

## DEMOCRATIC DECENTRALISATION OF NATURAL RESOURCES: INSTITUTIONAL CHOICE AND DISCRETIONARY POWER TRANSFERS IN SUB-SAHARAN AFRICA

JESSE C. RIBOT\*

*World Resources Institute, Washington, DC, USA*

### SUMMARY

Decentralisation reforms are taking place across Africa. In decentralisation concerning natural resources, local institutions being chosen to receive powers and the degree and form of power transfers, however, do not establish conditions for more efficient or equitable use and management. A combination of locally accountable representation and discretionary powers are also needed. This combined condition is rarely established. Alternative local institutions are chosen even when democratic local bodies exist. This choice and the failure to transfer discretionary powers can undermine local democratic bodies and concentrate powers in the executive branch. The choices being made around natural resources appear to reflect a broad resistance of central governments to local democratisation and decentralisation of powers. Five measures may ameliorate the situation: (1) focus first on establishing democratic local government; (2) apply multiple accountability measures, in addition to elections, to support democratic local institutions; (3) engage local populations by transferring discretionary powers before transferring management burdens; (4) transfer powers before capacity building; and (5) shift from an oversight and management-planning model to a minimum-standards model in order to help create greater local autonomy nested within national objectives. Copyright © 2003 John Wiley & Sons, Ltd.

### INTRODUCTION

Researchers, development agencies and NGOs around the world are promoting greater local public participation in the use and maintenance of forests, pasture lands, wildlife and fisheries in order to improve local development and natural resource management.<sup>1</sup> Under the rubric of ‘decentralisation’, governments across the developing world are also transferring management responsibilities and powers from central government to a variety of local institutions (see Fisher, 1991; Dillinger, 1994, p. 8; Crook and Manor, 1998; Ribot, 1999a, p. 51; Agrawal and Ribot, 1999; UNCDF, 2000, p. 5–11; World Bank, 2000). These reforms aim to increase popular participation to promote more equitable and efficient forms of local management and development. Such decentralisations across Africa are re-shaping the local institutions that manage natural resource, promising to increase participation in ways that will profoundly effect who manages, uses and benefits from these resources.

The key to effective decentralisation is increased broad-based participation in local public decision making. Theorists believe that *downwardly accountable* or *representative authorities* with *meaningful discretionary powers* are the basic institutional elements of decentralisation that should lead to local efficiency, equity and development (Mawhood, 1983; Ribot, 1996; Romeo, 1996; Crook and Manor, 1998; Agrawal and Ribot, 1999; Mandondo,

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\*Correspondence to: J. C. Ribot, Institutions and Governance Program, World Resources Institute, 10 G Street, N.E., Suite 800, Washington, DC 20002, USA. E-mail: JesseR@WRI.org

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<sup>1</sup>The Rio Declaration on Environment and Development states: ‘Environmental issues are best handled with the participation of all concerned citizens, at the relevant level’ ([http://www.accessexcellence.org/AB/IE/Rio\\_Declaration\\_On\\_Envirmt.html](http://www.accessexcellence.org/AB/IE/Rio_Declaration_On_Envirmt.html)). Also see Ostrom, 1990; Agrawal, 2001; Fortmann *et al.*, 2001; Wollenberg *et al.*, 2001 among many others.

2000; Smoke, 2000).<sup>2</sup> Effective decentralisation concerning powers over natural resources require these same elements. However, when examined in detail, community-based and decentralised forms of local natural resource management often lack representation, downward accountability and/or sufficient powers. The World Bank (2000, p. 107) has pointed out that ‘... decentralisation is often implemented haphazardly’. This irregularity is apparent in projects and reforms related to the environment, where poorly structured decentralisations threaten environmental management and equity as well as decentralisation and local democracy writ large.

Decentralisations in Burkina Faso, Cameroon, Guinea, Malawi, Niger, the Gambia and Zimbabwe, for example, are transferring decision-making powers to various unaccountable local bodies, threatening local equity and the environment (Delnooz, 1999; Ribot, 1999a; Schroeder, 1999; Oyono, 2002). Many governments, such as Burkina Faso, Senegal, the Gambia, Mali, Uganda and Zimbabwe, are devolving insufficient powers and benefits either to constitute a decentralisation or to motivate local actors to carry out new environmental management responsibilities (Engberg-Pedersen, 1995, p. 2; Ribot, 1995, 1999a; Mandondo, 2000; Conyers, 2001, p. 29; Bazaara, 2002). Ghana has created local district management committees without sufficient funds to meet their mandates (Porter and Young, 1998, p. 515). In Zambia, decentralisation of control over forests without sufficient environmental management and use guidelines reportedly has led to over-exploitation (Walker, 2000).<sup>3</sup> Across the board, the appropriate mix of powers and functions of different local actors is poorly defined at best (Onyach-Olaa and Porter, 2000). Further, there is little empirical data or experience from which to derive the best local institutional arrangements or to show which factors link decentralisation reforms to improved social and ecological outcomes (Little, 1994; Brock and Coulibaly, 1999, p. 30; World Bank, 2000, p. 109; Conyers, 2001, pp. 28–29).

