggests that in places where there are CFM arrangements, there has been a notable high degree of harmonious co-existence between the forest adjacent communities and the forest management<sup>138</sup>.

The CFM arrangement was applauded by the respondents for providing employment for the local community; allowing farmers to access the forest for various livelihood needs, including access to herbal medicine. Through the CFM arrangements, the forest adjacent communities have a high stake in the forestry sector, and therefore take primary responsibility for conservation and

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<sup>138</sup> Among the 4 case study districts, CFM arrangements were present in Rwoho central forest reserve in Mbarara district where there are five (5) CFM agencies, namely RECPA, KAFODA, KADA, BECA and RECPA; as well as in some sections of the Mt. Elgon conservation area.

protection of the forests and forest resources in their communities. It is envisaged that CFM arrangements will promote community participation in the forestry sector as well as ensuring community ownership of the forests and the resources obtained there from.

#### Local Councils (LCs)

It is proposed that any grievances and conflicts that are not prevented or resolved through the CFM arrangement should be redressed through the Local Council system and other local government structures from the village to the district levels. The LCs are established under the Local Governments Act, Cap 234 Laws of Uganda.

#### District Council

REDD+ grievances and conflicts that cannot be resolved through CFM and the Local Council system will be referred to the District Council established under the Local Government Act (Cap 243 Laws of Uganda). Basing on the provisions of the Local Government Act, and study findings, the District Council should play the role of reconciling parties to a conflict. While this is not rooted in any particular law, study findings pointed to the prominent role of the District Council in facilitating the resolution of conflicts.

#### Environmental Tribunal

REDD+ related grievances and conflicts that cannot be resolved at the lower local levels will be resolved by the environmental tribunal which is provided for under the *National Environment Bill, 2014*. Section 158(2) of the Bill provides that the Environmental Tribunal shall be headed by a Chairperson and Vice Chairperson who shall be persons qualified to be Judges of the High Court. The other five members of the Tribunal are required to have: technical knowledge and experience in environmental management; experience in environmental law; or finance or economics. The awards of the Tribunal are binding and may be enforced as if they are orders of the court. The Tribunal is mandated to regulate its own procedure, and is not bound the rules of procedure usually applied by the ordinary courts. Any party who is aggrieved with the decision of the Tribunal may appeal to the High Court within thirty days of such decision or order.

While the jurisdiction of the environmental tribunal does not currently cover REDD+ related grievances and conflicts, the consultant recommends that the tribunal plays a prominent role in the proposed FGRM. This is especially so given the need to avoid creation of multiple institutions handling similar matters. Accordingly, it is proposed that the jurisdiction of the environmental tribunal should be expanded to cover REDD+ related grievances and conflicts.

### **4.3.3 Relationship with the formal courts and other structures**

Generally, the FGRM is a hybrid structure of the formal and informal structures for addressing grievances and conflicts arising out of REDD+ activities' readiness and implementation.

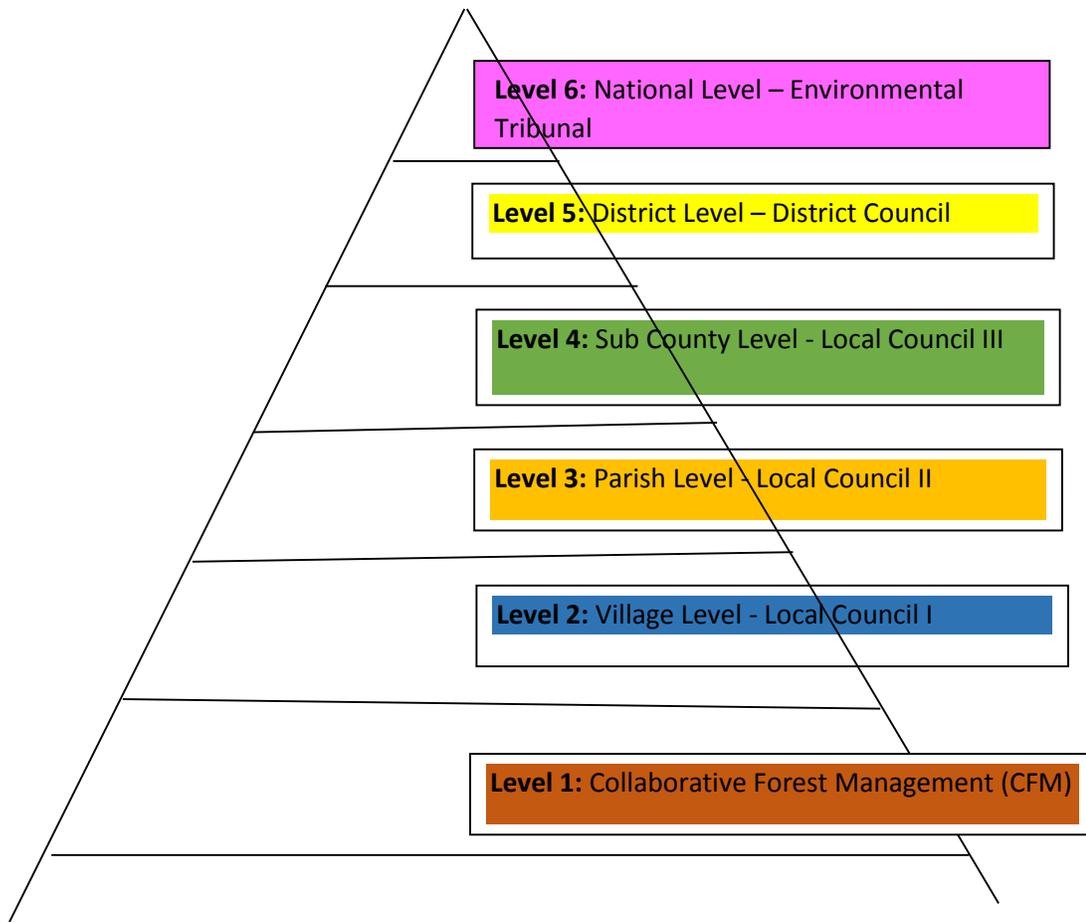
Consequently, the users of FGRM who are dissatisfied with the decisions and/or resolutions of the various components of the FGRM will be free to resort to the formal court system established by the Local Council Courts Act 2006, and the Judicature Act, Cap 13 Laws of Uganda (see Figures 4.1 & 4.27). As a result of the grievances and conflicts, there may be cases where users of the FGRM arrangement are dissatisfied with the decisions and/or the resolutions of the FGRM. Therefore, it is necessary that at each level of the mechanism, there is a corresponding structure of the formal judicial structure, tribunal or other quasi-judicial and legally recognized structure that can be used to adjudicate the dispute. Through these structures, the parties to the grievance can appeal the decision of the FGRM.

#### **4.3.4 The appeal system**

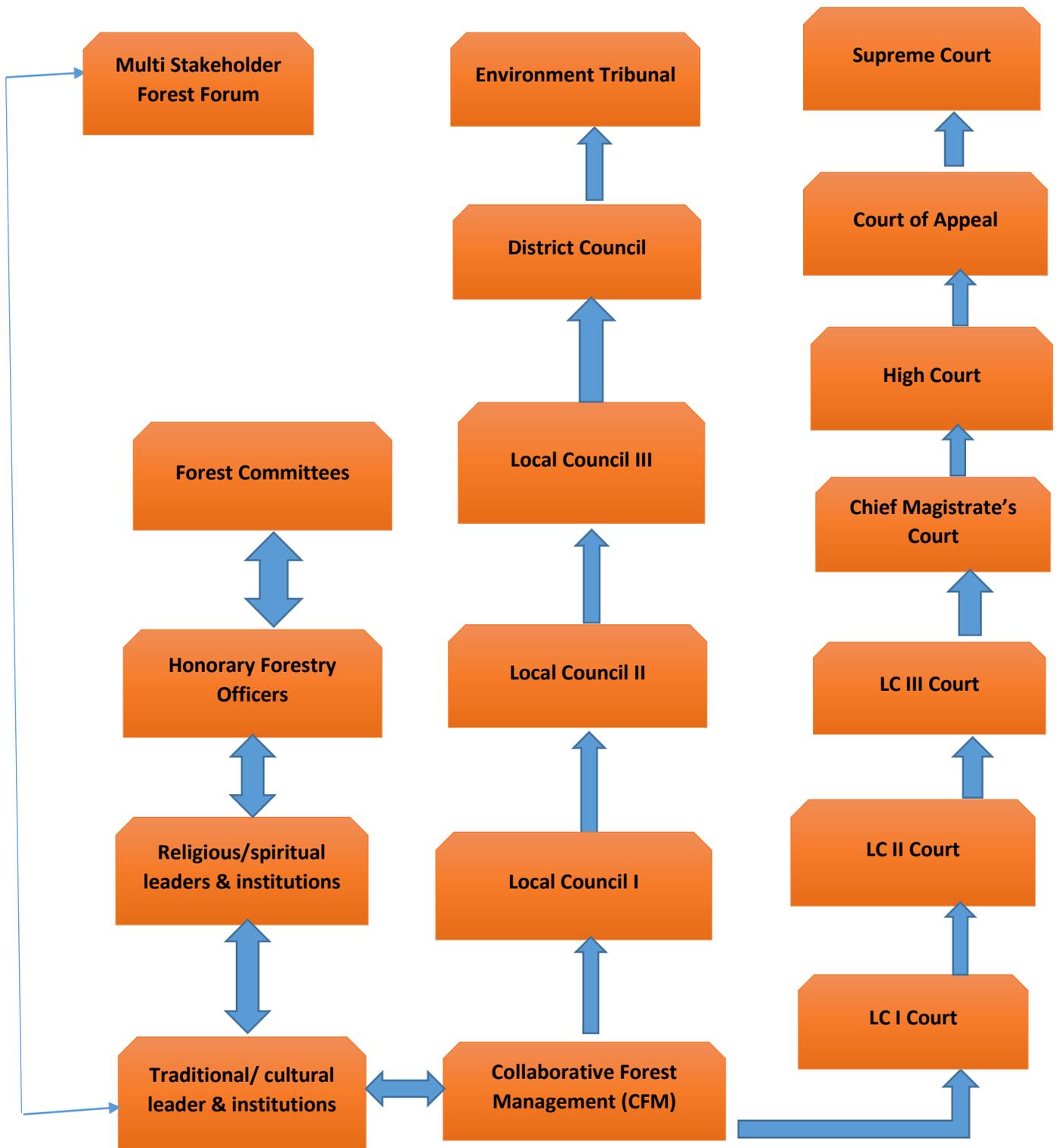
The FGRM will have an appeal system that enables aggrieved community members to appeal to higher levels. Ideally, the appeal system should work in such a way that, if an FGRM user is dissatisfied with the decision of any level of the mechanism, s/he can either appeal to a higher level within that mechanism, or resort to the formal judicial system. For example, if an individual is dissatisfied with the decision of the Local Council I (LCI), s/he will be free to appeal to the LCII. And if s/he is not satisfied with the decision of LCII, s/he will be free to appeal to higher levels of the FGRM. Similarly, if an individual or group of people are dissatisfied with decisions of any level within the FGRM, they will have the freedom to resort to the formal judicial system without necessarily going through the entire hierarchy of the FGRM structure. In other words, the establishment of the FGRM will not take away the people's right to use or resort to the formal court system. In fact, people will be free to exit the FGRM at any level.

