

# Governing Africa's Forests in a Globalized World

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## Forest Governance and Decentralization in Africa: Issues and Emerging Trends

*Doris Capistrano*

### **DECENTRALIZATION, DEMOCRATIZATION AND GOVERNANCE REFORM**

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There is broad consensus in international development and policy circles that decentralization and good governance are an inherent component of environmentally sustainable, pro-poor development. The trend since the 1980s and 1990s towards decentralization in many regions, including Africa, is in line with this thinking. The chapters in this volume provide insights and lessons from African countries on how decentralization and governance reform processes are unfolding and their impacts upon actors and stakeholders at different levels.

In its broad sense, decentralization involves the transfer of roles, responsibilities and power from a central authority or government to actors and institutions at lower levels in a political-administrative and territorial hierarchy. Most countries in the African region embarked on the path of decentralization in the late 1980s and early 1990s as part of structural adjustment programmes – largely under pressure from international donors and multilateral agencies, notably the World Bank and the International Monetary Fund (IMF). Decentralization was initially conceived of primarily as a means to downsize the state, particularly at the central/national level, in order to reduce budget deficits. Increased political space and a larger share in the benefits were to be provided to local governments and citizens, who were expected to take on expanded responsibilities and fill roles previously performed by central governments. This was accompanied by a discourse of participation and power-sharing with sub-national institutions and local communities. While this discourse has become increasingly nuanced (Colfer and Capistrano, 2005; Gluck et al, 2005; Ribot and Larson, 2005), it remains strongly instrumental in its approach to participation despite increased use of the language of empowerment and heightened appeals to principles of social justice and equity.

By the late 1990s, discussions on decentralization were being framed largely in the context of a paradigm shift ‘from government to governance’ in which different stakeholders have rights, roles and responsibilities and together negotiate and define policy directions. Governance encompasses mechanisms, processes and institutions through which citizens and stakeholders articulate their interests, exercise their rights and obligations, and resolve conflicts. Framed in the context of governance, decentralization became increasingly associated with democratization; multi-stakeholder processes came to be viewed as manifestations of democracy in action. In decentralized forest and natural resources governance, citizenship and residency-based forms of belonging constitute the bases for democratic participation. Citizenship, whether based on blood rights or civil or territorial rights, is central to the exercise of democratic decision-making and resource allocation. In many African societies, the lineage or the clan (a group of lineages descending from a common and putative ancestor) is often the (de facto or invisible) decision-making unit on matters of land and natural resources, and thus important in determining rights to property and in realizing the benefits of citizenship (see Chapter 3 in this volume; Diaw, 2005).

Decentralization was advocated and promoted on the premise that if local authorities who have discretionary power over public resources represent and are accountable to the local population, their decisions will lead to more efficient and equitable outcomes than if central authorities make those decisions (Ribot, 2004). In theory, decentralized policy decisions and political processes grounded at the local level are expected to bring government closer to its constituents and give citizens more opportunities to participate in the day to day business of governance.

As rights holders, citizens have the right and the responsibility to participate while governments, as duty bearers, have an obligation to provide a basis for the fulfilment of civic rights and human rights, more generally, and to be responsive to citizens’ concerns. These reciprocal rights and obligations, in turn, are expected to foster greater transparency, increased citizens’ demand for accountability and increased responsiveness of governments to local needs, resulting in better public service delivery, more efficient and sustainable resource use, and improved governance overall. The enhanced collaboration among key stakeholders – local government, civil society and the private sector – anticipated to develop in due course, is also expected to be a driving force for development, innovation and further improvements in governance at different levels.

Where ties of blood and social obligation link rights holders and duty bearers, however, this pathway is not as straightforward and can be complicated. In the forest sector, citizens’ and communities’ incentives to demand accountability from the state may be low if direct benefits from state-owned forests are perceived to be low and if devolution of forest ownership to communities has not led to increased taxation. Low levels of accountability demanded by communities can serve as further disincentive for the state to pursue necessary governance reforms – especially if state budgetary dependence upon forests is high, levels of investment low and rates of return high (see Chapter 14, this volume). Moreover, in many countries, states do not serve as neutral arbiters among stakeholders, but are instead allied with powerful interest groups and thus are disinclined to respond to demands for accountability if it would hurt allied interests.