Natural resources provide a lens into decentralisation and the development of local democracy. Substantively, democracy is about the accountability of leaders to the people (see Moore, 1997). Some degree of democracy—a locally accountable local institution—is the first element of effective decentralisation. Discretion over natural resource use and management then becomes the power that makes that representation meaningful. This article examines the degree to which the choice of local institutions and the natural resource powers being transferred to them constitute democratic decentralisation. Are decentralisations of natural resources based on or support institutional arrangement that enfranchises local populations? Are they transforming subjects into citizens, and are they establishing the arrangements that theory tells us will provide equity, efficiency, development and environmental benefits? The next section examines democracy–natural resource inter-linkages by querying which actors are being empowered with natural resource use and manage decisions in current decentralisations. The third section looks at implications of the kinds of powers that local authorities receive and the means by which they are transferred. The fourth section explores several salient implementation issues. This is followed by conclusions and recommendations.

#### INSTITUTIONAL CHOICES: LOCAL DEMOCRACY AND THE LOCATION OF DISCRETION

Decentralisations are of great interest to environmentalists because they reshape the institutional infrastructure on which future local natural resource management will depend—potentially establishing institutions for sustainable and equitable community representation and inclusion. Natural resource management and use is of interest to promoters of decentralisation and local democracy because they are a source of revenue and power, and therefore of potential legitimacy for new local government authorities. Whether, however, the transfer of natural resource powers within or into the local institutional landscape will promote or undermine representative, accountable and equitable processes depends strongly on which local actors are being entrusted with discretionary powers over natural resources.

Natural resources play a special role in local democratisation because local populations rely on them for their daily livelihoods and governments rely on them as a source of wealth. But, if allocated to non-democratic institu-

<sup>2</sup>For definitions and theoretical underpinnings of decentralisation, see Ribot, 2002.

<sup>3</sup>Similar, but doubtful, claims are made by the Ugandan environmental ministry and by foresters in Ghana to justify re-centralisation (personal communication with Dr N. Bazaara, 2001, and Aaron diGrassi, 2002).

tions, environmental powers can also play a counter-productive role. The colonial state, for example, used allocation of land control to legitimise and strengthen customary authorities, who served as their local agents, for the purposes of controlling and managing local people.<sup>4</sup> Today, environment is again becoming an arena of struggle for power (van Rouveroy, van Nieuwaal *et al.*, 1999, p. 6). As African countries democratise and decentralise, new and more representative forms of local government will also have to rely—at least partly—on natural resources to have an economic base to work from and to have meaningful powers on which to build their legitimacy. Allocating environmental powers to chiefs or other administrative or non-representative authorities, can reinforce these less-systematically accountable actors at the expense of representative authorities, slowing democratic transition (Ribot, 1996, 1999a).

Decentralised natural resource management and decisions can, conversely, be a fulcrum for democratic change. Natural resources are revenue-generating as opposed to other important public services, such as infrastructure, health and education, hence, they can provide revenues needed to make local government more independent and can give local governments allocative powers over lucrative opportunities, both of which can help build local government legitimacy. Local representative bodies need powers over the resources that affect their constituencies in order to become legitimate actors around which civic organisations and citizens rally for justice, sustainable livelihoods and economic improvement. In some parts of Mali, for example, ‘farmers perceive decentralisation as a threat that may take their existing power to control resources in their *terroir* [commons] out of their hands and give it to the commune [the new elected local governments]’. But, this fear may have a positive effect on local governance since, ‘the village . . . is likely to play an active role in commune politics in order to retain control of decisions made about resources’ (Brock and Coulibaly, 1999, p. 31). In Zimbabwe, funds from wildlife management can be invested by community institutions in projects of their choice. Conyers (2001, p. 24–25) observes that ‘the ability to fund activities in this way increases the status and legitimacy of local institutions and makes the concept of community planning meaningful’. The placement of natural resource management decisions with representative local government engages local people with local government, given the importance of these resources in their daily lives. These environment–democracy linkages can be a source of strength for both environmental and democratic objectives.