#### **4.4 The structure of the FGRM**

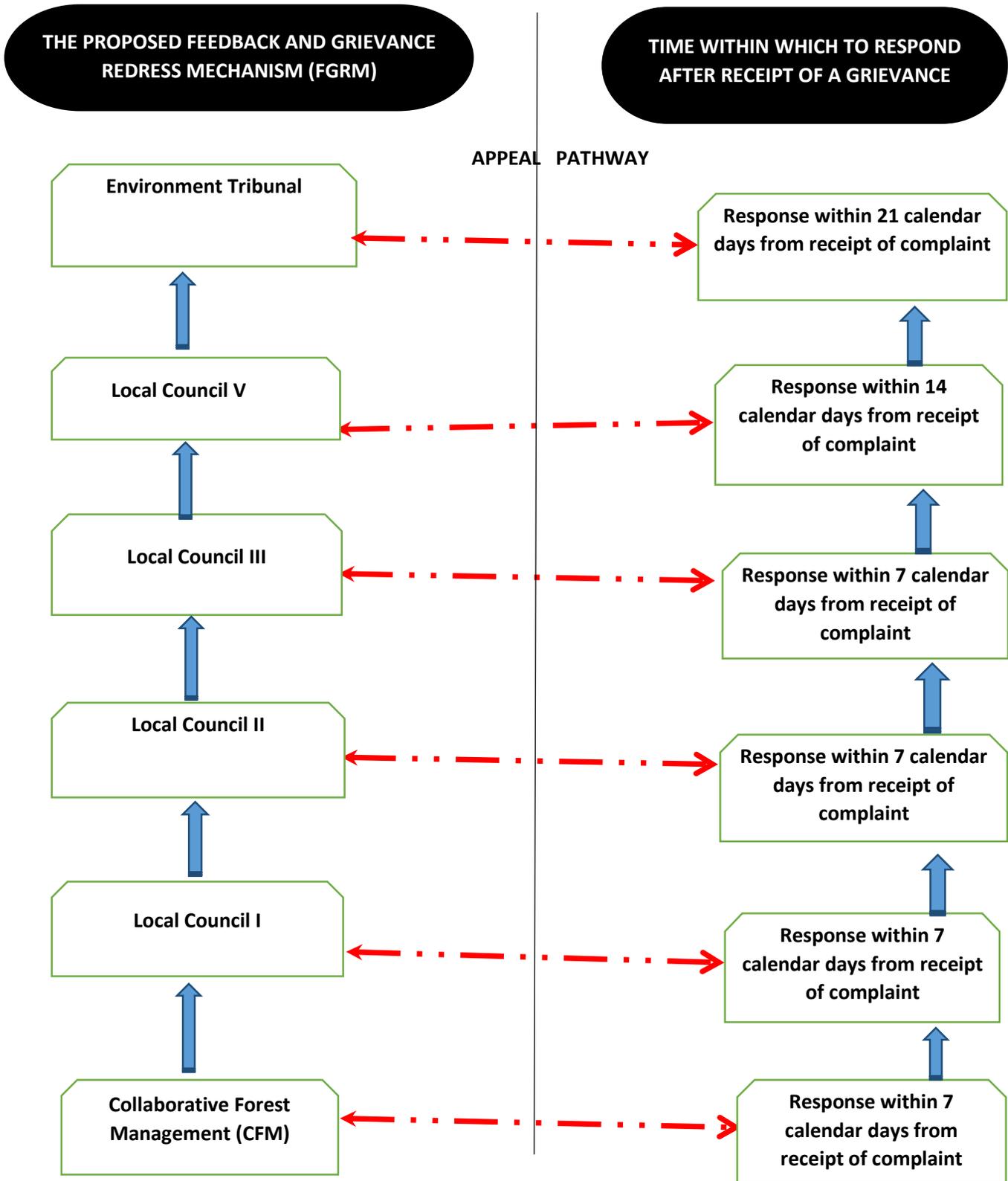
The structure of the FGRM will take the form of a pyramid (see Figure 4.1). It represents different stakeholders at the various levels of the conflict resolution process. Figure 4.2 further illustrates the relationships between the proposed FGRM and the existing judicial/court system.



**Figure 4.1:** A diagrammatic illustration of the FGRM structure, from village to national level



**Figure 4.2:** The proposed FGRM structure



**Figure 4.3:** The proposed FGRM, showing approximate number of days needed to respond to a grievance

#### 4.5 Alignment of the FGRM with Ugandan laws & UN principles for the design of grievance redress mechanisms

The proposed FGRM is aligned with the UN principles for the design of grievance redress mechanisms as outlined in *section 5.4.1*(FCPF/UN-REDD Programme Guidance Note for REDD+ Countries, 2015). The FGRM is also aligned with the draft Uganda Forest Stewardship Standard (2016) that requires organisations in the forest sector that have been certified to put in place mechanisms for resolving grievances and providing fair compensation to local communities and individuals with regard to the impacts of their activities. This should among others be:

- (i) *Legitimate:* CFM, Local Councils, the District Council, and the Environmental Tribunal under the FGRM satisfy the principle of legitimacy to the extent that they are anchored in the respective laws establishing them. In addition, components of the FGRM such as Local Councils are widely trusted by the public, most especially the local communities. Furthermore, decisions taken by Local Council Courts and the Environmental Tribunal are binding and enforceable, a factor that enhances the legitimacy of the FGRM.
- (ii) *Accessible:* CFM and Local Councils under the FGRM are largely accessible to the public including local communities because they are well known and are established at the village and parish levels. In addition, the Local Councils use their respective local languages and their cost structure is accommodative to ordinary person. Grievances and conflicts are filed with the chairperson of the Local Council in their area, and this makes them easily accessible.
- (iii) *Predictable:* The FGRM has established rules and procedures under the respective regulations governing the various components thus making it possible for users to have clarity on the process and outcome as well as a known time frame for each stage. For instance, the operations of the Local Councils are governed by procedures and regulations made under the *Local Governments Act (Cap 243)* as well as the *Local Council Courts Act, 2006* and *Local Council Regulations, 2007*.
- (iv) *Equitable:* The FGRM is designed in such a way as to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms. For instance, in a CFM arrangement, members of the association that has concluded an agreement with the forest owners regulate their own procedures and the constitution governing their relationship is based on mutual agreement, recognition and trust. Similarly, aggrieved parties have reasonable access to information on the operations of Local Councils, and are therefore, able to engage in the process on fair, informed and respectful terms. Also Local Councils possess first-hand knowledge of the issues that will have led to the conflict, and are therefore, able to arrive at an equitable decision. It is important to note that in a Local Council Court, representation by lawyers is prohibited by the *Local Council Courts Act, 2006*, a factor that enhances a level playing field for aggrieved parties.

- (v) Transparent: The FGRM has been designed in such a way as to ensure that transparency shall be observed by providing information about its performance to wider stakeholders, through statistics, case studies, and other detailed information. This will enable the FGRM to demonstrate its legitimacy and retain broad trust. This will be achieved through the FGRM secretariat established under the Office of the Prime Minister that will ensure that detailed information about its operations are readily available to the public.
- (vi) Rights compatible: The FGRM fully respects fundamental and other human rights and freedoms under *Chapter 4* of the *Constitution of Uganda* as well as human rights and freedoms set out under international covenants on human rights. For instance, the right to a fair hearing enshrined under *Article 28* of the Constitution is fully observed by *Section 24* of the *Local Council Courts Act, 2006*. Likewise, *Section 171(9)* of the *National Environment Bill, 2014* requires the Environmental Tribunal to observe principles of natural justice including the right to a fair hearing.
- (vii) Enabling continuous learning: This will be achieved through the FGRM secretariat by ensuring that measures are put in place to periodically improve the mechanism. The FGRM secretariat shall be responsible for undertaking regular analysis of the frequency, patterns, and causes of grievances; strategies and processes used for grievance resolution; and the effectiveness of those strategies and processes, so as to improve policies, procedures, and practices of the FGRM.
- (viii) Based on engagement and dialogue: The FGRM has been designed by taking into account the views of stakeholder groups that will use it. Going forward, the FGRM secretariat shall ensure continuous dialogue and regular engagement with stakeholders to enable improvements in the design of the mechanism to be made so as to ensure that it meets their needs.
- (ix) Early detection and prevention: One of the specific objectives of this assignment was to identify an FGRM that can detect, prevent and minimize the escalation of grievances and conflicts during REDD+ readiness and implementation activities. In line with meeting this objective, the consultant was—in recommending the proposed FGRM—cognizant of the need to embed a set of individuals, agencies and institutions that would play a critical role in the regular engagement and monitoring of the forest dependent communities with a view to detecting and responding to all forms of grievances and conflicts before they escalate to levels that warrant resolving through the proposed mechanism. Specifically, it is proposed that CFM will be most critical in detecting the occurrences of any grievances and conflicts through their routine operations. If well-funded and empowered to implement their full mandate, the leadership of CFM can be involved in mobilization activities that foster harmony in the forest dependent communities. The function of detecting and preventing grievances and conflicts can for instance, be further augmented by the activities of the ‘Honorary Forestry Officers’, religious/spiritual leaders and institutions, traditional/cultural leaders and institutions, opinion leaders, elders and Forestry Committees which can be empowered to work with the CFMs to facilitate conflict resolution in forest dependent

communities. In addition, the detection and prevention roles of the mechanism can also be undertaken by the multi-stakeholder forest forum which can—given the availability of resources—closely work with not only the CFMs but also the rest of the stakeholders in the proposed FGRM.

- (x) *Use of ICT tools to enhance the effectiveness:* The FGRM encourages the use of ICT tools such as SMS and social media to improve efficiency and the timely feedback on resolution of grievances and conflicts. This will be achieved through measures implemented by the FGRM secretariat to enable the uptake of ICT tools by the mechanism. For instance, measures promoting the use of ICT tools by the mechanism to register grievances and conflicts shall be promoted by the FGRM secretariat.

#### 4.5.1 Detection and prevention of grievances and conflicts by the FGRM

One of the specific objectives of this assignment was to identify an FGRM that can detect, prevent and minimize the escalation of grievances and conflicts during and after the implementation of REDD+ activities. In line with meeting this objective, the consultant was—in recommending the proposed FGRM—cognizant of the need to embed a set of individuals, agencies and institutions that would play a critical role in the regular engagement and monitoring of the forest dependent communities. This was viewed as means to detect and respond to all forms of grievances and conflicts before they escalate to levels that warrant resolving through the proposed mechanism. Specifically, it is proposed CFMs as most critical in detecting any grievances and conflicts through their routine operations. If well-funded and empowered to implement their full mandate, the CFM leadership can be involved in a set of mobilization activities that can foster harmony in the forest dependent communities. The function of detecting and preventing grievances and conflicts can for instance, be further augmented by the activities of the Honorary Forestry Officers, opinion leaders, elders and forest committees which can be empowered to work with the CFMs to transform the forest dependent communities. In addition, the detection and prevention roles of the mechanism can also be undertaken by the multi-stakeholder forest forum which can—given the availability of resources—closely work with not only the CFMs but also the rest of the stakeholders in the proposed FGRM.

#### 4.6 Procedure of the FGRM

Given that the FGRM is a hybrid of both formal and informal structures and institutions, the procedures for its operations will be guided by the standard operating procedures of the respective institutions that it is made up of. Because various institutions in the FGRM structure are established by different legal instruments, it may be impossible for them to effectively operate under a common framework. Accordingly, the operations of the various institutions and structures comprising the FGRM will be guided by the respective regulations and legal instruments that establish them. For example, the Collaborative Forest Management (CFM) structures will be guided by the Tree Planting and Forestry regulations; the LCs will be guided by the Local Governments Act, Cap 243 Laws of Uganda; the LC Courts will be guided by the LC Courts Act, 2006 and regulations; while

the judicial institutions (primarily courts) will be guided by the Judicature Act, Cap 13 Laws of Uganda. It should be noted that as a requirement all institutions in the FGRM be guided by the same procedure and will require significant legal, policy and institutional reform.

#### **4.7 Operationalisation of the FGRM**

In order to operationalize the proposed FGRM, the following elements and structures will be established:

##### **4.7.1 The National Secretariat of the FGRM**

A secretariat for the FGRM will be established to direct and coordinate all its activities of who??....The secretariat will convene all meetings relevant to the FGRM; document all activities of the FGRM; lead and coordinate activities for the implementation of the FGRM; coordinate the periodic monitoring and evaluation of the FGRM activities; report on all activities of the FGRM, and account for all resources for the FGRM (including money, personnel, and logistics). The secretariat of the FGRM will be based in the Office of the Prime Minister (OPM). The secretariat will be staffed with people possessing the requisite technical, administrative and managerial skills needed to effectively implement the FGRM. The secretariat will be headed by a head of secretariat, whose proposed title will be the Programme Manager. The head of the secretariat will report to the Permanent Secretary, OPM. The rest of the other relevant reporting lines—such as accountability and operational relationships--at the middle-level and senior management levels within the OPM be determined the secretariat in line with the standard government operational procedures.

The Office of the Prime Minister is proposed to host the secretariat of the FGRM considering the multi-sector and multidisciplinary nature of the FGRM. In addition, the Office of the Prime Minister is considered suitable for this role because as leader of government, and overall supervisor of all government programmes, the Office has the requisite political and institutional clout to ensure that all the relevant government sectors (Ministries, Departments and Agencies), as well as other stakeholders in the FGRM are mobilised and adequately involved in the FGRM processes. In addition, OPM is the proposed host institution for the FGRM because it has a higher likelihood for maintaining an impartial stand in matters concerning the FGRM. Further, it is envisaged that OPM will have better capacity to ensure that the FGRM operations are effectively aligned with the relevant legal, regulatory and institutional framework across the various sectors, both at central government level but also at local government level.

##### **4.7.2 FGRM at the District level**

At the district level, the FGRM secretariat will not have separate and full time staff and operations. However, its activities will be coordinated by, and implemented with the support of Chief Administrative Officers (CAOs). Given their overall mandate for providing coordination, monitoring and oversight for all government activities in the district, the CAOs will from time to time be asked and facilitated to enable both the secretariat and the Forestry Multi-stakeholder Task Force visit and interact with various stakeholders in forest community as part of their overall responsibility to engage them with a view to detect (prevent) and resolve conflicts.

In facilitating the operations of the committee and task force, the CAOs will work with, and receive technical support from the District Forest Officers (DFOs), the District Environmental Officers (DEOs), the District Natural Resources Officers (DNROs) and other relevant officers. Under the leadership of the CAOs, the technical Officers in the natural resources sector will work closely with the relevant CFM arrangements as well as the LC structure to ensure effective implementation of the FGRM.

