

CONFLICTING POLICY AND LEGAL FRAMEWORK INSTRUMENTS IN SUPPORTING SUSTAINABILITY OF CHARCOAL VALUE CHAINS IN TANZANIA

Key Messages

- Charcoal is the largest source of household energy in urban areas for cooking and heating in Tanzania
- There are some policies and legal frameworks that conflict with each other along the charcoal value chain, thus there is a need for revision and harmonization.
- There is a need for stakeholders to dialogue and agree on how to ensure sustainability along the charcoal value chain by removing policy and legal framework shortcomings

Introduction

Charcoal is the largest source of household energy in urban areas for cooking and heating in Tanzania, as it is considered relatively available, affordable, and easy to transport, distribute, and store¹. Sustainable charcoal value chains in the country are guided by policy and legal framework instruments that work together in a triangulation manner. However, the low pace to sustainable charcoal value chain development could be due to either outdated or contradicting policy and legal framework instruments. In the country, we have noticed this situation as the charcoal value chains is governed by several policy instruments including legal frameworks, each in most cases operating independently. For effective development of charcoal value chains in the country, there are some policies and legal frameworks that conflict with each other, thus there is a need for revision and harmonization.



Methodology

This policy brief has been developed based on the consultancy study 'Analysis of Related Policies and Legal Framework Hindering Sustainable Charcoal Value Chain Promotion in Tanzania' that was financed by the European Union through TaTEDO-SESO. Data for this study were obtained through the literature review and consultations with some Key Informants from relevant government ministries, development partners, NGOs, the private sector, and community representatives involved in various nodes of the charcoal value.

Key Findings and Policy Implications

- Observed that, the National Forest Policy (1998) conflicts with the National Land Policy, 1995 in management of the raw materials for charcoal production. The National Forest Policy (1998) is the supportive instrument that encourages widening of the raw material base encourages establishment of plantations, woodlots, and agroforestry systems, and enhances forest tenure and governance systems (e.g. strengthening Community-Based Forest Management (CBFM) and promotion of sustainable management and utilization of forestry,

for charcoal production as well as production of briquette. Meanwhile, the National Land Policy, of 1995 emphasizes land development which ultimately leads to conversion of forest lands into other land uses. The policy emphasizes on issuing of permits, licenses, claims, and rights for exploitation of natural resources in line with land use policies, environment conservation policies, and programs. However, the policy does not recognize natural forests and woodlands (popularly known as *mashamba pori*) as important developments on land.

- Moreover, the National Forest Policy, of 1998, recognizes the importance of charcoal and intends to promote the production and consumption of alternative sources of energy. While, the National Energy Policy, of 2015, recognizes biomass energy as the primary source of energy in the country. However, the policy statements are skewed to modern energy (electricity, petroleum products, and natural gas). The policy has no statements that state about sustainable production of biomass energy.
- Noted that the National Land Policy, 1995, emphasizes on land development which ultimately leads to conversion of forest lands into other land uses. The policy emphasizes on issuing of permits, licenses, claims, and rights for exploitation of natural resources in line with land use policies, environment conservation policies, and programs. Meanwhile, the National Agriculture Policy, of 2013, emphasizes on sustainable environmental conservation and environmentally friendly crop husbandry practices (sustainable agriculture) and enforces environmental laws and regulations that minimize environmental degradation as of result of agricultural activities.



- Under section 57, sub-sections 1 and 2, of the Land Use Planning Act of 2007, the National Land Use Planning Commission (NLUPC), in

¹ United Republic of Tanzania (2014). Biomass Energy Strategy, Tanzania (BEST). Ministry of Energy and Minerals. 138p.

consultation with relevant land use planning authorities, is identified as having the responsibility to monitor and evaluate all land use and environmental phenomena with a view to making assessment of any possible change in the environment and the possible impacts. The legislation provides for the NLUPC and District Councils, as land use planning authorities, to monitor adherence to land use plans. However, the law does not specify what penalties can be taken by the NLUPC and District Councils against a village, or villages that do not comply with a village land use plan. The weak monitoring and enforcement of land use plans by a national authority are seen by many as a major reason why forests on village lands cannot be protected effectively. Although Village Land Use Plans are supported by bylaws that are enforceable in a court of law, without additional and regular monitoring of adherence by a national body, they are deemed to be largely insufficient.