Over the years the goal posts for decentralization have constantly shifted along with changes in development thinking and evolving ideals for the governance of environmental resources (Capistrano, 2008). Pre-existing complex social networks and customary institutions have also proven to be resilient and persistent in their influence. Not surprisingly, in practice, decentralization in Africa as in other regions has fallen far short of expectations. Indeed, to be effective, the process of decentralization requires time, persistent effort, consistent monitoring and course correction along the way.

Analyses of cases around the globe indicate that certain forms of decentralization have led to some improvements in livelihoods, resource use and the quality of decision-making under certain conditions. In many contexts, however, the effectiveness of decentralization and accompanying governance policy reforms has been undermined by a variety of factors. The most notable factors include conflicts between customary and formal law; inconsistencies within formal law and discrepancies between policy and practice; weaknesses in institutional capacity at different levels; lack of political commitment to implement decentralization and governance reforms despite enabling laws and policies; inadequate provision of needed financial and other resources; uncertainty due to the tendency of governments to recentralize control; unclear and insecure property rights to forest land and resources; rent-seeking, corruption and illegalities; and capture of the major share of benefits by dominant groups at the expense of other stakeholders (Manor, 1999; Ribot, 2004; Capistrano and Colfer, 2005; Colfer et al, 2008).

How decentralization and governance processes unfold in Africa and how they ultimately impact upon different stakeholder groups in society depend in no small measure on the nature of societal institutions and the historical antecedents that shaped them. The multiple scales and frames through which governance institutions operate, including customary forms of representation, authority and property rights, are important defining elements. Inevitably, similar reforms undertaken in different countries and contexts can have different trajectories, even while they may share some similar patterns and evolutionary pathways.

## **DECENTRALIZATION: DIVERSE FORMS, CONTESTED MEANINGS**

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While there is broad agreement on the concept of decentralization in the abstract, what constitutes decentralization in practice remains a contentious issue. A number of authors have elaborated upon the nature of decentralization (e.g., political, administrative or financial) and upon distinctions between devolution, delegation and de-concentration (Edmunds and Wollenberg, 2003; Ferguson and Chandrasekharan, 2005; Larson, 2005; Ribot and Larson, 2005; Chapter 2, this volume).

Ribot (2004) argues in favour of democratic decentralization and distinguishes between democratic decentralization and community-based natural resource management (CBNRM). He defines democratic decentralization as the transfer of

powers from central governments to elected (presumably representative and accountable) local governments in the name of local citizens. CBNRM is much broader and can take the form of decentralization. It pertains to interventions that engage 'communities' in projects through participatory processes. This distinction may be applied as well to community-based forest management (CBFM) and forms of community forestry (CF), a general term used to refer to a variety of models of community management of forest resources. In practice, implementers of CBNRM/CBFM/CF define the 'community' (e.g. as user groups, stakeholders, etc.) and their mode of representation in project implementation (e.g. through elected or appointed committees, stakeholder fora, etc.). In democratic decentralization, the 'community' is made up of all citizens under the jurisdiction of the local government and is arguably more inclusive. But the concept of 'local community' does not stand out as a readily identifiable entity with well-defined contours and stable internal regulations (see Chapter 4, this volume). It can also mask structural inequities in which certain groups dominate decision-making and capture a major share of benefits at the expense of other groups.

Diaw (in Chapter 3) points to numerous cases of *de facto* decentralization, 'space taking' or 'decentralization by default' through self-initiated efforts (as opposed to externally sponsored projects) of local communities to protect, restore and manage local forest resources. Unlike the relatively few celebrated cases of largely externally driven CF and CBFM, the many self-initiated cases of community forest management have been rendered invisible by dominant paradigms of decentralization and conservation that focus on power, territories and external forces as agents of change. The role, legitimacy and innovative potential of communities and local actors and their web of embedded institutions and informal networks to shape outcomes have been largely ignored. These cases, argues Diaw, demonstrate the capacity of local societies to conserve and manage their resources without employing the discourse and instrumental rationality of decentralization, conservation or democracy.

