

Afghanistan's draft Forest Law

By Belinda Bowling (UNEP)
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Overview of an appropriate legal framework



National policy:
Policy and Strategy for Forest and
Range Management Subsector

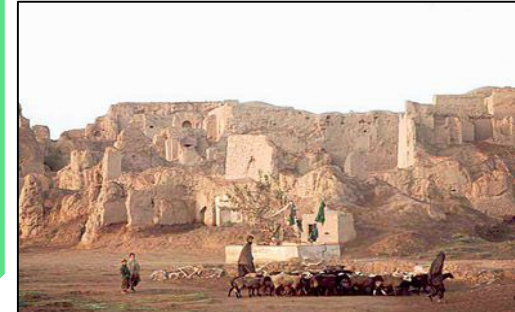


Primary law:
Forest Law

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Subordinate law:
Regulations and Procedures





Law development process



Drafting the law based on policy and related documents and consultation.

← UNEP and FAO in coordination with MAIL

Internal consultation and development of further drafts.

← UNEP with MAIL
Translation into Dari: UNEP/MAIL

Nationwide consultation with all stakeholders, including communities.

← MAIL for regional consultation; UNEP to assist with national (Kabul) consultation

Development of new draft taking into account stakeholder comments.

← UNEP with MAIL
Translation into Dari: UNEP/MAIL

Submission to Ministry of Justice's *taqnin* for amendments.

← UNEP with MAIL

Submission to Council of Ministers and National Assembly for approval.

← MAIL with Ministry of Justice

President signs decree. Publication in the Official Gazette.

← MAIL with Ministry of Justice and President's Office

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Purpose of the law



The law strikes a balance between conservation of forest resources and maximization of their productivity.

Another important purpose is to formally introduce the principles of community-based forest management into Afghanistan's regulatory and governance structures.



Structure of the Law

Part of the law is focused on how forest management will occur. Issues covered include:

- Which institutions do what.
- The tools the Government has to develop.
- How the law is enforced and how disputes are resolved.

The rest of the law is dedicated to the granting of rights to communities to manage forest resources locally.



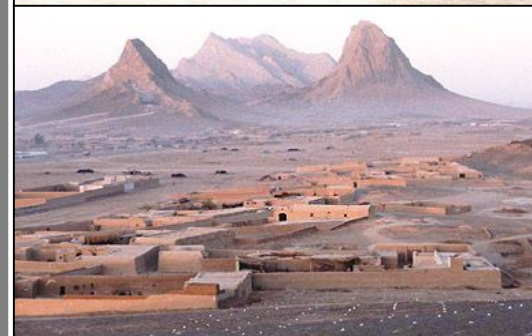


Outline of the law



The law has 8 chapters:

1. General provisions
2. Institutional arrangements
3. Sustainable forest management
4. Forest resource management rights
5. Protection of the environment
6. Compliance and enforcement
7. Dispute resolution
8. Final orders





The roles and responsibilities of the Government



- The law focuses on 3 primary institutions: Ministry of Agriculture, Irrigation and Livestock, Provincial Councils and shuras.
- MAIL (national level):
 - Develops and implements policy and regulatory framework.
 - Provides guidance to provincial offices.
 - Coordinates forestry activities.
 - Allocates forest resource rights.
 - Enforces the law.

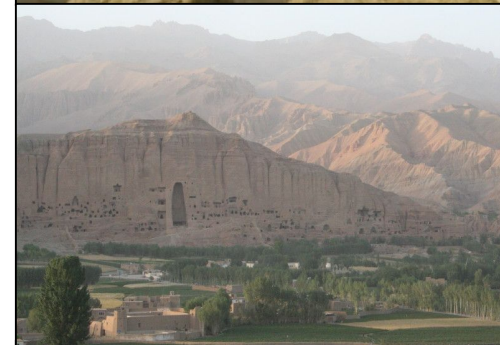




The roles and responsibilities of the Government



- MAIL (provincial level):
 - Implement the mandate of the central Government at the provincial level.
 - Develop provincial forest resource inventories and management plans.
 - Provide technical assistance to Community Forestry Associations.
 - Resolve disputes.
 - Maintain law and order.





The roles and responsibilities of the Government



Provincial Councils:

- Register Community Forestry Associations.
- Monitor the activities of the Associations and make recommendations for improvement.

Shuras:

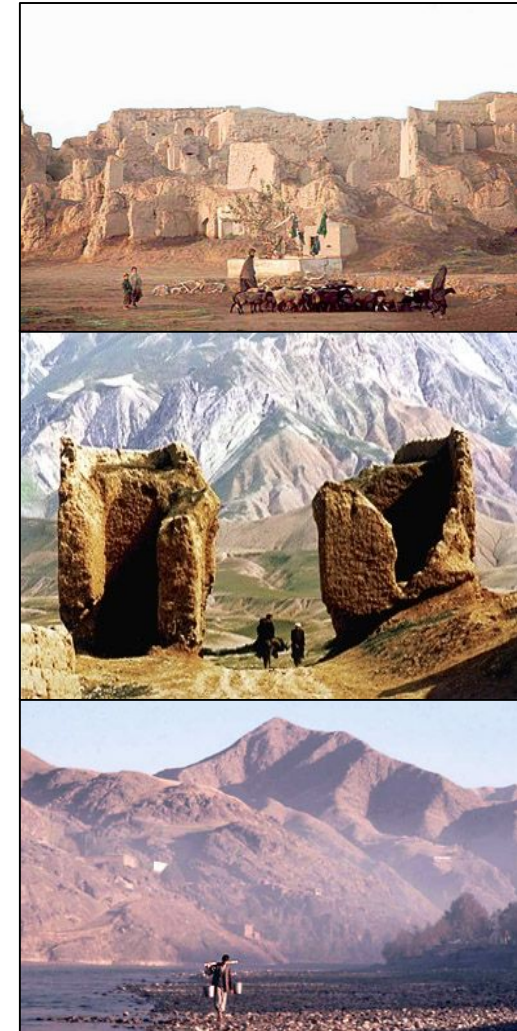
- Resolve disputes between parties claiming access to the same resource.
- Assist in the demarcation of boundaries and the resolution of land ownership disputes.