#### **4.7.3 Training and capacity building**

In order to ensure the effective execution of its duties, the FGRM secretariat will receive appropriate training and other forms of capacity building. Specifically, the training will enable secretariat staff effectively manage their new roles- such as sensitization, monitoring, coordination and other quality control functions. In turn, the secretariat will build the capacity of the districts implementing the FGRM programme.

The training will target relevant central and local government departments (including the judiciary and legislature), as well as relevant stakeholders within civil society, the private sector, the media, the cultural institutions and the faith-based organisations. The other beneficiaries proposed to benefit from the training and capacity building should be the LCs, the LC courts, the Environment Tribunal, the forest committees, Honorary Forestry Officers, lower level judicial officers. To ensure follow up and enforcement, as well as the presence of appropriate political support at national and lower levels, relevant security agencies as well as political leaders (selected from different levels) should benefit from the training. Other than skills-based training, the other form of capacity building will include availing relevant materials and reference documents for all relevant stakeholders.

#### **4.7.4 The FGRM budget and other resources**

The FGRM secretariat, as well as lower level units, will require substantial resources to operate optimally. These resources – primarily funds, logistics, equipment and personnel - should be provided for through a budget funded by multiple sources, including donors and central government. Funds may be accessed through the government consolidated fund as well as through donor allocations. The resources for the FGRM will be centrally managed by the secretariat in line with budget control and management procedures and guidelines of government. In addition, the secretariat will also have the role of resource mobilization for its resources from all funding agencies interested in climate change/environmental conservation matters.

#### **4.7.5 Monitoring and Evaluation of the FGRM**

##### **(a) Monitoring**

FGRM monitoring involves assessing the progress that is being made to handle grievances (World Bank, 2012). The overall result of an effective GRM is to enable stakeholders affected by REDD+ to receive timely feedback and appropriate responses. The goal of the FGRM arrangement is to channel grievances into an acceptable, institutionalized mechanism for resolving conflicts related to REDD+ implementation in Uganda.

To ensure that the FGRM is effective and achieves this objective, there is need for a robust monitoring and evaluation system to keep track of the outputs and deliverables of the FGRM, as well as to ensure that it delivers the desired results and impact. To do this effectively, a strong monitoring and evaluation system, as well as a monitoring and evaluation framework that will be developed for the mechanism. The system and the framework will have strong linkages with the broader monitoring and evaluation architecture of the forestry sector in Uganda, as well as the overall monitoring and evaluation framework of government of Uganda.

Through the regular monitoring of the performance of the FGRM, the governance structure for REDD+ readiness and implementation will be fully developed, ultimately leading to improved forest governance and biodiversity conservation. To achieve this result, specific targets will be set and overall improvement is tracked by a set of criteria and indicators. Monitoring will be conducted by the grievance office under the REDD+ secretariat and performance indicators set.

### **(b) Evaluation**

Evaluation of the FGRM evaluation will involve analyzing grievance data and making policy or process to improve the grievance handling process (World Bank, 2012). The REDD+ secretariat will bring together all relevant stakeholders involved in the REDD+ readiness and implementation process to assess the extent to which the FGRM is achieving the set objectives. The secretariat will gather lessons learned from the process, and use them to improve the FGRM. The major emphasis of the evaluation system will be on the extent to which the FGRM will have facilitated the prevention, mitigation, and resolution of grievances and conflicts reported through the FGRM. Besides the agreed quantitative indicators, the REDD+ secretariat will come up with more qualitative indicators for measuring the performance of the FGRM.

### **4.8 Limitations of the proposed FGRM**

Although the proposed ‘hybrid’ FGRM is—basing on the findings of the study—the most feasible under the prevailing circumstances, it has notable limitations that include:

- (i) Whereas the CFM arrangement’s popularity is largely based on the belief among government forest agencies in its potential to support local livelihoods and sustainable use of forest resources (Wily, 2002), previous studies have demonstrated that many forest dependent communities do not perceive it to have contributed to their livelihoods (Turyahabwe *et al*, 2013). Although the arrangement is credited for enhancing forest protection by controlling unregulated open access to forest resources, it is also critiqued for—among other things—generating insufficient benefits, inequality in the distribution of its benefits and limiting the involvement of local people in key management decisions (Turyahabwe *et al*, 2013). Critiques of the arrangement have also blamed limited funding to the NFA as a limitation to the roll out of CFM across the country and the overall failure to add value to the forest dependent community benefits from the arrangement. Despite a host of lessons documented over the years of the implementation of the approach—such as the need to grant legal rights assurances to forest dependent communities, promotion of alternative livelihood strategies and enhancement of the country’s capacity to negotiate and

handle CFM protocols (Nsita, 2011)—the jury is still out there on whether or not the CFM arrangement is the panacea to the underlying issues affecting the ownership, access and use of forest resources in Uganda. Even more critically, the arrangement is only prescribed for central and local government protected forests and thus excludes those protected by communities and private tree planters. There are also concerns about the willingness of stakeholders in urban forests and forest dependent individuals living far away from the forest reserves to embrace the arrangement. In addition, there is also no definite answer to the question of: ‘what happens to forest dependent individuals or communities who—personal or other reasons—choose not to embrace the CFM arrangement?’

- (ii) The consultant is also quite cognizant that although the LC structure is a vital cog in the wheel that should drive the proposed FGRM, the current legal status of LC I and II remains a centre of contention largely due to the fact that the elections for LC I and II have not been held for over a decade—which has greatly undermined the legitimacy of Local Council Courts. Due to this lacuna, the Local Council Courts established at village and parish levels are not properly constituted due to lack of elections, and cannot therefore, pass legally binding decisions. In addition, Local Council Courts cannot handle all disputes due the restriction in the law to handle only disputes where the value of the subject matter does not exceed two million Uganda shillings (UGX. 2,000,000). However, the law does not, impose monetary restrictions on LC courts on matters relating to land. The consultant further notes the other challenges of LC courts such as their partisan conduct as some are perceived to take sides to a dispute either due party affiliation (in the current multiparty dispensation or other personal reasons).
- (iii) The consultant is fully aware that the National Environment Bill, 2014 which provides for the Environmental Tribunal—another key pillar of the proposed FGRM—is still just in the formative stages of becoming legislation. Whether or not this important piece of legislation will soon be passed by parliament (and the Environmental Tribunal will be adopted), is not known.

#### 4.9 Linkages with other on-going REDD+ assessments

One of the key issues in the ToRs for this assignment was an undertaking by the consultant to link the FGRM study progress to other ongoing REDD+ assessments such as the National Forest Monitoring System, Benefit Sharing Arrangements, Environmental and Social Management Framework and the Standards for REDD+ Field Activities in Uganda. Throughout the assessment process, the consultants benefited from the networking and consultations with REDD+ partners. Specifically, this happened during the half day meeting held at the School of Forestry, Environmental Management and Geographical Sciences, Makerere University, Kampala; to--among other things--provide input into the preparation of the inception report for the Contract "*Preparation of Benefit Sharing Arrangements for Uganda's National REDD+ Programme*". During the networking process, the consultant was able to widen horizons on the scope of the assignment, create synergies with other ongoing consultative processes and establish more contacts with renowned researchers and policy makers in this field. There were also regular interactions

with the consultants of the other ongoing assessments during the process (through email, informal meetings and cellphone conversations) which greatly fed into the processes that informed the recommendations of this report.

#### **4.10 Action Plan for the operationalisation of the FGRM**

The operationalization of the FGRM will require implementation of several activities under four main phases (Table 4.1) – Phase I: Establish FGRM Secretariat; Phase II: Create conducive policy and legal environment; Phase III: Establish functional linkage with local governments; and Phase IV: Commence FGRM operations. It is proposed that these activities be implemented within a period of 24 months from the date of approval of this report.

##### *Phase I: Establish FGRM Secretariat*

1. Passing an administrative instrument containing directives for the establishment of the FGRM secretariat including size and number of staff.
2. Developing Terms of Reference for the staff of the FGRM secretariat.
3. Recruitment head of the FGRM secretariat.
4. Recruitment and hire of other staff of the FGRM secretariat.
5. Training secretariat staff on the FGRM including laws, regulations and procedures governing its operations.
6. Raising awareness of the FGRM existence and operations.

##### *Phase II: Create conducive policy and legal environment*

7. Commission a study to determine the changes required in the legal regime to facilitate the effective implementation of the FGRM.
8. Develop Cabinet principles for the amendment of the National Forestry and Tree Planting Act, 2003 and if necessary for the amendment of related laws or introduction of new laws other necessary laws.
9. Present principles to Cabinet for approval.
10. Draft any required amendments of existing laws or new laws necessary to creating a conducive legal environment for FGRM implementation.
11. Present the proposed legislative changes to Cabinet for approval.
12. Present the proposed legislative changes to Parliament.

##### *Phase III: Establish functional linkage with local governments*

13. Designate offices at the district level that will work with FGRM secretariat.
14. Train district officials on the operations of the FGRM including laws, regulations and procedures governing its operations.
15. Raise awareness of local government on the operations of the FGRM.

##### *Phase IV: Commence FGRM operations*

16. Develop handbook with policies and procedures for the FGRM.
17. Disseminate FGRM policies and procedures to the public.

18. Put in place measures for undertaking regular analysis of the frequency, patterns, and causes of grievances; strategies and processes used for grievance resolution.
19. Put in place procedures to ensure continuous dialogue and regular engagement with stakeholders to enable improvements in the design of the mechanism.
20. Enable the uptake of ICT tools by the FGRM.

Table 4.1 presents an action plan for the operationalization of the FGRM secretariat.

**Table 4.1: Action plan for the operationalization of the FGRM in Uganda**

No	Activity	Months Responsibility	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	
			<b>Phase I: Establish FGRM Secretariat</b>																								
1.	Passing an administrative instrument containing directives for the establishment of the FGRM secretariat including size and number of staff																										
2.	Develop Terms of Reference for the staff of the FGRM secretariat																										
3.	Recruit head of the FGRM secretariat																										
4.	Recruit and hire other staff of FGRM secretariat																										
5.	Train secretariat staff on the FGRM including laws, regulations and procedures governing its operations																										
6.	Raise awareness of the FGRM existence and operations																										
<b>Phase II: Create conducive policy and legal environment</b>																											
7.	Commission a study to determine the changes required in the legal regime to facilitate the effective implementation of the FGRM																										
8.	Develop Cabinet principles for the amendment of the National Forestry and Tree Planting Act, 2003 and if necessary for the amendment of related laws or introduction of new laws other necessary laws																										
9.	Present principles to Cabinet for approval																										
10.	Draft any required amendments of existing laws or new laws necessary to creating a conducive legal																										



## CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

### 5.0 Introduction

This chapter provides the conclusions and recommendations based on the study objectives and the ToRs/SoW of the study. The conclusions and recommendations cover the existing and potential conflicts; the mechanisms that detect, prevent and minimize the escalation of, and resolve conflicts and grievances; the policy, legal and institutional framework for managing grievances; the institutional capacity and the presence of an effective mechanism to receive feedback and handle conflict in a timely manner and at all levels; as well as capacity building on REDD+ readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM.

### 5.1 Conclusions

#### ***5.1.1 Identify existing and potential conflicts and grievances that could arise during REDD+ readiness activities and implementation of REDD+ Strategy***

The existing and potential conflicts and grievances that could arise during the REDD+ readiness activities and implementation of the REDD+ strategy include: conflict over the boundaries of forest reserves, conservation areas and national parks; conflict over the authenticity of some of the land titles; conflicts over revenue sharing; conflict over the selective application of the law by the authorities; conflict due wildlife/forest conservation, restricted exploitation of natural resources and the search for livelihoods for local communities; conflict over the type of trees to plant in the forest; conflict over land use; conflicts between local governments, NFA and communities; conflict over immigrants who exploit the forest resources; conflict over the use of chemicals to control weeds in forests; as well as conflict over deployment of forest patrol men outside the local communities.

The potential conflicts and grievances that could arise during the REDD+ readiness activities and implementation of the REDD+ strategy are: the poor relationship between government institutions and communities; conflict over CFM benefit/revenue sharing; as well as conflict over land/forest/tree tenure insecurity under CFM arrangements.

The major grievances related to REDD+ during the readiness phase, these include: grievances related to access to, and use of forest resources by forest adjacent/forest dependent communities; grievances related to land occupied by populations in distress, such as refugees, people displaced by disasters such as landslides, and groups of people evicted from public land, wetlands and conservation areas in some parts of the country; grievances related to the use of the forests, where some encroachers have attempted to acquire forest land titles fraudulently; grievances related to land use by individuals; grievances related to selling of forest products; grievances related to the unethical/unprofessional conduct by personnel working in the forestry sector; grievances related to the roles and mandates of local governments and central government over jurisdiction regarding forests and conservation areas within their districts; grievances related to the absence of sufficient personnel to effectively patrol and secure the protected forests; grievances related to the

community's lack of clear information regarding who has overall responsibility for the forests – is it NFA or the district local governments?; grievances related to the exercise and use of power and authority by some of the duty bearers, especially politicians and political leaders; as well as grievances related to the unclear boundaries of most forests and forest reserves, both central forest reserves, district forest reserves and private forests.