In these ways, entrusting local institutions with environmental decision-making, rule-making and adjudication contributes directly to building local democracy. Without discretionary powers, local governments cannot gain the legitimacy they need to effectively represent local populations. Rural councillors in Senegal in the 1980s were embarrassed to hold their positions because with limited powers, they could do nothing for their constituents (Hesseling, 1984, p. 17; Ribot, 1993). Local people went instead to village chiefs or merchants for assistance and advice (Ribot, 1999a). In Burkina Faso, villagers went to merchants—who were powerful actors in the community—to resolve local problems rather than elected village presidents or village chiefs. They went to those authorities who had the power to respond (Ribot, 1999a). In these cases, recognition and legitimacy follow from power. Those holding powers become useful authorities.

In India, civil society organisations were observed to crystallise around empowered local government.<sup>5</sup> It is only logical that civic organisations form when there is a chance that they can have influence. A local government that has no powers, that is driven by mandates from above or that is not downwardly accountable, is an ineffective rallying point for civil action. Creating an empowered, accessible and responsive government can be part and parcel of enabling the emergence of strong civil society. But without empowered, accessible and responsive local government institutions, civil organisations may be discouraged from engaging the state to get the things they need. They may be frustrated or simply irrelevant and may wither away.

Ironically, despite the benefits of decentralisation stemming from increased popular participation, many decentralisation efforts are choosing to strengthen or reproduce top-down rural administration or non-representative local authorities (See Brown, 1999; Ribot, 1999a; Schroeder, 1999; Mandondo, 2000; Bigombe Logo, 2001; Namara, 2001a; Bazaara, 2002; Mapedza, 2002; Graziani and Burnham, 2002). Power over natural resources is

<sup>4</sup>Hesseling, 1984; Downs and Reyna, 1988; Chanock, 1991, p. 64; Bassett and Crummey, 1993; Geschiere, 1993, Watts, 1993; Fisiy, 1995, p. 50; See Mamdani, 1996a, p. 140; p. 166; Murombedzi, 1998.

<sup>5</sup>Anu Joshi (personal communication, IDS, Sussex, 1999).

often being devolved to non-democratic and often unaccountable or upwardly accountable local institutions such as chieftaincies, religious orders, non-governmental organisations and forest service or project-organised committees constituted mostly of private interests.

In forestry, almost all of the arrangements for decentralised or participatory natural resource management involve creation of management committees with some direct relation to local governments and to the forestry service. These committees are usually constituted to make decisions on behalf of the local community—although they often simply administer centrally prescribed management activities. The most common problems are that the committee does not represent nor is accountable to the local population, or that it is not constituted by or under the direct authority of local representatives. More often, they are constituted by the forest services, represent a few commercially interested parties or are under the control of the local elite. Representative authorities are often only one among many committee members, with no controlling role (Ribot, 1999a; Agrawal and Ribot, 1999).

There are notable, more democratic, exceptions to this pattern in Uganda where some management committees are created or constituted by the elected local government (Namara, 2001a; Bazaara, 2002). Conyers (2001, p. 38) found that after bad experiences with one elected committee under the CAMPFIRE programme in Binga, Zimbabwe, ‘... a new and more responsible CAMPFIRE committee had been elected...’. She observed that the system of elected committees ‘... although not without its problems, has so far proved to be reasonably effective’.

Even where elected local representatives exist (as in Senegal, Mali, Zimbabwe, South Africa and Uganda), they are rarely entrusted to represent local communities in significant matters of natural-resource management. Their powers remain highly limited or are circumscribed by central agencies. Donors and NGOs pursuing decentralising programmes often sideline elected local authorities, owing to a general lack of confidence in any form of government (see Evans, 1997 and Tendler, 1997 who question the basis for the lack of confidence; cf. Romeo, 1996). In Mali, where new laws give local government control over forest management, many projects still circumvent them in favour of project-selected committees or ‘customary’ authorities, where custom is often a pretext to engrain gender, caste and ethnic inequalities. Outsiders often prefer to work with customary authorities to show sensitivity to ‘indigenous’ claims. Central agencies also often support customary authorities because they can serve as vote banks for national elections and are easier to integrate into patronage networks than are less-predictable elected local authorities. In this sense, the re-emergence of neo-traditionalism and customary authorities across Africa appears to be a serious backlash against local democratisation.

When representative local government is in place, the empowering of alternative authorities undermines the function and ultimately the legitimacy of the new democratic local authorities. In short, governments and donors working on decentralised community-based natural resource management often choose not to reinforce forms of democratic decentralisation which would be institutionally sustainable, spatially replicable (through legislation across a given nation’s territory) and capable of embodying the institutional arrangements necessary for reaping the benefits that participatory and decentralised approaches promise (See Ribot, 1999a; Schroeder, 1999).

