Photo: Madagascar, Hamy Raharinaivo, 2022

Impacts of land tenure and its governance on the success of Forest Landscape Restoration (FLR): Policy implication in Madagascar, Ethiopia and Togo

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Introduction

Land degradation is one of the greatest environmental challenges of our time, affecting the well-being of at least 3.2 billion people globally (IPBES, 2018; UNCCD, 2018). Forest Landscape Restoration (FLR) provides "a framework for sustainable forest management in landscapes where forest loss has led to a decline in the quality of ecosystem services" (ITTO & IUCN, 2005, 11). In particular, FLR seeks to meet the dual requirement of restoring ecological integrity and improving human well-being. However, large-scale implementation of FLR on global scale faces multiple challenges. Property rights and governance were identified as key factors impacting the success and sustainability of FLR.

Since the introduction of FLR, numerous initiatives and projects have been implemented within the umbrella of FLR from local to global scale. Building on this momentum, multiple countries worldwide committed to restoration goals in support of global initiatives such as the *Bonn Challenge* in 2011 and *New York Declaration on Forests* endorsed to restore 350 million hectares globally by 2030. Within this frame, the *African Forest Landscape Restoration Initiative* (AFR100) committed to restore 100 million hectares in Africa. Ethiopia committed to restore 15 million hectares of degraded forest,

Executive statement

- Tenure and land governance models are decisive factors of FLR success.
- Tenure arrangements and who benefits from FLR must be well-defined prior to implementation. Different approaches exist from individual land tenure to communal.
- Significant gaps in communal land use policies still exist and need to be addressed.
- There is a lack of inter-sectoral cooperation between land and forestry authorities, creating need to improve coordination and transparency between sectors and stakeholders.

while Madagascar and Togo committed to restore 4 million and 1.4 million hectares respectively.
For this policy brief, focus is put on Madagascar, Ethiopia and Togo in a general context of how the current FLR implementation is challenged by the existing land tenure system. Furthermore best practices where the land tenure system is facilitating better implementation of FLR is highlighted.

FLR and land tenure

FLR and land tenure are closely related. The success of FLR is often dependent on the security of land tenure, as without secure land tenure, it is difficult to ensure that the restored land will be protected and maintained over the long term. Land tenure refers to the rights and responsibilities of individuals or groups over a particular piece of land.
Several FLR approaches are applied for the implementation of the commitments. These include community afforestation of large areas, allocation of forest areas to forest management associations for sustainable management, afforestation initiatives by individual farmers, and afforestation on agroforest areas. In all these FLR approaches, tenure implications play a crucial role in influencing the success and longevity of the measures.

Communal restoration on state and communal owned land

Communities are keen on forest restoration, recognizing forests' essential role in ecosystem stability, especially in response to observed degradation and water scarcity impacting agriculture and income. Major reforestation initiatives have taken place on state or communal land. These plantings are often one-day collective events involving the whole community, initiated by the regional government, NGOs or projects, as well as the communities themselves.
In the DIANA (DIégo Ambilobe Nosy Be Ambanja) region of Madagascar, the availability of land emerged as a significant challenge for FLR efforts. This is because much of the land is already under private ownership, leaving limited communal land for restoration projects. Furthermore, since land rights are typically held by the state or community, there is a lack of community ownership which has led to neglect in caring for trees.
In the case of Ethiopia, administration of communal lands differ between regions. In Amhara region, ownership and benefit sharing of FLR plantations on communal lands is well defined enabling communities to share the benefit and provide access right to the plantations. Whereas in regions like Southern Ethiopia, use and access right on FLR plantations are less well defined resulting in a lack of ownership by the communities and thus poorer management of communal forest.

Community planting on communal land in Ethiopia
(Photo: Shibire Bekele, 2018)

Individual plantings

Afforestation on individual plots tends to be more successful than on state and communal owned land as there is clear and direct benefit, resulting also in more responsible management of the plantation by the individual owners. This also results in higher participation rates in FLR. In Madagascar, the so-called "individual village afforestation" (reboisement villageois individuel, RVI), promoted by GIZ, allowed volunteers to afforest on state land and receive individual ownership rights.
Several studies underscore land tenure security as an important incentive for local people to particip-

ate in FLR projects. For example, in the case of Madagascar, forest users were more inclined to leave part of their forest fallow for conservation if they were individual owners than if they worked on communally owned land, e.g. in the frame of a forest management group. Communally used resources are often vulnerable to appropriation by elites. Furthermore, the long history of many afforestation projects has contributed to people associating afforestation with the acquisition of state land as individual property, or the formalisation of rights facilitated by the projects, and seeing this as a motivation to participate in the projects. Simplifying the process of transferring state land into private ownership could increase household interest in reforestation.