In conclusion, therefore, if the existing and potential conflicts and grievances identified are not addressed, they are likely to arise during the implementation of the REDD+ readiness activities and implementation of REDD+ Strategy. These conflicts are likely to significantly affect the implementation of the REDD+ strategy.

### ***5.1.2 Identify mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances***

A number of formal and informal mechanisms exist for detecting, preventing and minimizing the escalation of, and resolution of conflicts and grievances in virtually all forest dependent communities in Uganda. The formal mechanisms include; the Uganda police, LCs and local politicians, the offices of the President and RDCs, the judiciary, the CFM/CRM approaches and CSOs while informal mechanisms include; the traditional/cultural leaders, religious leaders, family clan systems and opinion leaders. Both the formal and informal mechanisms have varying levels of success in the mitigation of grievances and conflicts between forest dependent communities and forest/park agencies and are likely to be inadequate in resolving the anticipated conflicts in light of the implementation of the REDD+ strategy. Whereas the traditional/cultural leaders and opinion leaders still play an important role in mitigating conflicts among forest dependent communities, their influence and respect is declining especially among the youth. Lower level of LCs--LCI & LCII--are widely respected and easily accessible in all parts of the country, though they lack legal backing to perform their conflict resolution duties. The Office of the President and that of the RDCs remain inaccessible for the poor and vulnerable forest dependent communities and individuals. There were also numerous allegations of corruption and bias in the administration of justice by the police and the judiciary by the respondents and KIs interviewed for this assessment. Finally, there was no evidence obtained during the assessment that the existing formal and informal systems of conflict resolution in forest communities are playing a role in the detection and prevention of conflicts and grievances.

### ***5.1.3 Strengthen policy, legal and institutional framework for managing grievances and conflicts that can assist in handling / addressing stakeholder concerns and issues relevant to REDD+ implementation***

Existing gaps in the current policy and legal framework were identified. These include: the UNFCCC that is yet to be domesticated by Uganda (made part of national laws); the Paris Agreement, 2015 yet to be ratified by Uganda; and the ILO Convention 169 on Indigenous and Tribal Peoples, 1989 that is yet to be ratified by Uganda. Forestry Committees have never been established since the National Forestry and Tree Planting Act came into force; the Tree Fund has never been established more than 10 years after the National Forestry and Tree Planting Act came

into force; the National Forestry and Tree Planting Act does not assign any specific responsibility to local governments in the management of central forest reserves.

There is also lack of clarity on the legal ownership of carbon rights; CFM is restricted to only central or local forest reserve or part of it, leaving out other forest types such as community forests and private forests; Honorary Forestry Officers have never been appointed as provided by the National Forestry and Tree Planting Act, and yet they could play a role in championing the conservation of forest reserves, and assisting in the overall implementation of the Act; the initial duration of CFM is too short and discourages communities from entering into a CFM arrangement; Regulation 107 the Draft Forestry and Tree Planting Regulations, 2013 is restrictive in its definition of carbon sellers: NFA for central forest reserves; district council for local forest reserve; and the owner of the land in the case of private forests; leaving out other potential sellers of carbon, e.g. a licensee on a forest reserve.

There is lack of provisions on sharing of forest benefits (REDD+ benefits) in a CFM arrangement; district and local environment committees under the National Environment Act (Cap 153) are not fully operationalized and are under-resourced; the jurisdiction of the Environmental Tribunal under the Bill does not cover REDD+ related disputes ; and there are no legal provisions for the sharing of revenue generated from REDD+ projects between the central and local governments; the legal regime creates competing interests of ownership over the same piece of land; operations of Land Tribunals were suspended due to resource constraints; LC courts (I & II) are not validly constituted due to lack of elections since early 2000s.

There is lack of capacity to effectively handle REDD+ related disputes; there is inadequate enforcement of current policy and legal instruments; there is lack of awareness of REDD+ related policies and laws; there is lack of abridged versions of REDD+ related policies and laws; and REDD+ related policies and laws are not translated into local languages.

#### ***5.1.4 Strengthen institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels***

The proposed FGRM will strengthen the institutional capacity for addressing REDD+ related disputes in Uganda. However, the following challenges of the institutional framework need to be addressed to support the effective functioning of the proposed FGRM: potential conflict over management of climate finance (including REDD+ funds) by different government agencies; conflicting institutional mandates in REDD+ implementation; under-resourced lead government institutions; and political interference in lead government institutions.

#### ***5.1.5 Carry out capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM***

In line with ToRs for this assessment, the consultant held a PSW in the Mount Elgon National Park during which forest dependent communities and other stakeholders were equipped with conflict resolution skills by the research team. In addition, various categories of stakeholders were also exposed to varying conflict management strategies (such as their roles and rights)

during the interface with them as the research team conducted FGDs and personal interviews. However, it was observed by the consultant during the assessment exercise that the continuous capacity building needs to be done for all stakeholders to empower them with conflict resolution strategies ahead of the implementation of the proposed FGRM and REDD+ strategy (see recommendations section).

***5.1.6 Establish an easily accessible and well publicized mechanism to receive feedback and handle grievances in an as credible, timely manner***

The assessment has proposed an easily accessible and well publicized mechanism to receive feedback and handle grievances in a credible, timely manner. The proposed FGRM has been designed following an in depth analysis of the existing formal and informal grievance redress systems in Uganda. The proposed FGRM is a hybrid of the formal and informal grievance redress mechanisms. At the very foundation of the FGRM is the Collaborative Forest Management (CFM) arrangement, followed by the Local Council system (including the Local Council Courts), and the Environmental Tribunal at the very top of the structure. CFM has the ability to enable early detection and management of grievances and conflicts. Where CFM is implemented, there is early detection and resolution of potential grievances and conflicts as compared to areas where CFM is not practiced which are riddled with grievances and conflicts.

The Local Council system (including the Local Council Courts) enjoy wide support and legitimacy throughout Uganda, and is used by most people especially at the community level to resolve grievances and conflicts. Though the government had failed to conduct elections at Local Council I & II –the Local Council system, together with CFM and the Environmental Tribunal, is the best option available for the resolution of potential REDD+ conflicts and grievances. Despite monetary restrictions placed upon LC courts by the law, it is noted that a huge number of conflicts especially those affecting the ordinary person at the community level within the monetary limit of the Local Council Courts will be resolved. Therefore, notwithstanding the monetary limitations, the Local Council Courts still play a significant role in the resolution of REDD+ grievances and conflicts especially at the community level. Where Local Council Courts cannot handle disputes due to monetary restrictions, they can be lodged with other appropriate bodies including the LC executive committees as well as other structures within the recommended FGRM. Grievances and conflicts that cannot be resolved at the lower levels of the FGRM will be addressed by the Environmental Tribunal.

The FGRM is designed in such a way that parties can at any time seek to use the formal judicial system if they are dissatisfied with the manner in which their grievances are handled.

The FGRM is proposed with the knowledge that the institutional arrangement of the different stakeholders in that will play a major role in the implementation of the FGRM strategy have strengths, weakness, opportunities and threats inherent in their structures. These elements, especially those considered to be weaknesses and threats, will have to be dealt with if the FGRM is to work efficiently and effectively.

## 5.2 Recommendations

### ***5.2.1 Identify existing and potential conflicts and grievances that could arise during REDD+ readiness activities and implementation of REDD+ Strategy***

The key recommendations under this objective include:

- (i) There is need for government to urgently address the boundary issues in all types of forests because this is one of the main drivers of conflicts;
- (ii) There is need for the government jointly involve the forest adjacent and forest dependent communities in the demarcation of forest boundaries in their communities to forestall conflicts and grievances related to boundaries;
- (iii) Government need to proactively deal with the widely perception/view by the community members that government officials/personnel managing forest resources are engaged in unethical and unprofessional conduct;
- (iv) Government need s to hire adequate personnel and provide them with adequate equipment and logistical support to enable them to effectively supervise and manage the forestry sector;
- (v) There is need for provision of opportunities to forest adjacent and forest dependent communities to balance their livelihood interests and conservation through more elaborate collaboration with responsible government agencies and reasonable access to forest resources;

### ***5.2.2 Identify mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances***

The key recommendations under this objective include:

- (i) The executive arm of government needs to respond to the widespread calls to legitimize the LC structures at the lower levels (LCI and LCII) by holding elections for the respective positions to enable them adjudicate in forest conflicts without any legal challenges to the decisions they make;
- (ii) The FGRM Secretariat should implement and monitor the FGRM process to ensure timely and effective response to forestry grievances and conflicts;
- (iii) The FGRM Secretariat also needs to implement key capacity building programmes such as training and sensitization for the formal and informal mechanisms involved in the proposed mechanism to enable them play a meaningful role in the detection, prevention and resolution of conflicts among forest stakeholders.

### ***5.2.3 Strengthen policy, legal and institutional framework for managing grievances and conflicts that can assist in handling / addressing stakeholder concerns and issues relevant to REDD+ implementation***

The key recommendations under this objective include:

- (i) There is need for government to take steps for domesticating the UNFCCC into its national policies and laws;
- (ii) Government needs to take steps to ratify the Paris Agreement, 2015 and the ILO Convention 169 on Indigenous and Tribal Peoples, 1989;
- (iii) There is need for government to establish Forestry Committees as provided for in the *National Forestry and Tree Planting Act, 2003* so as to enhance sustainable forestry management;
- (iv) Government should establish the Tree Fund as provided for in the *National Forestry and Tree Planting Act, 2003* to enhance sustainable forestry management;
- (v) Government should consider revising the *National Forestry and Tree Planting Act, 2003* to provide for the role of local governments in the management of central forest reserves (responsibility should be shared between LGs and NFA) in line with the recommendations of the *Uganda Forestry Policy, 2001*;
- (vi) *Government should consider revising the exiting legal framework to introduce specific legal provisions that define carbon rights; and provide elaborate procedures for their registration;*
- (vii) There is need for government to amend the *National Forestry and Tree Planting Act, 2003* so as to provide for the application of CFM in all forest types as opposed to the current legal position where CFM is only applicable to only central and local forest reserves
- (viii) Government should consider appointing Honorary Forestry Officers in areas with major forest reserves to act as the ‘eyes’ and ‘ears’ of NFA on the ground, champion conservation of forest reserves, and assist in the overall implementation of the *National Forestry and Tree Planting Act, 2003*;
- (ix) Government should consider revising the *Draft National Forestry and Tree Planting Regulations, 2013* to increase initial CFM duration from 5 to 10 years;
- (x) Government should consider revising the *Draft National Forestry and Tree Planting Regulations, 2013* to remove ambiguities in the definition of carbon sellers;
- (xi) Guidelines for the sharing of forest benefit (REDD+ benefits) in a CFM arrangement need to be put in place so as to protect the rights of communities and mitigate potential conflicts and grievances;
- (xii) Government should fully operationalize and provide adequate resources to district and local environment committees to enhance sustainable forestry management;
- (xiii) Government should consider revising the *National Environment Bill, 2014* to expand jurisdiction of the Environmental Tribunal to cover REDD+ related disputes;

- (xiv) Government should consider incorporating legal provisions in the existing legal framework for the sharing of revenue generated from REDD+ projects between the central and local governments;
- (xv) Government should consider amending the *Land Act (Cap 227)* and other relevant laws so as to provide clarity to the nature of property rights, and eliminate ambiguities over land ownership;
- (xvi) Government should revive operations of Land Tribunals;
- (xvii) Government should provide capacity building and adequate resources to enable LC courts handle some of the REDD+ related disputes;
- (xviii) In consultation with NEMA, NFA should enforce and implement the Environmental Impact Assessments (EIAs) carried out by private tree planters in central forest reserves in accordance with *Section 38* of the *National Forestry and Tree Planting Act, 2003* to avoid the use of dangerous chemicals and mitigate the risks of other environmental hazards associated with the activities of private tree growing;
- (xix) Even without consideration of the proposed legal reform, government should consider strict implementation of the existing legislation in the forestry and related sectors to curb deforestation and forest degradation. In short, the existing laws should really ‘bite’. And quite hard;
- (xx) Government should undertake sensitization and awareness of REDD+ related policies and laws;
- (xxi) Government should create the necessary legal framework for the implementation of the proposed FGRM;
- (xxii) Government should avail abridged versions of REDD+ related policies and laws stakeholders; and
- (xxiii) Government should translate REDD+ related policies and laws into local languages.