Empowering authorities that are not held downwardly accountable to local populations can imperil the long-term environmental well-being expected from more accountable local management. It can imperil democracy by taking resources away from emerging democratic structures while strengthening and helping to entrench the very non-democratic institutions that democratic reforms aim to replace. Successful environmental decentralisation programmes must take advantage of, support and work with democratic reforms. Successful democratic reforms will benefit from careful institutional choices within the natural resources sectors. In short, local institutional choice matters.

## POWERS AND THE RESTRICTION OF DISCRETIONARY DEMOCRATIC SPACES

In most African countries, few discretionary powers are transferred to local authorities. Powers that could be devolved without any threat to forests, for example, remain centralised (Fairhead and Leach, 1996; Ribot, 1999b; Conyers, 2001, p. 29; Goldman, 2001). At the same time, forests are being privatised without concern for ecological or social implications. Management requirements are being set by central governments that far

exceed necessary minimum standards. Forest services across Africa transfer non-commercially valuable use rights while retaining central control over the lucrative aspects of the sector (Ribot, 2001a, 2002). In addition, they set up complex prescriptive systems of forest management planning that require 'expert' forester services before local governments can make any decisions as to how, when, where or by whom forests should be used and commercialised. Only the most trivial decisions and the odium of management are devolved while the forest service maintains strict control over valuable aspects of forestry. Further, management obligations are rarely balanced with necessary fiscal resources or other benefits.

Under Mali's and Uganda's progressive decentralisations, democratically elected local governments have been established as recipients of decentralised powers. In Mali, however, the environmental service refuses to transfer powers to elected local government despite requirements of the new forestry laws.<sup>6</sup> Similarly, in Uganda, powers transferred to local institutions are limited by required restrictive management plans (Namara, 2001a; Bazaara, 2002). Uganda's proposed Forestry Law of 2001 does not specify guidelines for selecting powers that will be transferred nor the levels of local government that will receive them (ROU, 2001). In both cases, the laws give local authorities the right to manage natural resources but they are subject to restrictive requirements imposed by the central environmental agencies. Management plans re-centralise any autonomy that might be implied by the transfer of rights to manage. Further, in both countries many forests previously in the public domain are being privatised in the name of decentralisation (Ribot, 1999b; Muhereza, 2001). Taking public resources away from democratic institutions and transferring them to customary and other private bodies neither supports nor follows the logic of democratic decentralisation.

The mix of powers and obligations to retain at the centre and to be devolved to different political-administrative scales is a matter that requires critical analysis and informed public debate. Otherwise, environmental services around the continent are likely to continue to micro-manage environmental sectors. The principle of 'subsidiarity' calls for decisions to be located at the lowest possible political-administrative level without negative effects at a higher level (Follesdal, 1998; Rocher and Rouillard, 1998). Following this principle, decisions that can be made by citizens without regulation, should be established in the domain of citizen rights. Decisions that can be made by representative local government without jeopardising social and ecological well-being should be retained at that level. The subsidiarity principle is not followed in any African environmental decentralisation. Environmental subsidiarity principles need to be developed.

'Means of transfer' are another critical dimension of power transfer (Conyers, 1990, p. 20; Ahwoi, 2000). Security and sustainability of decentralisation reforms rest largely on the means used to transfer powers from central government to other entities. 'Means of transfer' can be constitutional, legislative or they may take place through ministerial decrees or administrative orders. Constitutional transfers are the most secure or sustainable (see Conyers, 2000). Ghana, Ethiopia, Mali, Senegal, South Africa and Uganda all have constitutional clauses that assure some degree of decentralisation (UNCDF, 2000, p. 6). While these clauses do not specify which powers are decentralised, they provide leverage for lawmakers to establish and maintain decentralised governance arrangements. The specification of the powers to be decentralised—whether or not there is constitutional support for decentralisation—usually takes place through legislation or through decrees and orders, which are less-stable forms of transfer that can change with the balance of powers among parties or the whims of the party in power (Ahwoi, 2000).

In environmental legislation in Mali, Cameroon, Senegal, Guinea, Burkina Faso, South Africa, Zimbabwe and elsewhere, decisions concerning the allocation of important powers are left to be made by ministerial or administrative decree. In Mali, for example, decentralisation is called for by the constitution, while decentralisation of powers over natural resources is called for in environmental legislation such as the forestry code. But, within the 1996 forestry code, the powers to be devolved are left to be specified by decree of the minister responsible for forests. The procedures to resolve disputes over forestry matters will be specified by order of the state-appointed governor of each region. Hence, decentralisation in the environmental sector is ultimately reserved as a discretionary matter

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<sup>6</sup>Personal communications, Yaya Tamboura, Directeur National, Direction Nationale de la Conservation de la Nature, Bamako, Mali, November 2000 and meetings with forestry officials in Mali in March 2002.

for the ministry responsible for forests and its administrative staff. In this manner, what appears to be a constitutional guarantee is transformed into an executive branch discretion (Ribot, 2002).