- On the other hand, the Village Land Act of 1999, translates the unused land under the forest-related laws as public land or general land areas, thus creating ambiguity in tenure and ownership. Nevertheless, unused or future lands within the villages are under the jurisdiction of the village councils. The unreserved forest lands in villages are perceived to have relatively low value when compared to other land uses. As a result, villagers feel encouraged to clear these forested lands and cultivate them as a way of assigning values. Meanwhile, the Forest Act of 2002, recognises that forests in general or public land are managed by TFS and issue harvesting licenses. Similarly, GN No. 417 of 24th May 2019 Section 15. (1) (of the Forest Regulations 2004), stipulates that any person who intends to fell trees for farm preparation and or other land use purposes shall obtain a permit from the District Forest Conservator after approval by the District Forest Produce Harvesting Committee. This regulation is not adhered to by most of the people as they follow directives in the Village Land Act of 1999. In some cases, the Forest Act is not fully enforced due to the existence of other parallel legal frameworks with different goals.

Policy Recommendations

Based on the above observations, the following are recommended:

- The National Land Policy, 1995, does not recognize natural forests and woodlands (popularly known as *mashamba pori*) as important developments on land. This encourages deforestation. The policy and the Land Acts of 1999 need to be revised to recognize the management of natural woodlands and forests as developments on the land.
- There are incoherent areas creating ambiguity in tenure and ownership between the Forest Act of 2002 and the Village Land Act of 1999. A particularly clear definition of “unused land” in the Land Act 1999 needs to be provided because it has been translated to mean public land or general land in the Forest Act of 2002 creating management and harvesting conflicts between TFS and villagers implementing CBFM. There is a serious need for harmonization of these policy and legal frameworks.
- The National Energy Policy, of 2015 recognizes biomass energy as the primary source of energy but there are no instruments in place to manage wood fuel energy, especially on the demand side. This is because both the Rural Energy Act of 2005 and the Electricity Act of 2008, focus much on

electrification and the use of alternative sources of energy other than wood fuel or biomass. The energy policy and acts need to be revised to provide direction and controls on sustainable use of biomass energy sources including charcoal.

- The Land Use Planning Act of 2007, gives authority to the National Land Use Planning and District Councils, to serve as land use planning authorities and ensure adherence to land use plans. However, the law does not specify what penalties can be taken by the NLUPC and District Councils against a village, or villages that do not comply with a village land use plan. The weak monitoring and enforcement of land use plans by a national authority encourages deforestation, land degradation, and uncontrolled charcoal business. Although Village Land Use Plans are supported by bylaws that are enforceable in a court of law, without additional and regular monitoring of adherence by a national body, they are deemed to be largely insufficient. The Land Use Planning Act, of 2007 needs to be revised to institute tangible penalties for non-adherence to approved land use plans at the village level and strengthen the monitoring capacity of the NCLUPC and district authorities. In order to support the establishment of plantations for charcoal production, these instruments could further provide for subsidized land for the establishment of plantations, woodlots and agroforestry systems for charcoal production.



- In the forest policy of 1998, sustainable charcoal production is not explicitly mentioned in the context of wood fuels rather the policy seeks to replace natural forests as the source of wood fuel with plantations and woodlots. To that effect, sustainable charcoal production from natural woodlands is neither explicitly supported nor explicitly opposed, and no specific guidance is provided as to the desired outcome for charcoal production. There is therefore a need for revision of the forest policy to include specific statements that provide direction to sustainable charcoal production, trade, and use.
- The National Agriculture Policy of 2013 should be revised to include policy statements and directives that control the clearing of forests for agricultural activities and deal with the competing land uses between agriculture and forest development in order to reduce deforestation and unregulated charcoal business in the presence of agricultural development. The policy should also give directives on land use management in areas covered by unreserved forests or woodland areas during the establishment of farming land and recognize charcoal production as one of the land uses. Effective policy instruments for its implementation/enforcement at the community level should also be developed.

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