***5.2.4 Strengthen institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels***

The key recommendations under this objective include:

- (i) Government, civil society and the private sector should build Uganda’s institutional capacity for the management of climate finance including REDD+ funds with a view of avoiding potential REDD+ conflicts and grievances when REDD+ finance begins to flow into the country;
- (ii) Government should take steps to improve coordination of lead agencies to avoid institutional conflicts undermining the integrity of REDD+ implementation;
- (iii) Government, civil society and the private sector should put in place a well-designed climate finance delivery mechanism to ensure that financial resources are deployed to sectors that are most critical to the sustainable management of forests;
- (iv) Government should undertake institutional reforms with a view of insulating such institutions against political interference;

- (v) NFA should become more responsive to community grievances over its operations such as the conduct of its staff and the enforcement of the provisions in the licences given to private tree planters;
- (vi) Government and development partners should increase funding to build the technical and human resource capacity of the formal structures involved in resolving forest conflicts such as the judiciary, environmental police and offices of the RDCs;
- (vii) NFA and UWA need to streamline the operations of their Public Relations Office (PRO) departments to connect with the wider public especially in the central forest reserves and national game parks as a means of mitigating potential conflicts and grievances;
- (viii) NFA and UWA need to devise alternative sources of livelihood for the forest dependent communities to reduce on the need for them to rely on only forest resources for their basic needs such as food, medicine and income;
- (ix) NFA should conduct regular assessments of the CFMs in various central forest reserves to review their operations and address grievances and conflicts related to benefit sharing and failure to fulfill obligations under such agreements by any of the parties involved;
- (x) Government and civil society need to intensify sensitization programmes for communities to encourage tree planting for sustainable development;
- (xi) Government and civil society need to intensify sensitization programmes for communities to encourage tree planting for sustainable development;
- (xii) Government should increase the numbers of NFA staff to ensure effective implementation and monitoring of central forest reserves. This should also include improved remuneration of such staff to promote service delivery and reduce the chances of succumbing to abuse of office and unethical behavior; and
- (xiii) NFA should strive to regularly monitor and evaluate the performance of their personnel in order to effectively and efficiently manage the central forest reserves. These include; the sector managers, field supervisors and patrol men.

### ***5.2.5 Carry out capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM***

The key recommendations under this objective are:

- (i) The OPM should coordinate efforts to recruit FGRM secretariat staff and build their capacity to implement the FGRM through training and facilitation of their activities
- (ii) The FGRM Secretariat should design a continuous strategy of building the capacity of all stakeholders in the forest sector on its operations and the overall activities aimed to detect, prevent and resolve conflicts.

### ***5.2.6 Establish an easily accessible and well publicized mechanism to receive feedback and handle grievances in an as credible, timely manner***

*Recommendations under this sub-section include the following:*

- (a) Government should establish an FGRM secretariat in the Office of the Prime Minister. Given that the FGRM comprises various organs established under different laws, the principal function of the FGRM secretariat will be coordination. The study recommends that the FGRM secretariat be operationalized within a period of 24 months from the date of approval of this report.
- (b) Government should establish and facilitate the operationalization of the Collaborative Forest Management (CFM) arrangement in all communities depending on all categories of forest reserves. Essentially, CFM is the cornerstone of the proposed FGRM and its implementation requires adequate sensitization of the stakeholders on the operations of the management approach;
- (c) Government, through NFA and other stakeholders should be more pro-active in providing support to forest dependent communities who wish to implement the CFM arrangement by increasing the budgetary allocation of the CFM desk at NFA to enhance the capacity of the communities in implementing CFM;
- (d) Government should identify, recruit and facilitate selected eminent ‘Honorary Forestry Officers’ within all communities depending on forests to champion the detection, prevention and management of grievances and conflicts in forest reserves. These ‘Honorary Forestry Officers’ should be motivated to monitor and report any simmering grievances and conflicts in forest reserves to the varying structures specified in the proposed FGRM through the provision of modest incentives such as cell phones and airtime to enable them send SMS messages and make calls whenever necessary. Such ‘Honorary Forestry Officers’ can also be motivated to work by inviting them to attend the annual Multi-stakeholder Forest Forum at which they can be formally recognized and honoured for their role in grievance and conflict prevention, resolution and transformation. The ‘Honorary Forestry Officers’ will work with forest committees where they exist and when they become operational.

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## LIST OF ANNEXES

### Annex 1: Data collection procedures

***Procedure for conducting FGDs:*** The FGDs were conducted in line with the following major steps:

- a) Developing an appropriate FGD guide;
- b) Pre-testing the FGD guide (as explained later in this chapter);
- c) Identifying and mobilising the relevant FGD participants (men, women, PWDs, minorities, etc.), in line with standard guidelines for organizing and conducting FGDs. This was always done with the help of appropriate local contacts in the field case study sites (districts);
- d) Conducting the FGDs at appropriate venues at the field study sites with the assistance of trained and competent research assistants with a very strong understanding of local culture, language and environment.

***Procedure for conducting KIIs:*** In order to obtain the outcomes and outputs spelt out in the ToRs for this assignment, the KIIs were conducted as follows:

- a. developing an appropriate KII guide;
- b. pre-testing the KII guide (as explained later in this chapter);
- c. mobilizing and making appointments with the selected KIs;
- d. conducting the KIIs and ensuring that all assignment tasks are addressed comprehensively and appropriately;
- e. meeting the KIs at appropriate venues to them—mostly in their offices.

Like the FGDs, KIIs covered the whole cycle of tasks spelt out in the ToRs for the assignment, particularly:

- a. identifying existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ Strategy/ activities' implementation;
- b. identifying mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances;

- c. strengthening policy, legal and institutional framework for managing grievances and Conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation;
- d. strengthening national institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels.
- e. Capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM.

***Procedure for conducting forest stakeholder mapping:*** In line with the ToRs of the assignment, forest stakeholder mapping (FSM) was also used to provide insights into the roles, responsibilities and status of the various stakeholders in the overall management and utilization of resources in the forest reserves. As for the above data collection methods, the engagement with forest stakeholders during the social mapping and trend analysis procedures cover the whole cycle of tasks, particularly:

- a. Identifying existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ Strategy/ activities' implementation;
- b. Identifying mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances;
- c. Strengthening policy, legal and institutional framework for managing grievances and Conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation;
- d. Strengthening institutional national capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels.
- e. Capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM.

***Procedure for conducting stakeholder social mapping:*** In order to obtain the outcomes and outputs desired and envisaged in the ToRs for this assignment, the forest stakeholders mapping was conducted in line with the following major steps:

- a. developing an appropriate stakeholder mapping tool;

Further, the problem solving workshop helped the consultant to concretize the conceptualization of the various FGRMs. Specifically, the engagement with participants in the problem solving workshop covered the whole cycle of tasks, particularly:

- a. identifying existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ Strategy/ activities' implementation;
- b. identifying mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances;
- c. strengthening policy, legal and institutional framework for managing grievances and Conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation;
- d. strengthening institutional national capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels.
- e. Capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM.

#### ***Procedure for conducting the problem solving workshop***

In order to obtain the outcomes and outputs desired and envisaged in the ToRs for this assignment, the problems solving workshop was conducted in line with the following steps:

- a. the consultant developed an appropriate methodology for the workshop;
- b. the consultant developed an agenda for the workshop;
- c. the consultant drew participants from the park stakeholders and other stakeholders;
- d. in order to ensure maximum participation in the workshop by the participants, the consultant used participatory and inclusive facilitation methodology;
- e. the consultant also ensured that the major categories of forest stakeholders identified are included in the FGDs (see section 2.3.3).

## Annex 2: Methodology matrix

Overall objectives of the assessment	Specific objectives	Data collection methods used	Data analysis techniques
Objective 1: To undertake an assessment of existing national institutional capacity for feedback and grievance redress	f) To identify existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ Strategy/ activities' implementation;	<ul style="list-style-type: none"> <li>• Face-to-face interviews</li> <li>• FGDs</li> <li>• KIIs</li> <li>• Literature review</li> <li>• Trend analysis</li> <li>• Social mapping</li> </ul>	<ul style="list-style-type: none"> <li>• Narrative and content analysis</li> <li>•</li> </ul>
	g) To identify mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances;	<ul style="list-style-type: none"> <li>• Face-to-face interviews</li> <li>• FGDs</li> <li>• GRM Evaluation Tool/Conflict Analysis Framework</li> </ul>	<ul style="list-style-type: none"> <li>• As above</li> </ul>
	h) Strengthen policy, legal and institutional framework for managing grievances and conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation;	<ul style="list-style-type: none"> <li>• Literature review</li> <li>• KIIs</li> </ul>	<ul style="list-style-type: none"> <li>• As above</li> <li>•</li> </ul>
	i) Strengthen institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels; and	<ul style="list-style-type: none"> <li>• FGDs</li> <li>• KIIs</li> </ul>	<ul style="list-style-type: none"> <li>• As above</li> </ul>
	j) Capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM.	<ul style="list-style-type: none"> <li>• Problem solving workshop</li> </ul>	<ul style="list-style-type: none"> <li>-</li> </ul>
	Objective 2: To establish an easily accessible and well publicized mechanism to receive feedback and handle grievance	a) To establish an FGRM including an elaboration of the principles, structure and functions of the mechanism, and an action plan for the operationalization of the mechanism.	<ul style="list-style-type: none"> <li>• FGDs</li> <li>• Literature review</li> </ul>

**TERMS OF REFERENCE FOR STRENGTHENING NATIONAL  
FEEDBACK AND GRIEVANCE REDRESS MECHANISM FOR  
UGANDA’S REDD+ PROGRAMME**

**REFERENCE NO: MWE/SRVCS/14-15/00018**

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Strengthening National Feedback and Grievance Redress Mechanism for REDD+ for Uganda’s REDD+ Programme

**1.0 Introduction**

Uganda embarked on R-PP preparation phase in March 2010. The undertaking involved an analysis and description of the actions necessary to get Uganda ready for REDD+. In March 2011, the draft R-PP was presented for comments to the FCPF Participants’ Committee (PC) and the Technical Advisory Panel (TAP). The final R-PP was approved during the ninth Participants’ Committee meeting in Oslo on June 22, 2011 with comments. Uganda submitted an acceptable and updated R-PP in May 2012. The Readiness Preparation Grant Agreement was signed on July 10, 2013 between the Government of Uganda represented by the Minister of Finance, Planning and Economic Development and the International Bank for Reconstruction and Development (acting as a trustee of the Readiness Fund of the Forest Carbon Partnership Facility).

Uganda is preparing itself for a future REDD+ mechanism, which has the potential to generate financial flows to reward countries for improved management of its forest resources, and could thus ultimately contribute to the country’s sustainable development. Being “ready” for REDD+ will require increased capacity to develop and coordinate land use policies with the view of mitigating future impacts on forest cover, while ensuring that benefits from forests flow to those communities dependent on these resources and to stakeholders taking actions to address deforestation and forest degradation. The REDD+ Readiness process should ensure that implementation of proposed programs and activities will not cause adverse social and environmental impacts, while striving to enhance benefits for local communities and the environment.

The Forest Carbon Partnership Facility (FCPF) (with the World Bank as its delivery partner) is supporting Uganda in its national efforts towards “REDD+ Readiness”. The objective of the Uganda Readiness Preparation Program is to prepare Uganda to engage in and benefit from the potentially emerging performance-based system from Reducing Emissions from Deforestation and Forest Degradation (REDD+) within the context of the international climate negotiations of the UN Framework Convention on Climate Change.

Such a performance-based payment system (reduction of emission) are based on environmentally and socially sound policies and programs to reduce deforestation and forest degradation, a credible and marketable reference level (forest carbon emission “baseline” scenario) and technically robust systems of forest monitoring and emissions reporting. The Program will also develop forest policy and management systems, information and data, participatory methods and

other human and institutional capacity of direct use in management and development of forests in Uganda for national poverty reduction, economic development and environmental purposes.

## **2.0 Project Objectives**

The Over-all Development Objective for the FCPF/WB support is to contribute to the design of a socially and environmentally viable national strategy for reducing emissions from deforestation and forest degradation and a national/sub national reference scenario of emissions from deforestation and forest degradation that takes into account the national circumstances and the emerging guidance from the global climate change convention. The introduction of REDD+ in Uganda is likely to have a significant impact on the dynamics of conflicts over forest resources, and on sharing cost and benefits of REDD+.

## **3.0 Project components**

The Readiness Preparation Activities consist of the following parts:

### **Part 1: Coordination and Monitoring of REDD+ Readiness Process**

Strengthening coordination and management of the REDD+ process at the national level, through:

- 1.1 Implementing the National Readiness Management Arrangement Activities including strengthening the capacities of all relevant institutions through the provision of technical advisory services, goods, works, workshops and training and operating costs.
- 1.2 Designing and implementing a monitoring and evaluation framework for overall reporting on the progress of implementation of REDD+ readiness activities, including, among others, the carrying out of an independent assessment of progress at mid-term and at the end of the activities financed by the Grant.

### **Part 2: Stakeholder Engagement and Feedback in Readiness Process**

Strengthening stakeholder engagement with a view to informing REDD+ readiness, through:

- a. Strengthening participatory structures at the local and national level, with a view to enhancing stakeholder engagement in REDD, including, among others, community based forest associations, religious institutions, women and youth associations and national association of tree growers, all through provision of technical advisory services, goods, workshops and training and operating costs.
- b. Developing and disseminating communication materials and tools pertaining to the Readiness Preparation Activities, including, among others, creation of a national REDD+ website to be hosted by the Ministry of Water and Environment, use of public media such as TV and radio, development of

policy briefs, newsletters, and brochures in local languages, and the use of pictorials, and other social networks at the local levels.