The distinction between rights and privileges is key in the construction of local autonomy, whether for governance units or for individuals. Privileges are open to the abuses of the allocating authority who may give them and take them away at whim. This is why delegated privileges do not constitute decentralisation. As Oyugi (2000, p. 7) suggests, '... those receiving delegated authority act for those who delegate it, whether by law or administratively' (also see Bates, 1981). Effectively, they become subjects of those higher authorities—having little discretion of their own. The domain of local autonomy in which individuals and local authorities can act *freely* is defined by *rights* and protected through representation and recourse. This is precisely the domain of discretion that would allow local authorities to serve local needs—when they represent local people and are accountable to them. With such rights, local people are transformed from subjects to citizens since they can shape the use of this domain of local freedom through representation and recourse (see Mamdani, 1996a; Ribot, 1999a). In short, the means of transfer is a defining aspect of decentralisation and democracy more broadly: delegation subjects people to central government whims, while legislated transfer creates local rights, recourse and a space for citizenship.

In sum, insufficient discretionary powers are being devolved in the environmental arena and these transfers are made through insecure legal means. Both insufficient discretion and insecurity restrict the creation of democratic space essential for effective decentralisation.

#### IMPLEMENTATION AND SEQUENCING

Sequencing for democratic and empowered local authorities requires a closer look at many factors. Salient among those impinging on institutional choice and power transfers are: (1) the mechanisms of accountability, (2) the balance between technical requirements and democratic processes and (3) the relation between power and capacity. These are each discussed below.

##### *Mechanisms of downward accountability*

In choosing or crafting local institutions for decentralised natural resource management, the objective is to empower the most broadly representative and downwardly accountable local institutions. Local authorities can be held downwardly accountable to local constituencies in numerous ways. The most commonly cited means of accountability are elections.<sup>7</sup> Elections alone are not sufficient, however, since many elected officials are not accountable to their constituencies—even when the electoral system is well crafted.<sup>8</sup> Many other legal, informational, social, economic and political mechanisms can also help assure downward accountability—of elected or any other local actors.

Non-electoral mechanisms for increasing downward accountability—of elected or any other local actors—include: recall; referenda; legal recourse through courts; third-party monitoring by media, NGOs or independently elected controllers; auditing and evaluation; political pressures and lobbying; media/NGO provision of information on roles and obligations of government; public local government reporting requirements; education; central oversight of local government; taxation; embeddedness of leaders in their community; belief systems of leaders and their communities; civic dedication and pride of leaders; performance awards; widespread participation; social movements; and threats of social unrest and resistance (see Scott, 1976; Guyer, 1992; Moore, 1997; Tandler, 1997; O'Donnell, 1998; Blair, 2000). Various 'horizontal' relations among political or administrative units at the same level, 'vertical' or upward accountability relations with the central state and a systematic separation and balance of powers can also shape local authority's downward accountability (Oloka-Onyango, 1994, p. 463–518; Mamdani,

<sup>7</sup>cf. Hesselting, 1996. See Echeverri-Gent (1992) for a study of competitive local elections in West Bengal, India that, helped make policy more responsive to the poor. For a similar argument from Colombia about the importance of competitive local elections, see Fiszbein (1997).

<sup>8</sup>See e.g. Mehta, 1996.

1996a, p. 145–146; Mamdani, 1996b; Tendler, 1997; Porter and Onyach-Olaa, 1999; Blair, 2000). These and other mechanisms can all contribute to local accountability.<sup>9</sup>

While not subject to elections, authorities appointed by central government (deconcentrated authorities), customary authorities holding public powers or even private organisations can also be made more downwardly accountable, more democratic and therefore more apt to be socially and environmentally responsible through many of these mechanisms. The progressive and systematic application of these mechanisms could be a good alternative strategy for democratic reform where electoral mechanisms are too threatening to the central state (Mandondo, 2000).