Individual plantings play a vital role in the successful implementation of FLR also in Ethiopia. Afforestation on privately owned farmlands in the form of boundary woodlots and trees on mosaic landscapes are one of the FLR approaches that has to be widely promoted.

Individual planting: Trees on agricultural landscape in Ethiopia (Photo: Shibire Bekele, 2018)

Also in Togo, planting on private land is crucial to the success of FLR, especially as it involves farmers directly. For example, in Tchamba, cashew-based agroforestry is one of the most widely adopted individual planting practices. In Togo, farmers are more likely to be engaged in tree plantations if they perceive short-term benefits, particularly in crop trees or fruit trees-based plantations. The local government representative for agriculture, livestock and rural development further said, “Farmers are motivated in tree planting only if they can gain immediate rewards or benefits to incentivise their long-term commitment”. (individual interview in Tchamba 02.09.2022)

To increase farmers' incomes further, promote additional sources of subsistence and reduce deforestation, it would be essential to encourage this agroforestry practice, while including other fruit trees or food plants in addition to cashew nuts.

Individual cashew-crop based trees planting in Bago, Togo (Photo: Kossi Hounkpati, 2022)

Forest Management Groups (COBA) / Participatory Forest Management (PFM)

A common approach for the sustainable management of forest resources is a transfer to local communities or local management groups. The approach is called *Transfer of Management of Natural Resources* (transfert de gestion des ressources naturelles, TGRN) in Madagascar and *Participatory Forest Management* (PFM) in Ethiopia.

All natural forests in Madagascar officially belong to the state. Of these, more than one million hectares have already been transferred to local management groups called VOI or *Communauté de Base* (COBA) (FAO, 2021). This co-management of

forests is regulated by the land reform law no. 96/025 from 1996, known as GELOSE (Gestion Locale Sécurisée) or TGRN. The VOI can manage the transferred forest areas under customary laws, when they comply with state-regulations. This decentralisation of forest management has led to reduced deforestation rates in some areas and is continuously promoted by the *2017 Forest Policy*. Yet, without a permanent transfer of rights, there is less incentive to restore degraded natural forests, which are subject to strict forestry regulations and officially belong to the state. Similarly, land and forest use rights are central to incentive-based forest conservation mechanisms such as REDD$^+$ to ensure that local communities actually benefit from the restoration initiative led by the community.

PFM is one of the schemes of FLR in Ethiopia which engages the local community in sustainably managing the natural forests. In some parts of the country, the PFMs organize themselves in order to share the benefits gained through a carbon credit mechanism such as REDD$^+$.

In Togo, the land does not belong to the State but to the local communities (natives), which decide on its use. Thus, the land tenure system is dominated by collective ownership, with land management essentially based on customary law. Land is most often owned by native clans and decisions relating to land taken by the council of lineage chiefs representing them. They decide whether a particular plot of land should be given to a member of the lineage for use. However, customary law prohibits the land selling which makes Togo a special case in terms of communal restoration. This situation represents an opportunity for FLR, as initiatives are more likely to succeed when they are carried out at community level. Indeed, all local stakeholders feel concerned, involved and even as owners of the process. In some cases, the State hands over a portion of its forest land to the local communities, who transform it into a community forest, thereby reducing the pressure on the State's forest land. This process is more of a retrocession than a transfer. In the Tchamba prefecture (Togo), at selected forest restoration pilot sites this community restoration approach based on the community forests has become a common and successful practice. In fact, every canton in the prefecture, except those with no forest potential, has at least one community forest. This particular form of land governance in Togo therefore offers undeniable advantages in terms of community restoration. However, it is important to underline that members of the lineage holding land rights are native local communities, and are less active in individual restoration activities. They often rent these lands to the non-natives, who are more active in individual restoration activities while prohibiting them from planting perennial trees, which is understood to be an act of land ownership. To address this problem, initiatives such as memorandums of understanding, written and signed between landowners and non-native beneficiaries and counter-signed by local authorities, have been put in place. These memorandums enable non-natives to establish agroforestry plantations in restored areas, thereby facilitating better collaboration and more sustainable use of the land.