- c. Strengthening national feedback and grievance redress mechanisms for REDD+ including, among others, a comprehensive review of the capacities of relevant institutions and customary mechanisms for handling grievances.

### **Part 3: REDD+ Strategy and Strategic Environmental and Social and Assessment**

3.1 Carrying out of a comprehensive strategic environmental and social and assessment (“SESA”) with a view to evaluating, inter alia: (a) REDD+ strategy, in particular, how said strategy addresses environmental and social priorities associated with current patterns of land use and forest management, to identify gaps and make recommendations for improvement; and (b) environmental and social impacts of implementing REDD+ activities under the REDD+ strategy (to be developed under this Part) and preparing an appropriate environmental and social management framework, through provision of technical advisory services, goods, workshops and training and operating costs for that purpose.

3.2 Developing an appropriate REDD+ strategy (said strategy informed by SESA considerations pursuant to Part 3.1 immediately above).

### **Part 4: REDD+ Implementation Framework**

Designing REDD+ implementation framework, in particular:

4.1 Carrying out of a comprehensive review and assessment of existing benefit sharing arrangements in country and within the region for use under REDD+ , including, analyses of carbon rights, and making appropriate recommendations for improving said benefit sharing arrangements.

4.2 Preparation of national guidelines and standards (including, eligibility criteria) for design and implementation of REDD+ demonstration activities or pilots drawing upon national and regional experience.

4.3 Carrying out of a comprehensive review of ongoing REDD+ efforts and demonstration activities or pilots.

### **Part 5: National Reference Scenario and Inventory of Forest Resources**

Establishment of a reference scenario for emissions from deforestation and/or forest degradation by designing an appropriate methodology, reviewing national circumstances, preparing an inventory of forests, mapping forest cover, spatial modeling, calculating carbon emissions and establishing the reference level, all through the provision of technical advisory services, goods, workshops and training, and operating costs.

#### **4.0 Objectives of the Consultancy**

The main objective of this assignment is to build upon the framework assessment already undertaken by the Government of Uganda during the formulation phase to develop a feedback and grievance redress mechanism and make it available to REDD+ stakeholders.

Specifically;

4.1 To undertake an assessment of existing national institutional capacity for feedback and grievance redress; so as

- f) To identify existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ Strategy/ activities' implementation;
- g) To identify mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances;
- h) Strengthen policy, legal and institutional framework for managing grievances and Conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation;
- i) Strengthen institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels.
- j) Capacity building on REDD+ Readiness and FCPF for key stakeholders and personnel on the presence of a clear FGRM.

4.2 To establish an easily accessible and well publicized mechanism to receive feedback and handle grievances in an as credible, timely manner.

#### **5.0 Detailed Scope and Tasks of the assignment**

The scope of services in this Consultancy shall comprise:-

##### **A. Consistence with Uganda's Context of National Feedback and Grievance Redress Mechanism for REDD+ for Uganda's REDD+ program**

In the carrying out of the assignment, the consultant(s) will fully understand, and build upon the elements contained in Uganda's Consultation and Participation (C&P) Plan, which includes a communication, and awareness plan as well as feedback grievance and redress plan. The feedback grievance and redress component of the C&P Plan identifies several natural resources management based conflicts resolution and grievance management systems that are practiced in Uganda. They include, but are not limited to the following:

- a) Legal and Policy provisions for environment management, forestry, wildlife and wetlands that provide to stakeholder participation in planning and management of these resources; e.g., Collaborative Resources management (under UWA and NFA) or Community-Protected Areas Institutions (under UWA), Guidelines for management planning for Central Forest Reserves (under NFA), among others;
- b) Policy and legal provisions for regulating access and use of resources from protected areas e.g., Guidelines for Concessions in Wildlife Protected Areas, and Permit systems under NFA;

- c) Policy and legal provisions for benefits sharing between protected areas agencies and stakeholders/communities e.g., the 20% benefit sharing under Uganda Wildlife Authority;
- d) Land Tribunals established under the Land Act to arbitrate land disputes and conflicts;
- e) Judicial system that provides for individuals or communities/stakeholders to seek legal redress where their rights and entitlements to environmental quality, goods and services are affected;

The consultant(s) will also understand that Uganda aims to put in place an effective and efficient feedback grievance and redress mechanism to help manage and resolve conflict as they arise. These systems are expected to be put in place both at national, district and lower levels to enable easy accessibility and usage of these structures. Whereas Uganda has conducted a preliminary assessment to scoping out the various grievance structures that exist in the country including the purpose and usage of those structures, and has undertaken preliminary assessment for the local level institutions such as traditional and customary structures, religious structures, and community based structures, the consultant(s) are expected to conduct detailed analysis of the various structures, identifying gaps and resources (human, administrative, financial technical capacity, etc.) needed for the effective functioning of these structures. Broadly, consultant(s) will be expected to conduct detailed analysis of the dynamics of conflicts or grievances at different level and scales encompassing but not limited to conflicts or grievances at:

- a) *Field level:* existing conflicts and grievances relate to control, use and access to forest resources within protected areas. It is probable that conflicts or grievances relating to ownership of carbon credits, tenure of trees, benefit sharing and participation in REDD+ activities may arise;
- b) *Institutional level:* conflicts or grievances relate to participation and sharing of roles and tasks in readiness phase among government Agencies and between government agencies and Civil Society organizations and Private Sector. Institutional level conflicts arise due to need to control or acknowledge access, use and interpretation of data and information held by various institutions or whose interpretation infringes on the credibility of some institutions;
- c) *Policy level:* policy and legal related conflicts arise because of policy/legal gaps related to key REDD+ issues such as tenure and ownership of Carbon in Protected Areas, licensing Carbon Trade, Funds channelling, among others.

## **B Institutionalisation of the National Feedback and Grievance Redress Mechanism for Uganda's REDD+ Programme**

In consultation with the Uganda's REDD+ National Technical Committee and especially the with a linkage with Taskforces for SESA and C&P, the consultant(s) will support Uganda to institutionalise the Feedback and Grievance Redress Mechanism for REDD+; and to that end will assist the country to, among other things:

- a) Elaborate a simple and clear structure of FGRM for Uganda at all levels which is either linked, complimentary or comparable with equivalent FGRMs in ENR sector as well as in other sectors;

- b) Propose options for formalisation (read institutionalisation) of clear, formal, and transparent internal mechanisms (e.g. a grievance redress unit, grievance redress committees, designated grievance redress officers) and rules for addressing grievances, in the Uganda REDD+ program;
- c) Assess the capacity and propose options for addressing them (e.g. through targeted capacity building) with a view to have an informed and updated officials responsible for grievance redress with authority to take or demand remedial action;
- d) Propose options that will make it possible to have a well-publicized FGRM process where stakeholders and project affected people feel that they can lodge grievances without fear of retaliation;
- e) Propose options for instituting internal processes in place to record, track, and monitor the grievances and the action taken on them;
- f) Propose options for a process for a timely feedback (written or otherwise) to the petitioner on actions taken;
- g) Propose options for an appeals process in place that FGRM users can access if they are not satisfied with how their grievance has been resolved;

## **B Expectations Uganda has for its National Feedback and Grievance Redress Mechanism for Uganda's REDD+ Programme**

In the carrying out of the assignment, the consultant(s) will fully understand, and propose options for:

- a) Ensuring that all factors that could arise during the implementation of REDD+ in Uganda are pointed out and remedies are identified;
- b) Putting in place and enforcing measures for detecting, predicting and preventing emergence or minimizing escalation of conflicts and grievances;
- c) Building capacity and systems for conflicts resolution and grievances management, including options for strengthening the application of existing conflict resolutions and grievances management systems;
- d) Safeguarding REDD+ investments;
- e) Establishing a multi-stakeholder neutral or independent conflict resolution mechanism.

## **C Key Issues in the design of an effective and legitimate FGRMs**

In assessing the potential of the proposed three-tier FGRM to resolve disputes, it is useful for the consultant(s) to note the primary characteristics of effective and legitimate FGRMs, as laid out in the Joint World Bank-UNDP Guidance Note on Grievance Resolution Mechanisms (World Bank-UNDP 2013, 2-3)<sup>139</sup>. That guidance highlights the following key characteristics of effective GRMs:

- **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes.
- **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access.

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[https://www.forestcarbonpartnership.org/sites/fcp/files/2013/May2013/Joint%20Guidance%20Note\\_GRM\\_Draft\\_for%20printing.pdf](https://www.forestcarbonpartnership.org/sites/fcp/files/2013/May2013/Joint%20Guidance%20Note_GRM_Draft_for%20printing.pdf)

- **Predictable:** providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation.
- **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.
- **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake.
- **Rights compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights.
- **Enabling continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.
- **Based on engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

#### **D. Specific Tasks of the Assignment**

In the carrying out of the assignment, the consultant(s) shall extensively cover all aspects of the scope of works mentioned above in while undertaking the following specific tasks of the assignment:

- a) Undertake deep analytical & assessment of all the aspects raised in the objectives, scope of the assignment; including
  - i. Review and analysis of the historical and current context for grievances in the forest sector, leading to clear characterization of current grievance patterns and their trends;
  - ii. Assessment of the strengths and gaps (e.g. availability, credibility, capabilities) of *local and national institutions* to address the issues that are at the heart of REDD+-related grievances)
- b) Undertaking a risk analysis of concerned stakeholders grievances;
- c) Elaborating (i.e. explanation and guidance) on procedures for grievance redress & proposing “typical steps in a grievance resolution process” showing at the minimum, how to:
  - i. How to receive and register grievance;
  - ii. Acknowledge, Assess, Assign (Acknowledging receipt, Assessing eligibility for the GRM, and Assigning organizational responsibility);
  - iii. Develop a proposed response;
  - iv. Communicate proposed response to complainant and seek agreement on the response;
  - v. Implement the response to resolve the grievance
  - vi. Review the response if unsuccessful
  - vii. Close out or refer the grievance
- d) Making proposals on possible elements & options for grievance redress mechanisms (GRM) during Readiness and those required during Implementation of the national REDD+ Programme that includes areas and proposals for continuous improvement; including but not limited to options for:
  - i. Addressing complaints relating to Readiness preparation activities;

- ii. Anticipating and getting ready for disputes/complaints during Implementation;
  - iii. Effective capacity development required by Uganda to be able to establish and strengthen national FGRMs; and possible elements of a joint plan for building on strengths and closing gaps
- e) Establish the Linkage with the work of Strategy options, SESA, Benefit Sharing and Participatory Structures & Communication and other aspects of the process

## **6.0 Reporting requirements Specific reports and Time Schedules**

The Consultancy for Strengthening National Feedback and Grievance Redress Mechanism for REDD+ for Uganda's REDD+ Programme in Uganda will be undertaken in Six (06) calendar months.