*Balancing acts: environmental planning and minimum standards*

Tensions between national and local objectives—concerning, for example, foreign exchange, watershed management, conservation, commercial production and local livelihoods—interfere with the decentralisation of powers over natural resources and the environment (Namara, 2001b, p. 1). Within state-local tensions, there is a common ‘... tension between the technocratic practices of development managers and the newly pluralistic political practices created by processes of democratization’ (also see Engberg-Pedersen, 1995, p. 2–3, 26; Shivaramakrishnan, 2000, p. 431; Wollenberg *et al.*, 2001). As observed in the early 1940s in the US grass-roots development efforts, ‘The pressure to “get things done” has tended to encourage appointment rather than elections’ (Lewis cited by Selznick, 1984 [1949]). Similarly, national environmental objectives often conflict with national objectives for establishing local democratic governance. National technical objectives may prescribe how natural resources can be used, while democratic objectives may call for local populations to set their own priorities for environmental quality and use. In both cases, there is a problem of articulation between national objectives and local autonomy. Decentralisation should seek to find the maximum degree of local freedom nested within higher-level economic, social and environmental objectives around the use and maintenance of natural resources.

Inter-sectoral planning processes involving elected local representatives are a common part of decentralisation. Environmental ministries tend to avoid these integrative processes. Instead, they opt to manage the local arena through development and application of environmental management plans on a bilateral community-by-community basis, bypassing local integrative planning processes or even avoiding local democratic institutions and processes altogether. In Niger, the forestry service chose to create separate local decision-making processes from those developed in the more-integrative rural code (Ngaido, 1994). In Guinea, the US Agency for International Development’s environment team refused to work with elected local governments because they felt it would be ‘inefficient’ (Ribot, 1998; cf. Lippman, 2001, who omits this observation).

The complement to this avoidance pattern is a tendency for environmental services to create elaborate planning processes with local institutions they choose to work with or create. In Cameroon, for example, communities wishing to set up a community forest under the 1994 forestry law must create and register a community forestry management committee with a written constitution, cartographically demarcate their ‘traditional’ territories, compare those boundaries with allowable zones in a Forest Service forest use plan (*Plan de Zonage*), determine the extent of forest accessible for the community forest and establish a simplified forest management plan to be approved by the prefecture authorities and the Forest Department (see Graziani and Burnham, 2002, p. 3). Under pressure from donors concerning the difficulties these requirements posed, the Ministry of Environment and Forests set up a Community Forestry Development Unit to provide implementation assistance.

Management planning of this nature is becoming an increasingly important management tool for central environmental ministries. Unfortunately, planning processes where central ministries specify in great detail what plans must look like undermine the notion of local autonomy and become new tools of executive-branch control. In Burkina Faso, Cameroon, Mali, Senegal and Uganda, the forest service requires management plans for each jurisdiction that wishes to engage in commercial woodcutting. These plans are cumbersome to develop, in most cases unnecessary for ecological sustainability, and usually leave little decision making to the local authorities. Further, these schemes—usually construed as participatory and sustainable management—often *require* local

<sup>9</sup>This list is further developed in Ribot, 1999a, 2001b, 2002.

communities to engage in extractive activities in order to supply international markets or meet national needs for forest products (Ribot, 1999a, 1995; Delnooz, 1999).

Several questions need to be addressed if a domain of 'decentralised' local democratic use and management are to be nested within national and international objectives. First, which powers can be transferred without threatening the environment or without requiring any form of expert intervention or planning process? As mentioned earlier, there are many forestry decisions that can be transferred without any environmental implications (Ribot, 1999b). Many commercial decisions that have been kept central are political rather than technical decisions—such as *who* can hold permits to commercialise timber and woodfuels (Bazaara, 2002). Second, which forestry activities can be transferred without fiscal support? These might include expanded use rights, expanded commercial, revenue-generating rights, the right for local governments to tax commercial forestry or decisions on who has local forest access.

Many environmental management techniques and objectives can be achieved without local planning. Minimum environmental standards, for example, are an alternative to planning. Under this approach a set of minimum guidelines and requirements are set out for individuals or communities. Within these restrictions, individuals or communities can plan or not plan, use or not use according to their local objectives and needs. The minimum standards define the domain of local autonomy. Planning processes then are an option for optimising activities within the domain of autonomy. Under this model, the domain of autonomy is defined as a set of rights in law and not through a planning process that allocates powers and obligations under administrative environmental service discretion.

There is a great need in environmental circles to re-think the actual minimum requirements for sound environmental use and protection. It is time to scope out and create the maximum domain of local autonomy—through minimum standards. Planning may be a positive tool, if it is one that local populations can *choose* to use, if and when they decide to take on activities that require it.

#### *Capacity and power—a chicken and/or egg problem*

... It is frequently argued that decentralisation should not take place until the necessary capacity exists; but this tends to be a 'chicken and egg' type of argument, since more often than not it is only the pressure of decentralisation which motivates the action necessary to improve capacity—and motivates the existing staff and the local level to recognise their own potential and demonstrate their real abilities. (Diana Conyers, 1990, p. 30).

