

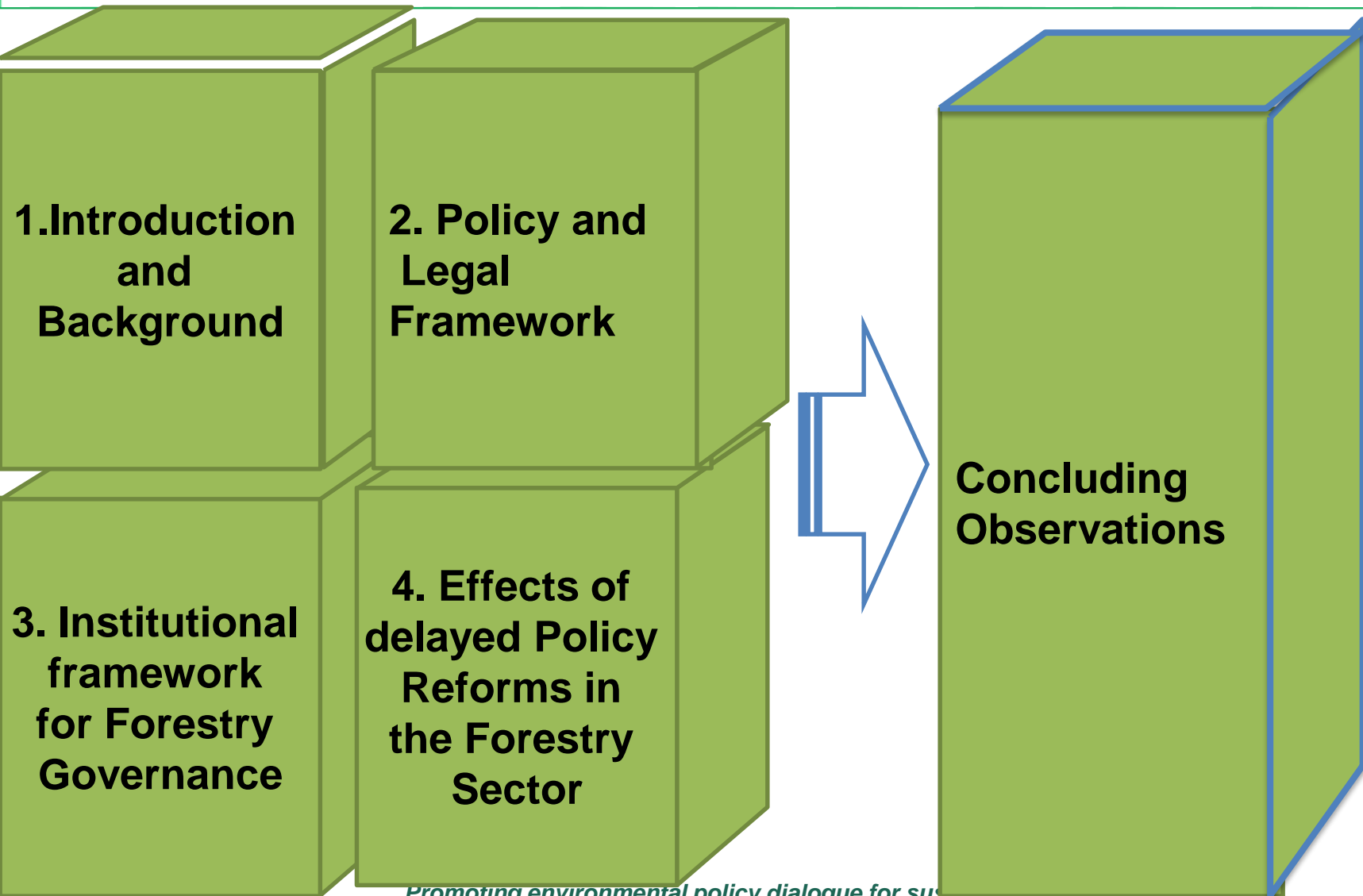
Policy Dilemmas of Forestry Governance in Malawi

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Presentation Outline



Introduction and Background

Forestry resources are crucial in supporting livelihoods, economy, ecosystems and regulating climate change;

However, Malawi is facing one of the fastest deforestation rates in Africa, estimated at 2.6% per annum;

In response GoM has adopted and promulgated several ENRM policies and legislation;

Introduction and Background (2)

- Forestry sector has experienced new entrants in utilization and management;
- There have been challenges to implement various forestry policy instruments resulting in increase in illegal activities; and



Introduction and Background (3)



Policy and Legal Framework

National Forestry Policy (1996)

sought to provide a remedy to the deforestation problems facing the country

CBFM – A Supplement to National Forestry Policy (2003)

addresses co-management and community management of forest resources

Forestry Act (1997)

principle statute that regulates forestry matters

National Forestry Programme (2000)

means to put National Forestry Policy and Forestry Act into practice;

Policy and Legal Framework (2)

- **Forestry (Community Participation) Rules, 2001; and**
- **Forestry (Amendment) Rules, 2003.**