In order to accomplish the assignment, it is the responsibility of the Consultant to establish a detailed work program within the above time frame, taking into consideration the estimated man-month requirements. This should be guided by his professional judgment of the assignment's requirements and knowledge of the local conditions and needs. The consultant shall deliver outputs described below and shall submit them in written (in English) and electronic copies at each stage for review and / or approval in accordance with the schedule of reporting indicated below:

#### Annex 4: the Consultant's reporting schedule

ITEM	REPORT/DOCUMENT TITLE	TIMING AFTER COMMENCEMENT	CONTENT	NO. OF COPIES
A.1	Work plan:	1 week	<p>This work plan shall be inclusive of a:</p> <ul style="list-style-type: none"> <li>a) Technical Note demonstrating understanding of the Ugandan context of National Feedback and Grievance Redress Mechanism for REDD+;</li> <li>b) An outline of proposed approach/methods</li> <li>c) List of outputs and schedule for their delivery;</li> <li>d) Schematic plan for the process that is in line with C&amp;P plan where National Feedback and Grievance Redress Mechanism for REDD+ is part thereof;</li> <li>e) List of available tools for the FRGM work and context under which they are applicable</li> </ul>	6 to the FSSD
A.2	Draft Inception report:	3 weeks	<p>This report shall outline the consultant's</p> <ul style="list-style-type: none"> <li>a) Detailed review of national &amp; other contexts including good practices of National Feedback and Grievance Redress Mechanism for REDD+</li> <li>b) Detailed proposals of the approach(es) to the assignment and methods for each or category of tasks;</li> <li>c) Description of outputs and schedule for delivery for each of them;</li> <li>d) Detailed plan for the process that is in line with or exceeds what is envisaged in the C&amp;P plan where National Feedback and Grievance Redress Mechanism for REDD+ is part thereof;</li> <li>e) Description of available tools for the FRGM work and context under which they are to be applied;</li> <li>f) Description of the Strategy for undertaking the assignment including for coordinating with other REDD+ Deliverables for which FRGM is expected to inform or be informed by;</li> <li>g) Preliminary ideas and Methodology on how to undertake an assessment of existing national institutional capacity for feedback and grievance redress; and Strengthen policy, legal and institutional framework for managing grievances and Conflicts that may inhibit R-PP implementation;</li> <li>a) Timetable including a Consultation and Participation process for the whole assignment.</li> </ul>	6 to the FSSD
A.3	Final Inception report:	4 weeks	<p>The consultant shall submit an inception report within 1 week after approval of the draft report. This final inception report shall contain the following content:</p> <ul style="list-style-type: none"> <li>a) All the content agreed upon in the draft inception report but revised to reflect the comments of the employer, National Technical Committee, Taskforce representatives and and/or other stakeholders</li> <li>b) Comments matrix indicating how the comments of the employer, National Technical Committee, Taskforce representatives, the World Bank (and the FCPF's FMT) and and/or other stakeholders were reflected;</li> </ul>	6 to the FSSD

ITEM	REPORT/DOCUMENT TITLE	TIMING AFTER COMMENCEMENT	CONTENT	NO. OF COPIES
A.4	Draft Report	16-weeks	<p>The consultant shall submit a draft report after extensively covering all aspects of the scope of works. The draft report shall contain the following:</p> <ul style="list-style-type: none"> <li>a) Draft analytical &amp; assessment report (partly based on assessment of existing GRMs) of all the aspects raised in the objectives, scope and tasks of the assignment; as well as those based on the <ul style="list-style-type: none"> <li>i. Review and analysis of the historical and current context for grievances in the forest sector, allowing for characterization of current grievance patterns and their trends;</li> <li>ii. Assessment of the strengths and gaps (e.g. availability, credibility, capabilities) of <i>local and national institutions</i> to address the issues that are at the heart of REDD+-related grievances)</li> </ul> </li> <li>b) Initial risk analysis table with list of concerned stakeholders and approach for receiving and handling their grievances;</li> <li>c) Initial elaboration (i.e. explanation and guidance) shall contain initial ideas on procedures for grievance redress &amp; “typical steps in a grievance resolution process” showing at the minimum, how to: <ul style="list-style-type: none"> <li>i. How to receive and register grievance;</li> <li>ii. Acknowledge, Assess, Assign (Acknowledging receipt, Assessing eligibility for the GRM, and Assigning organizational responsibility);</li> <li>iii. Develop a proposed response;</li> <li>iv. Communicate proposed response to complainant and seek agreement on the response;</li> <li>v. Implement the response to resolve the grievance</li> <li>vi. Review the response if unsuccessful</li> <li>vii. Close out or refer the grievance</li> </ul> </li> <li>d) Initial proposals on possible elements &amp; options for grievance redress mechanisms (GRM) during Readiness and those required during Implementation of the national REDD+ Programme that includes areas and proposals for continuous improvement; including but not limited to options for: <ul style="list-style-type: none"> <li>i. Addressing complaints relating to Readiness preparation activities;</li> <li>ii. Anticipating and getting ready for disputes/complaints during Implementation;</li> <li>iii. Effective capacity development required by Uganda to be able to establish and strengthen national FGRMs; and possible elements of a joint plan for building on strengths and closing gaps</li> </ul> </li> <li>e) Linkage with the work of Strategy options, SESA, Benefit Sharing and Participatory Structures &amp; Communication and other aspects of the process</li> </ul>	6 to the FSSD
A.4	Draft <b>Process</b>	16-weeks	<p>The consultant shall submit a draft process report showing how each aspect of the scope of works and tasks were undertaken. This report will be submitted at the same time as the draft report i.e. not more than 7 weeks after submission of the final inception report. The draft process report shall also be reviewed and commented upon by the employer and the World Bank. Review and comments will be done concurrently with the draft report and will also be given within the two weeks. The consultant(s) shall be invited by the employer to present the report to the National Technical</p>	6 to the FSSD

ITEM	REPORT/DOCUMENT TITLE	TIMING AFTER COMMENCEMENT	CONTENT	NO. OF COPIES
			<p>Committee, Taskforce representatives and and/or other stakeholders. The draft process report shall contain the following, a summary of which shall be included in the draft report:</p> <ul style="list-style-type: none"> <li>a) The description of the process of undertaking the assignment as a whole; including: <ul style="list-style-type: none"> <li>i. The description of the consultations undertaken as part of the assignment as a whole;</li> <li>ii. The description of the stakeholder participation including the who, how and where they were consulted</li> </ul> </li> <li>b) Detailed description of the processes, methods, consultation and participation during the: <ul style="list-style-type: none"> <li>i. Analytical &amp; assessment of all the aspects raised in the objectives, scope of the assignment;</li> <li>ii. Risk analysis of concerned stakeholders grievances;</li> <li>iii. Elaboration of /on procedures for grievance redress &amp; proposing</li> <li>iv. Making proposals on possible elements &amp; options for grievance redress mechanisms (GRM) during Readiness and those required during Implementation of the national REDD+ Programme</li> <li>v. Establishment of the Linkage with the work of Strategy options, SESA, Benefit Sharing and Participatory Structures &amp; Communication and other aspects of the process</li> </ul> </li> <li>c) Draft analysis of the process including options for improving its elements (such as stakeholder participation, tools, consultative process, etc)</li> </ul>	
A.5	<b>Final Report</b>	20-weeks	<p>The consultant shall submit a final report within 2 weeks after approval of the draft report by the employer and the World Bank. The final report will be disclosed by the employer and at the World Bank's <i>Infoshop</i>. At the end of the assignment, the Consultant shall not claim any right of authorship or design patent of the reports and other deliverables undertaken and submitted as part of this assignment. The <b>Final</b> FGRM Report shall contain the following:</p> <ul style="list-style-type: none"> <li>a) All the content agreed upon in the FGRM Report but revised to reflect the comments of the employer, National Technical Committee, Taskforce representatives, the World Bank (and the FCPF's FMT) and and/or other stakeholders</li> <li>b) Comments matrix indicating how the comments of the employer, National Technical Committee, Taskforce representatives, the World Bank (and the FCPF's FMT) and and/or other stakeholders were reflected;</li> </ul>	6 to the FSSD
A.6	<b>Final Process</b>	20-weeks	<p>The consultant shall submit a final process report within 2weeks after approval of the draft report by the employer and the World Bank. The final report will be disclosed by the employer and at the World Bank's <i>Infoshop</i>. At the end of the assignment, the Consultant shall not claim any right of authorship or design patent of the reports and other deliverables undertaken and submitted as part of this assignment. The <b>Final process</b> FGRM Report shall contain the following:</p> <ul style="list-style-type: none"> <li>a) All the content agreed upon in the FGRM process Report but revised to reflect the comments of the employer, National Technical Committee, Taskforce representatives, the World Bank (and the FCPF's FMT) and and/or other stakeholders</li> <li>b) Comments matrix indicating how the comments of the employer, National Technical Committee, Taskforce representatives, the World Bank (and the FCPF's FMT) and and/or other stakeholders were reflected;</li> </ul>	6 to the FSSD

ITEM	REPORT/DOCUMENT TITLE	TIMING AFTER COMMENCEMENT	CONTENT	NO. OF COPIES
A.7	6 Consultation and Participation Workshops & Reports	Periodically	<ul style="list-style-type: none"> <li>• <u>1 Workshop</u> to discuss the Draft Inception report;</li> <li>• <u>4 Workshops</u> to discuss Draft Report</li> <li>• <u>1 Validation Workshop</u></li> </ul>	6 to the FSSD



**STRENGTHENING NATIONAL FEEDBACK AND GRIEVANCE REDRESS  
MECHANISM FOR UGANDA'S REDD+ PROGRAMME**

**(Contract No. MWE/SRVCS/14-15/00018)**

**KEY INFORMANT INTERVIEW GUIDE**

**Introduction**

Good morning/good afternoon. My name is **XXX**, and my colleague is **YYY** (if people seem to be in doubt, please show them your ID/introduction letter from ACODE). I am/we are researchers from ACODE (give a brief intro of ACODE). We are here to discuss with you issues concerning deforestation and forest degradation in your community/area here. We are undertaking this assessment on the behalf of the Ministry of Water and the Environment (if need be, show letter from the Ministry/ACODE).

You have been selected to participate in this assessment because of your role and position in your community and your knowledge of the issues to be discussed here. The purpose of this assessment is to understand the existing national institutional capacity for feedback and grievance redress.

Based on that, Government of Uganda will establish an easily accessible and well publicized mechanism to receive feedback and handle grievances concerning deforestation and forest degradation in a credible and timely manner, with the aim of preventing, mitigating and resolving conflicts arising from deforestation and forest degradation. With your consent (permission/approval/acceptance), we will be asking you a number of questions to which we would like you to respond honestly.

All responses will remain anonymous and will be treated with strict confidentiality (we will not disclose your particulars to anyone without your express permission). We will use the information you provide here only for the purpose explained to you already. Your participation is voluntary, it is not forced, and neither will you be paid for it. If, for some reason, you do not want to answer any question(s), please tell us so. Also, you can stop participating in this interview at any time.

Thank you!

Name of respondent:	Phone Number:
Position/Title/role in community:	Location (LC1, sub-county, constituency, district):
Sex/Gender:	Location/venue, date & time of interview:

Objective as per ToRs	Question (s)
4.1 (a) To identify existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ strategy/ activities.	1. What are the existing types of conflicts/disputes in the forestry sector in your area/community?
	2. What are the potential types of conflicts/disputes in the forestry sector in your area/community?
	3. Who are the major actors (people, institutions, etc.) in the common conflicts in the forestry sector in your area/community?
	4. How have these conflicts been mitigated or resolved?
	5. What are the key drivers and triggers of the conflicts in the forestry sector in your area/community?
	6. What are the manifestations of conflicts/disputes in the forestry sector in your area/community? (murders, physical attacks, displacement, arson, etc.)
	7. How do stakeholders in the forestry sector in this community/area relate?
4.1 (b) To identify mechanisms that can detect, prevent and minimize the escalation of, and resolve conflicts and grievances.	1. When you have a complaint, where (institution, office, person) do you report and also receive a response?
	2. How effective (in terms of detecting, preventing, minimizing and resolving conflicts) were these mechanisms/structures (people,

Objective as per ToRs	Question (s)
	institutions, offices, committees, etc.) in resolving the conflicts/disputes in the forestry sector in your area?
	3. Which mechanism(s) or structures (people, institutions, offices, committees, etc.) do you think, if used well, might be more effective in addressing the most common conflicts in the forestry sector?
	4. What were the underlying reasons for the inclusion of the mechanism in the project? (Probe for: the procedure of coming up with this project mechanism, its structure and how it operates).
	Rights compatibility
	5. To what extent does the mechanism restrict access to and use of other redress mechanisms? (courts, mediators, tribunals, etc.)
	6. In what ways does the mechanism observe/protect the rights of the forest dependent communities in the way it addresses the conflicts/disputes?
	Capability
	7. What is your assessment of the level of training and dedication of the staff who handle the grievances under this mechanism?
	8. In what ways does the mechanism provide learning opportunities and performance appraisals for the staff involved in implementing this mechanism?
	Organizational Commitment
	9. In your view, what is the value of the mechanism as a means of improving public administration and enhancing accountability and transparency?
	10. To what extent is the mechanism integrated into the project or departmental activities?
	11. What financial and human resources are in place to ensure effective functioning of the mechanism?
	12. In what ways is the mechanism integrated into the job description and responsibilities of relevant staff?
	13. What sanctions and rewards are in place to ensure the effectiveness of the mechanism?
	14. Comment on the current levels of monitoring and evaluation of the mechanism. (probe for the documentation of the monitoring and evaluation activities).