Ahwoi (2000, p. 4) lists lack of adequately trained human resources as a local government problem in Ghana. Similar arguments are still being made by Mali's and Senegal's forest services (interviews March 2002). Indeed, 'most often it is argued that until there has been a marked improvement in Local Government capacities and institutional practices, they will fail to respond to needs expressed by their constituencies, will tend to neglect national policy priorities and, in the main, behave in unaccountable and inefficient ways' (Onyach-Olaa and Porter, 2000, p. 3). The argument that powers cannot be devolved without capacity and resources is widespread and is often specious (Clauzel, 1995, p. 49; Ribot, 1996; Oyugi, 2000, p. 10).<sup>10</sup> As Conyers (1990, p. 30) and Fiszbein (1997) indicate, the relation between ability to receive power and local capacity is not unilinear. The 'capacity' argument is often evoked to avoid transferring powers or reducing oversight.

Fiszbein (1997, p. 1), conducting research in Colombia, shows that '... what appears to some analysts and policy makers as lack of capacity, might in fact be the reflection of a conflict in the objective function used, on the one hand, by those analysts/policy-makers and, on the other hand, by the local people'. Fiszbein (1997, p. 3) attributes what is often perceived as 'lack of capacity' to such conflict between national and local preferences, reporting that: 'Many of those local governments might have usual or perverse preferences—at least from the national

<sup>10</sup>There is evidence that capacity arguments are largely unjustifiable in the environmental arena (see Ostrom, 1990; Peluso, 1992; Tiffen *et al.*, 1994; Fairhead and Leach, 1996, 1998; Murombedzi, 1998; Ribot, 1999a; Schroeder, 1999; Capon and Lind, 2000; Goldman, 2001; Graziani and Burnham, 2002, p. 3).



perspective—but they sure had no lack of capacity to achieve their objectives'. I would add that central 'objective functions' often include central actors' fears of losing economic and political powers.

Fiszbein (1997, p. 3) further points out that the perception of poor capacity is fostered by poorly designed incentives. For example: 'When fully accounted the combination of earmarking and unfunded mandates represented for many municipalities [in Colombia] more than 100% of the untied portion of the automatic inter-governmental grant they were receiving. . . . Thus, the observation that few municipalities were complying with those mandates . . . was more a reflection on the absurdity of the policy than on the local capacity' (1997, p. 3). Similarly, as Onyach-Olaa and Porter (2000, p. 3) point out, research in Uganda has made it ' . . . increasingly evident that Local Government performance is greatly dependent on and is actually being constrained by inability of central government agencies and their donor partners to deliver on their mandated responsibilities'. Local government performance appears to be as much a function of central government and donor accountability as local capacity *per se*.

Implementing decentralisation may require coordination, civic education campaigns, orientation and training programmes for local parties. But, without powers people are less likely to learn or to even engage in capacity building efforts. Risks must be taken to transfer powers *ahead of* capacity so that capacity building can have an empowering, rather than a controlling or punitive, meaning.<sup>11</sup>

## CONCLUSIONS AND RECOMMENDATIONS: SEQUENCING FOR DEMOCRATIC DECENTRALISATION

Decentralisation of environmental powers is in its early stages. Effective environmental decentralisation involves local representative and downwardly accountable authorities who hold significant discretionary powers over natural resources. To date, however, local actors receiving environmental powers are rarely representative or downwardly accountable. The discretionary powers being transferred to local authorities are often limited. This general failure of African governments to establish democratic decentralisation of natural resources appears to reflect a larger resistance to establishing local democracy. The natural resource arena should be compared with health, education and infrastructure to see the degree to which these observations reflect sectoral peculiarities or a larger pattern of central governments using institutional choice and retained powers to consolidate discretion in the executive branch.

Below are a few recommendations—many concerning sequencing—aimed at pushing the decentralisation experiment along.

### *Democratise local government first*

The kinds of outcomes expected from decentralisations are predicated on some form of downwardly accountable local representation. Establishing locally accountable representative institutions is a priority—perhaps a precondition. This means querying the structures of local elections to see if they establish downwardly accountable bodies or just place party representatives in the local arena. Without systematic means for public participation and voice in local decisions, transfers of power to the local arena become deconcentration or privatisation by default. Representation is an environmental issue if sustainable and effective decentralisation of power over natural resources is to occur.