Community forest N'kpam Goudoni in Affem Boussou Canton, Tchamba, Togo (Photo: Hamza Moluh Njoya, 2022)

Land and land tenure policies

In Madagascar customary land tenure has not always been recognised. Since the 1990s, Madagascar's national land policies promoted the registration of land rights as a prerequisite for land tenure security and agricultural productivity. Prior to the land reform in 2005, all land that was not officially titled was presumed to belong to the state. The 2005-019 land law marked a significant shift by recognising untitled private lands with customary tenure when they were occupied or placed into production. The recent land reform law no. 2022/013 further advances the recognition of customary tenure by incorporating the right of customary use into the certification process, allowing for a certificate application after five years of agricultural use.

Nevertheless, this land reform still does not apply to land with a special status, such as protected areas (law no. 2022/013). However, 10% of the total identified restoration potential in Madagascar resides within these protected zones and is often in use by local communities. Because these lands cannot be transitioned into private ownership through certification, it leads to a considerable degree of uncertainty for the users. Also within the laws of the forest and territorial planning sectors, an overlap exists in the responsibility for demarcating these areas. Protected areas, demarcated by the forest services, are frequently not incorporated into the local land use plans (PLOF), which leads to considerable challenges. Problems often arise when land authorities issue titles for areas that, due to their protected status, should not be transferable. This highlights a lack of inter-sectoral cooperation between land and forestry authorities. Despite all these incentives and benefits, privatisation can also lead to increased commodification, which may produce adverse environmental outcomes. Through the private land title, which inherently provides the right of alienation, there is the potential to economically mobilise land and subsequently pave the way for potential investors and land acquisitions. A significant legislative gap exists in that the law has yet to clarify whether designated land use or the land title (land certificate) holds precedence. This ambiguity is critical because it could allow a new owner to deforest the land if the land title is deemed to have precedence over previously designated land uses. Addressing this legal uncertainty is paramount, as the need for binding constraints to resolve such ambiguities has been underscored from various perspectives highlighting an essential area for legislative improvement to ensure the effectiveness and sustainability of FLR efforts.

Ethiopia's rural land proclamation no. 456/2005, Rural Land Proclamtation of Southern Nationalities and People's Region no. 110/2007 article 13(6) states, rural lands where the slope is more than 60%, shall not be used for farming and free grazing; but be used for plantation of trees, perennial crops and forage production. Even though the community is aware of this proclamation, the farming system of the sloppy lands on the ground reflect otherwise. Furthermore, the article 13 (7) specifies that, a rural land which is sloppy and degraded shall be protected from human and animal contact, so that it may rehabilitate. Once rehabilitated, it can be used again.

Policy recommendations

Land tenure and land use rights on comunally restored land and its governance are decisive factors of FLR success. Thus, tenure arrangements and who benefits from FLR must be well-defined prior to implementation. Significant gaps in policies still exist and need to be addressed. Also there is a lack of inter-sectoral cooperation between land and forestry authorities which points to an essential need for improved coordination and transparency between sectors and stakeholders.

The following points serve as a way forward in the successful implementation of FLR and its governance where the local community is the prime actor and protector of the forest.

→ Promotion of FLR with individual farmers on privately owned land with clear land title. As planta-

tion on individually owned land is a key element, degraded land owned by individual farmers especially those located on mountainous area should be targeted in drafting and implementing land use policy. Enforcement of such policies can greatly contribute to the implementation of FLR by local communities on their private land.

→ To sustain the ecological benefits of privatised land, especially where FLR measures are in place, it is essential to establish robust land use regulations that balance landowners' economic interests with environmental goals. Resolving legal ambiguities is crucial to ensure that planned land uses remain intact, even if the ownership of the land changes. One effective strategy could be to enhance the legal value of land use plans relative to private land titles.

→ Safeguarding Customary Land Rights: Critical need for effective enforcement of these laws to ensure that protection is not only prescribed but actively implemented in the case of rights of forest management groups (VOI) as defined/framed by national laws and regulations.

→ The occurrence of land sales in violation of existing customary rights underlines the need to strengthen the protection of these rights, whether registered or not, as well as the rights of forest management groups (VOI). Better collaboration within and between sectors can go a long way to encouraging greater commitment to land restoration and conservation.

→ Communal grazing areas: In the context of FLR on communally used land, engaging whole communities, encompassing diverse user groups, is crucial. Land use agreements can effectively mediate between different users, ensuring harmonious utilisation.

→ Tailoring FLR initiatives to community interests and environmental needs: Complement FLR activities with other types of interventions, such as the development of alternative value chains from non-timber forest products from state/communal owned land to enhance community benefits. Best practices from Togo shows cashew-based agroforestry system performs well in landscape restoration as well as offering significant benefits for people's livelihoods. However, it is important to address the challenges of social inequalities, and conflicts of interest and secure land rights to ensure effective and equitable implementation of restoration initiatives.

Disclaimer

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