Objective as per ToRs	Question (s)
4.1 (c) Strengthen policy, legal and institutional framework for managing grievances and conflicts that can assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation.	1. What policies, laws and institutions do you know that deal with deforestation and forest degradation? (focus on the Land Act, Forestry Act, National Environment Act, Land Policy, and Environment Policy).
	2. To what extent has the policy, legal and institutional framework helped in resolving deforestation and forest degradation related conflicts/disputes?
	3. To what extent do the policies, laws and institutions provide for effective mechanisms for the resolution of deforestation and forest degradation related disputes? (probe for the degree of effectiveness).
	4. If the existing policies, laws and institutions were not effective in resolving the existing conflicts/grievances, where did you go to seek further redress?
	5. What are the gaps in the existing policy, legal and institutional framework related to resolution of deforestation and forest degradation related conflicts/disputes?
	6. Please suggest how the existing policy, legal and institutional framework related to the resolution of deforestation and forest degradation related conflicts/disputes can be strengthened
	7. Comment on the level of a) fairness b) transparency c) accountability in the implementation of the above Acts and Policies?
	8. To what extent have deforestation and forest degradation related policies and laws led to the escalation of conflicts in the communities?
	9. Comment on the adequacy and effectiveness of the above Acts and Policies in demarcating the boundaries of the government forests.
	10. How do the policies and laws prevent inter-institutional conflicts between agencies in the forestry sector? (NFA, UWA, NEMA, Local Governments)
	11. What is your view on the interpretation of the policies and laws by forestry stakeholders regarding the roles of the various agencies in the management of forests

Objective as per ToRs	Question (s)
	12. How clear are the above policies and laws on the rights of private forest developers in government owned forest reserves?
	13. To what extent are the existing informal dispute resolution mechanisms grounded in the above policies and laws?
	14. In what ways does the government observe and apply the provisions of the policies and laws in matters related to compulsory acquisition of forested land?
	15. What amendments would you propose for the operationalization of the new or strengthened?
4.1 (d) Strengthen institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels.	1. What is your view on the inclusion and engagement between the mechanism and the community members affected by the conflict/dispute over forests in your area? How inclusive were they?
	2. If the mechanisms were not adequately inclusive, who was left out of the mechanism?
	3. How inclusive would you have wished those mechanisms or structures to be?
	4. For purposes of future engagement and involvement, who should be involved in the mechanism/structure?
4.2 To establish an easily accessible and well publicized mechanism to receive feedback and handle grievances in an as credible, timely manner.	This objective will be realized using data obtained from stakeholder engagement using questions set out under 4.1 above.
General questions:	What are the sources of livelihoods for the individuals and communities in this area (field case study). Probe for the trend of livelihoods in respect to the introduction of the major Acts and Policies above.
	In what ways has the ownership and management of the forest resources changed over the years (probe for the trend of ownership and management trend in respect to the above Acts and Policies); (also probe the changes in use of forest resources in respect to the above Acts and Policies).

Objective as per ToRs	Question (s)
	In what ways does the social structure of the forest community influence the trend of conflicts/ disputes in the area (Probe for the influence of groups, associations, individual statuses and roles of key actors in the area)?



**STRENGTHENING NATIONAL FEEDBACK AND GRIEVANCE REDRESS  
MECHANISM FOR UGANDA'S REDD+ PROGRAMME**

**(Contract No. MWE/SRVCS/14-15/00018)**

**FOCUS GROUP DISCUSSION (FGD) GUIDE**

**Introduction:**

Good morning/good afternoon. My name is **XXX**, and my colleague is **YYY** (*if people seem to be in doubt, please show them your ID/introduction letter from ACODE*). I am/we are researchers from ACODE (*give a brief intro of ACODE*). We are here to discuss with you issues concerning deforestation and forest degradation in your community/area here. We are undertaking this assessment on the behalf of the Ministry of Water and the Environment (*if need be, show letter from the Ministry/ACODE*). All of you have been selected to participate in this assessment because of your role and positions in your community and your knowledge of the issues to be discussed here.

The purpose of this assessment is to understand the existing national institutional capacity for feedback and grievance redress. Based on that, Government of Uganda will establish an easily accessible and well publicized mechanism to receive feedback and handle grievances concerning deforestation and forest degradation in a credible and timely manner, with the aim of preventing, mitigating and resolving conflicts arising from deforestation and forest degradation.

With your consent (permission/approval/acceptance), we will be asking you a number of questions to which we would like you to respond honestly. Feel free to make a comment to the views expressed by other group members during discussion (however respect the views of others). All responses will remain anonymous and will be treated with strict confidentiality (we will not disclose your particulars to anyone without your express permission). We will use the information you provide here only for the purpose explained to you already.

Your participation is voluntary, it is not forced, and neither will you be paid for it. If, for some reason, you do not want to answer any question(s), please tell us so. Also, you can stop participating in this interview at any time.

Thank you!

Names of at least 2 participants:	Phone Numbers:
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1.	1.
2.	2.
Position/Title/role in community:	Location (LC1, sub-county, constituency, district):
Sex/Gender of FGD participants: Males: Females: Total:	Location/venue, date & time of FGD interview:

Objective as per ToRs	Question (s)
4.1 (a) To identify existing and potential conflict and grievances that could arise during REDD+ readiness, and implementation of REDD+ strategy/ activities.	1. What are the existing types of conflicts/disputes in the forestry sector in your area/community?
	2. What are the potential types of conflicts/disputes in the forestry sector in your area/community?
	3. Who are the major actors (people, institutions, etc.) in the common conflicts in the forestry sector in your area/community?
	4. How have these conflicts been mitigated or resolved?
	5. What are the key drivers and triggers of the conflicts in the forestry sector in your area/community?
	6. What are the manifestations of conflicts/disputes in the forestry sector in your area/community? (murders, physical attacks, displacement, arson, etc.)
	7. How do stakeholders in the forestry sector in this community/area relate?
4.1 (b) To identify mechanisms that can detect, prevent and minimize the escalation	1. When you have a complaint, where (institution, office, person) do you report and also receive a response?

Objective as per ToRs	Question (s)
of, and resolve conflicts and grievances.	
	2. When you have a conflict, where do you go (institution, office, person, etc.) for help or assistance? (probe for whether these are formal or informal mechanisms).
	3. What lessons have you learned from the way these grievance redress mechanisms are used to resolve conflicts in your community? (Probe for the enabling factors and obstacles in the resolution of forest conflicts in this area).
	4. What are the available contact options for this mechanism?
	5. How do you receive communication (adverts, notices, radio messages, phone calls, etc.) about the operations of the mechanism?
	6. How effective (in terms of detecting, preventing, minimizing and resolving conflicts) were these mechanisms/structures (people, institutions, offices, committees, etc.) in resolving the conflicts/disputes in the forestry sector in your area?
	7. Which mechanism(s) or structures (people, institutions, offices, committees, etc.) do you think, if used well, might be more effective in addressing the most common conflicts in the forestry sector?
	8. To what extent did you participate in the design of the existing mechanisms/structures of resolving conflicts in the forestry sector in your community? (probe for the current levels of participation by the community members in the mechanism(s)).
	Legitimacy
	9. What is your assessment of the independence (not taking sides in cases, not taking directives from any authority, decisions on previous cases, etc.) of this/these mechanisms/structures in executing its/their duties? (probe further to determine independence)
	Accessibility
	10. What is your view on the level of accessibility of the existing mechanisms/structures to its stakeholders? (probe for accessibility in respect to: a) remoteness of some beneficiaries b) language used during the deliberations c) level of education d) cost of access e) any other socio-cultural variables deemed necessary in the community.
	11. What is your view on the procedures or steps of filing grievances under this mechanism? (probe for the level of

Objective as per ToRs	Question (s)
	understanding of these procedures by the; a) individuals b) community).
	12. Comment on the level of privacy or confidentiality in filing a grievance under the mechanism.
	13. How appropriate are the means used to advertise and/or communicate the operations of the mechanism to you?
	Predictability
	14. How responsive (in terms of time taken from responding; response rate) is the mechanism to your conflict resolution needs?
	15. Comment on the procedures and responses used by the mechanism in resolving conflicts in respect to: a) the time frames for each stage of the process b) the verdicts it delivers
	Fairness
	16. What is your view on the level of confidentiality in handling the grievances by the mechanism?
	Rights compatibility
	17. To what extent does the mechanism restrict access to and use of other redress mechanisms? (courts, mediators, tribunals, etc.)
	18. In what ways does the mechanism observe/protect the rights of the forest dependent communities in the way it addresses the conflicts/disputes?
	Transparency
	19. Please comment on the level of transparency of the mechanism's procedures and outcomes for purposes of meeting the public interests and concerns
	Capability
	20. What is your assessment of the level of training and dedication of the staff who handle the grievances under this mechanism?
	Organizational Commitment
4.1 (c) Strengthen policy, legal and institutional framework for managing grievances and conflicts that can	1. What policies, laws and institutions do you know that deal with deforestation and forest degradation? (focus on the Land Act, Forestry Act, National Environment Act, Land Policy, and Environment Policy).

Objective as per ToRs	Question (s)
assist in handling/ addressing stakeholder concerns and issues relevant to REDD+ implementation.	
	2. To what extent has the policy, legal and institutional framework helped in resolving deforestation and forest degradation related conflicts/disputes?
	3. To what extent do the policies, laws and institutions provide for effective mechanisms for the resolution of deforestation and forest degradation related disputes? (probe for the degree of effectiveness).
	4. If the existing policies, laws and institutions were not effective in resolving the existing conflicts/grievances, where did you go to seek further redress?
	5. What are the gaps in the existing policy, legal and institutional framework related to resolution of deforestation and forest degradation related conflicts/disputes?
	6. Please suggest how the existing policy, legal and institutional framework related to the resolution of deforestation and forest degradation related conflicts/disputes can be strengthened
	7. Comment on the level of a) fairness b) transparency c) accountability in the implementation of the above Acts and Policies?
	8. To what extent have deforestation and forest degradation related policies and laws led to the escalation of conflicts in the communities?
	9. Comment on the adequacy and effectiveness of the above Acts and Policies in demarcating the boundaries of the government forests.
	10. How do the policies and laws prevent inter-institutional conflicts between agencies in the forestry sector? (NFA, UWA, NEMA, Local Governments)
	11. To what extent are the existing informal dispute resolution mechanisms grounded in the above policies and laws?

Objective as per ToRs	Question (s)
	12. In what ways does the government observe and apply the provisions of the policies and laws in matters related to compulsory acquisition of forested land?
	13. What amendments would you propose for the operationalization of the new or strengthened?
4.1 (d) Strengthen institutional capacity and presence of an active mechanism to receive feedback and handle conflict in a timely manner and at all levels.	1. What is your view on the inclusion and engagement between the mechanism and the community members affected by the conflict/dispute over forests in your area? How inclusive were they?
	2. If the mechanisms were not adequately inclusive, who was left out of the mechanism?
	3. How inclusive would you have wished those mechanisms or structures to be?
	4. For purposes of future engagement and involvement, who should be involved in the mechanism/structure?
4.2 To establish an easily accessible and well publicized mechanism to receive feedback and handle grievances in an as credible, timely manner.	This objective will be realized using data obtained from stakeholder engagement using questions set out under 4.1 above.
General questions:	What are the sources of livelihoods for the individuals and communities in this area (field case study). Probe for the trend of livelihoods in respect to the introduction of the major Acts and Policies above.
	In what ways has the ownership and management of the forest resources changed over the years (probe for the trend of ownership and management trend in respect to the above Acts and Policies); (also probe the changes in use of forest resources in respect to the above Acts and Policies).

Objective as per ToRs	Question (s)
	In what ways does the social structure of the forest community influence the trend of conflicts/ disputes in the area (Probe for the influence of groups, associations, individual statuses and roles of key actors in the area)?

## Annex 7: Relevant photos from the filed case studies



**Photo 1:** A section of the FGD participants at Ajanyi village, Paicho sub-county, Gulu district during a discussion on Cwero local government forest reserve



**Photo 2:** A section of the FGD participants at Nsambya sub-county headquarters, Kyankwanzi district during a discussion on Kikonda central Forest Reserve.



**Photo 3:** A section of the FGD participants at Nyakigufu trading centre, Rwoho Forest reserve, Ntungamo district during a discussion on Rwoho forest reserve.



**Photo 4:** A section of the FGD participants at Busano Sub-county Headquarters, Mountain Elgon National Park, Mbale District.

## Annex 8: Letter from the Ministry of Water and Environment

(Need to attach the PDF version)

**May 18, 2016.**

Mr. John Genda Walala  
The Permanent Secretary  
Ministry of Local Government

### **RE: Development of Feedback and Grievances Redress Mechanisms for Uganda by Advocates Coalition for Development and Environment (ACODE)**

Uganda, through the Ministry of Water and Environment, is developing a national strategy for addressing deforestation and forest degradation in Uganda (The National REDD Strategy). REDD+ which stands for Reducing Emissions from Deforestation and Forest Degradation is a global incentive mechanism for financial flows to reward countries for improved management of its forest resources, and could thus ultimately contribute to the country's sustainable development.

The REDD+ mechanism has potential to ignite conflicts or grievances relating to several aspects of REDD+ at different scales and levels including the field, institutional and policy levels. In this regard, Uganda aims to put in place an effective and efficient feedback and grievance redress mechanism to help manage and resolve conflicts should they arise. These systems will be put in place both at national and local level to enable easy accessibility and usage of these structures.

The Government of Uganda through the Ministry of Water and Environment has contracted ACODE to carry out a detailed analysis on and to develop a FGRM for use by REDD+ stakeholders in Uganda. ACODE is undertaking field work for this study and collecting data at National level and in selected District Local Governments between **March and May, 2016.**

The purpose of this letter is to introduce to you the ACODE researchers who are undertaking the research and to kindly request for your cooperation and support during this undertaking. Specifically, we kindly request for your cooperation and support as the study team explores the potential role of the Local Council Courts in resolving forestry related disputes. All information provided will be held in confidence and used solely for research purposes.

The research team comprises of **Mr. Bernard Namanya, Dr. Samson Barigye and Dr. Anthony Mugeere.**

Margaret. A. Mwebesa  
**FOR: PERMANENT SECRETARY**