### *Apply multiple accountability measures*

Accountability measures, in the presence or absence of representative local government, can foster a degree of downward accountability of whichever authorities hold powers over natural resources. Elections are not the only means of accountability. Based on his observations in Zimbabwe's CAMPFIRE wildlife management programme, Mandondo (2000, p. 15) argues for an incremental application of accountability measures for democratising natural-resource governance where democratic institutions are not established. A series of accountability measures

<sup>11</sup>Based on their perceptions, members of the Colombian Congress argued ' . . . no real benefit would be derived from transferring funds and responsibilities to local governments if their lack of capacity would not allow them to manage them effectively . . . ' (1997, p. 1). Opponents, however, argued ' . . . that only if fiscal resource and responsibilities for service delivery were transferred to local governments would those capabilities develop . . . ' (1997, p. 2). The lessons learned in Colombia are relevant to Africa also.

could be applied with or without more democratic forms of local government to improve the responsiveness of local authorities—including elected ones—to local people (see Ribot, 2002).

*Discretion before obligation: freedom within oversight—establishing a domain of local autonomy*

With overbearing systems of environmental management planning and oversight by line, local government and interior ministries, how can local authorities develop capacity to operate independently and how can they develop legitimacy in their own communities? One of the priorities, indeed one of the defining characteristics, of decentralisation is the creation of a domain of local discretion. In environmental decentralisations, this domain is constrained by (1) failure to transfer discretionary powers, and (2) restrictive oversight in the form of supervision, approval and management plans. Without local autonomy or local discretionary powers, local authorities are unlikely to be respected and legitimised in the local arena and are less likely to be the channel of communication and action around which civil society will form. Local representation without a domain of discretion is neither democracy nor decentralisation. While the transfer of powers without accountable representation is dangerous business, representation without power is empty.

*Power before capacity*

Central governments are reluctant to devolve powers before capacity has been demonstrated. But without powers there is no basis on which local authorities can gain experience needed to build capacity or demonstrate that capacity has been gained. 'Catch-22' lack-of-capacity arguments are often excuses not to devolve powers. Arguments that local populations lack capacity to use and manage natural resources and to manage local conflicts are most often baseless. Many local natural resource decisions do not require any special capacities. To proceed with decentralisations, the risk of transferring powers before assessing or building capacities must be taken. Which transfers can be made without local 'capacity' building? How can power transfers be used to build capacity? How can capacity claims by central ministries be challenged?

*Rights rather than privileges: opting for secure means of transfer*

Powers delegated by central agencies to local authorities are *privileges* that can be taken away. Those who hold them are accountable to the delegating body—by dint of their insecurity and fear of losing those privileges. Powers that are transferred as *rights* are less-easily given and taken away. Such rights establish a domain of discretionary freedom. Security of transfer depends strongly on whether powers are transferred to local authorities as rights spelled out in the constitution or through a legislative processes, or as privileges handed out through ministerial decrees, administrative orders, temporary licenses or permits. The degree to which the transfer is secure helps to determine the degree of independence that local authorities have in exercising the powers. It also reflects the degree to which governments are serious about creating a domain of local discretionary power, which is so basic to effective decentralisation (Meinzen-Dick and Knox, 1999, p. 13). When constructing or observing decentralisations, considerable attention must be paid to the means of transfer being used. The key question is which powers can be transferred as rights without threatening higher-scale public interests.

*Minimum environmental standards before planning*

A minimum environmental standards approach should be explored as an alternative to the current trend toward micro-management through elaborate planning. This approach specifies a set of restrictions and guidelines for environmental use and management. Any local government or individual operating within those restrictions needs no plan to use or manage resources. Some kinds of actions may require plans in order to maintain the minimum standards, but again, permission is not required from central environmental ministries unless they violate minimum standards. Today's approaches require planning and supervision for any commercial use. More research and debate must go into identifying the boundaries between what can and cannot be done without environmental service direct intervention. The domain of action that does not transgress minimum standards is the domain of local autonomy that makes for effective decentralisation.

## CONCLUSION

The above observations and recommendations take on meaning within a specific social, legal and political-economic context. These are not design guidelines. They are observations about multiple and different processes now going on across Africa. The meaning of power transfers in one place will be completely different than in another depending on the nature of local authority and the central state. Like any power transfer, environmental powers transferred into the local arena will take on the contours of existing political and economic relations. If the authorities are democratic, then powers transferred can support democratic relations. If they are despotic, then despotic authorities will be strengthened. The path toward decentralisation, then, must be carefully trodden. A deep sense of locality and politics is needed to follow every turn. An awareness of the structure of actors, powers, accountability relations, means of transfer and the meanings and uses of 'capacity', as well as an awareness of the large gaps between discourse, law and practice, will be a useful map.

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