Forestry Governance – Roles and Powers of the Minister

- Minister has power to provide general and specific direction to the DoF and make rules;
- Minister has made regulations and rules (2001 and 2003);
- Minister has powers to declare any public land not already reserved for another public purpose to be a forest reserve (s22);



Roles and Powers of the Minister (2)

- **S33 gives powers to the Minister to approve by-laws made by VNRMCs;**
- **Almost all approved by-laws were developed with facilitation of external funding and only implemented during life of project; and**
- **There is no provision for parliamentary scrutiny under the FA 1997 unlike under the Environment Management Act 1996.**

Roles and Powers of DoF



- **FA gives specific powers and functions to DoF (s5);**
- **It is the legal responsibility of DoF to initiate and facilitate the establishment of co-management agreements (s25);**
- **DoF is mandated to facilitate establishment of VFAs (s30 and s31);**

Roles and Powers of DoF (2)

- DoF has power to issue a permit for commercial processing of wood or forest produce (s82);
- DoF has power to issue a license for utilization and trafficking of indigenous timber from private land (s83);
- Experience shows that there are no mechanisms for accountability in licensing procedures, and no criteria are provided - ***this could potentially breed corruption;***

Roles and Powers of DoF (3)

- **FA provides for powers of DoF on disposal of forest produce from privately-owned forest reserves (s85);**
- **Forests on private land may either be under leasehold or freehold tenure; and**
- **Under the Land Act regulations agricultural lessees are required to put at least 10% of their land to reforestation – *this provision is routinely ignored and no enforcement seems to be taking place.***



Forestry Officers

FA provides for policing and prosecution powers in relation to offences under the Act;

DoF or any officer appointed under the FA is given power without a warrant to stop and inspect vehicles, enter land or premises to ensure compliance with the Act (s6);

Forestry Officers (2)

- **Any officer or police officer may seize and detain forest produce which he reasonably suspects has been unlawfully obtained or removed (s9); and**
- **Experience shows that police officers only act with instructions or upon being requested by a Forestry Officer or Guard to assist with a search or apprehension of an offender and in a number of cases they will not act without being paid allowances.**

Village Natural Resources Management Committees

- DoF initiates establishment of a VNRMC (s5);
- A reading of s3, 5, 32 and 33 of FA suggests that VNRMCs have a big role to play - *but the Act does not clearly bring out their powers and functions;*
- Many VNRMCs have no connection with any VFA; hence the definition under s2 does not apply to them;

Village Natural Resources Management Committees (2)

- **S9(3) gives the VNRMC power to seize and detain any forest produce which the VNRMC reasonably suspects to have been unlawfully obtained from a VFA – *restricting their enforcement powers to VFAs; and***
- **Any produce so seized may be disposed by the VNRMC after prosecution and conviction (s11) – *experience shows that in many cases forest produce seized is disposed off before any prosecution.***

Director of Public Prosecutions

- **The DPP has power to prosecute offences under any legislation including the FA; and**
- **S14 specifically authorizes the DPP to nominate an officer of FD to undertake and prosecute offences under the Act – *so far forestry officers have not been nominated as prosecutors.***

Judiciary

- **Most of the offences under the FA are dealt with by Magistrate Courts although there are certain issues which are appealable to the High Court (s31, sub s3 and s54);**
- **The punishment for forestry offences is MK20, 000.00 (US\$36.00) fine and imprisonment for 10 years (s68); and**
- **Most of the penalties are perceived not to be commensurate with the gravity of the offences.**

Forestry Management Board

- **Part III of the FA establishes the Forestry Management Board (s15) represented by various stakeholders (s16);**
- **Role of Board is to provide advice to the Minister on all matters relating to tree and forest management in Malawi (s17); and**
- **The Forestry Management Board is now meeting twice a year.**

Traditional Authorities

- **The Land Act recognizes the customary authority of traditional leaders to allocate land;**
- **FA in very few instances does mention the specific role and responsibilities of traditional leaders;**
- **Traditional leaders perform important functions relating to land and forest governance (s30);**

Traditional Authorities (2)

- **FA provides power for the VH to demarcate VFAs but gives managerial powers to a VNRMC; and**
- **Conflicts often arise between traditional leaders and VNRMC when the former consider VNRMC members to be unduly benefiting from their positions.**

Effects of Delayed Policy Reforms in the Forestry Sector



- **Limited policy direction and clarity on key issues:**

**charcoal;
community participation;
benefit sharing;
institutional reform; and
carbon financing**

Effects of Delayed Policy Reforms in the Forestry Sector (2)



- **Political interference on prosecution of cases and decisions for issuing of licenses for timber exploitation;**

Effects of Delayed Policy Reforms in the Forestry Sector (3)



- Limited cross sectoral forest management and coordination; and
- Forest sector stakeholder coordination and monitoring has remained a challenge.

Absence of dynamic forestry policy is having a negative effect on forestry governance

Existing forestry policy instruments are outdated

FD has initiated policy reforms, but pace is slow

Reforms in forestry policy need to be concluded to effectively address some of the challenges facing the forestry sector.

Concluding Observations



Thank you!

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Questions and Comments



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