Tools to be developed by the Government



- Land classification system
- National Forest Resource Inventory
- Provincial Forest Resource Management Plans
- The Government must also take steps to conserve the environment, encourage reforestation and take steps to halt desertification.



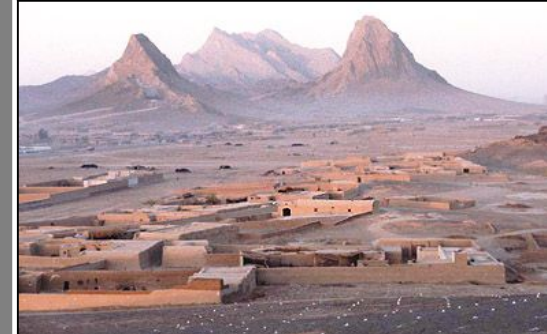


Community Management



What does this mean?

The process and mechanisms that enable those people who have a direct stake in forest resources to be part of the decision-making in all aspects of forest management.





Forest resource rights



- What are forest resource rights?
 - They are a legal right which communities can apply for, which is somewhat similar to a right of ownership.
 - Once communities are granted these rights, they have the power to manage their forest resources themselves, provided that they do it in accordance with the principles set out in the law.
- What kinds of forests are included?
 - Community and state forests, but not forests on private land.

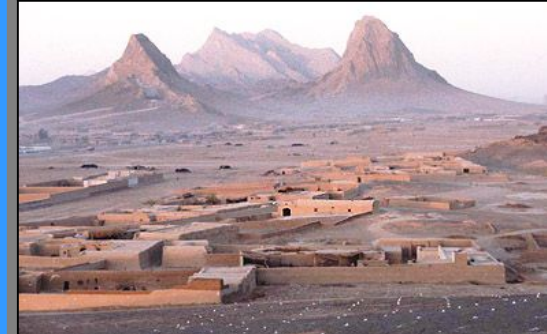




Forest resource rights



- Which communities can apply for rights?
 - Communities must constitute themselves as a Community Forestry Association in order to apply for such rights.
- How do they do this?
 - Create a new institution (CFA), following the provisions of the law
 - OR
 - Use an existing institution (CDC, agricultural cooperative, water user association).





Forest resource rights



- To establish a Community Forestry Association, a community must:
 - Elect a chairman and committee
 - Agree on a written constitution
 - Register the Association with the Provincial Council and the Department of Forestry.
- Even if an existing organization is used (e.g. CDC), the above requirements must be fulfilled.



The purpose of a CFA

- The purpose of a Community Forestry Association is to productively but sustainably manage forest resources according to traditional means, with little interference from the Government.
 - For this purpose, the Association can form its own rules and procedures.
 - However, all forest management activities must be in accordance with the law.



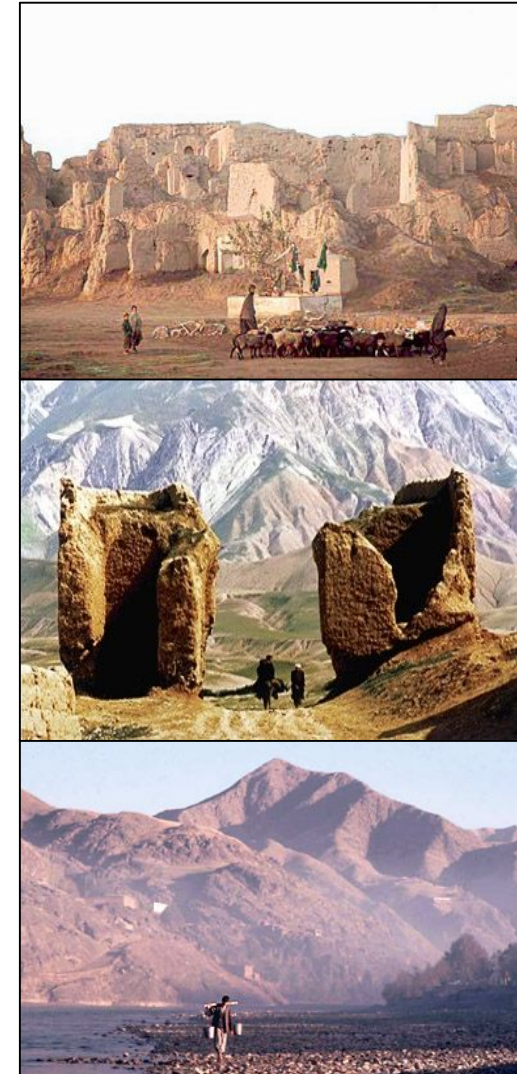
Land ownership issues

- Forest resource rights may only be granted in relation to forest resources on land where the ownership of the land is not in dispute.
- If the ownership is in dispute, the community must resolve the issue by means of a jirga, taking into account Shari'a law and customary practices.
- The agreement must be recorded in a written document.



Enforcement of the Law

- The Forestry Department can appoint Forest Officers, whose job it is to implement the law.
 - Forest Officers must be very familiar with the Law and Regulations under it.
 - Implementation must be done in an impartial manner.
- Those who commit offences under the Law will be liable to pay a fine or be arrested.





Forest Law