Conflict, especially violent resource-related conflict characterized by state absence or weakness, can also create conditions of *de facto* decentralization in which 'might is right' (de Koning et al, 2008). Post-conflict situations can be major opportunities for far-reaching governance reforms. For example, following the war in Liberia, the newly installed government initiated wide-ranging reforms to decentralize forest management through local community management and to address the systemic corruption, illegality and rent-seeking in the forest sector. The influx of international assistance for reconstruction and rehabilitation that often comes in the aftermath of conflict and return to peace can provide fragile, post-conflict states the needed funds and technical assistance to push through with reforms they could not otherwise undertake on their own (Kaimowitz, 2006; de Koning et al, 2008). For previously marginalized communities and stakeholders, this presents opportunities to access new resources and mobilize potential new allies to advocate for governance reforms in their favour. Diaw (Chapter 3) argues that in post-conflict societies, decentralization will be better off granting space for local agency rather than trying to over-define how local actors should organize.

Regardless of the understanding and practice of decentralization, there is a sense in the literature and at the Durban workshop that the participation of local

communities in forest management is a positive trend and an important element of forest governance reform. Indeed, in Africa as in other regions, though policy and governance interventions may not necessarily be decentralized or democratic, there is a marked trend towards greater community engagement in forest management (see Chapter 2). A number of country cases presented in this volume illustrate this trend (Chapters 5, 6, 11 and 12 for Madagascar, Tanzania, Uganda and Zimbabwe). Whether and to what extent community participation provides benefits over the long term and whether it can be sustained still remains to be seen. Long-term improvement in governance and realization of sustained benefits require sufficient time and significant efforts to strengthen institutions and develop capacities at different levels. Some authors have noted, however, that some forms of CBNRM/CBFM/CF can end up circumventing the state, stalling state reforms and/or undermining local government institutions (see Chapters 4 and 10; Larson and Ribot, 2005). Externally supported decentralization projects tend to favour models based on voluntary community-based committees over elected local government authorities. Such models can create competing institutions for resource management at the local level, undermining progress towards legitimate forms of political representation and/or providing excuses for local government to evade its responsibilities and forestall needed reforms.

Alongside the trend towards greater community forest management is a trend towards further privatization of forest resources. The pressure for privatization has been especially pronounced during the past 15 years as environmental policy around the globe has relied increasingly on market mechanisms over regulations to influence the behaviour of key actors and stakeholders (Anderson et al, 2001). Both regulation and privatization are premised on the law enforcement ability of governments to uphold and enforce property rights (see Chapter 4). But while regulation depends upon the coercive influence of the state for enforcement, privatization relies on respect and enforcement of property rights by the state and society at large, and uses incentives to encourage sustainable resource use and management.

Authors differ on whether privatization can be considered a form of decentralization (Ferguson and Chandrasekharan, 2005; Ribot and Larson, 2005). Nevertheless, in some countries in Africa decentralization, in practice, has meant privatization of state-owned forest resources (see Chapter 10; Ribot and Larson, 2005). State-owned forest resources turned over to local governments or communities are often captured by powerful actors, essentially privatizing benefit flows intended for the collective. In Mali, for example, merchants and public servants sidelined by the move towards forest management by communities and local government effectively sabotaged policies to decentralize taxation of commercial fuelwood harvest and trade that could have increased communities' share of revenues. The merchants and their allies successfully lobbied to repeal the decree. This has led to the re-centralization of resource rents before any concrete benefits could be realized, re-established the dominance of allied merchants and public servants, and undermined local incentives for sustainable harvest (see Chapter 10).

Forest concessions awarded to private companies for logging and management remain the most common form of privatization in African forestry. The concession system is a legacy of the region's colonial history. The system has continued even after

**Table 19.1** *Forest area under concessions (A) and under management by communities and indigenous groups (B) in heavily forested countries of Africa (million hectares)*

<i>Country</i>	<i>Under concession (million hectares)</i>	<i>Under communities (million hectares)</i>	<i>Proportion of total under community management (B/(A+B))</i>
Cameroon	6.4	1.1	14.7
CAR	5.4	0.0	0.0
Congo	8.7	0.5	5.4
DRC	33.5	0.0	0.0
Gabon	18.9	0.0	0.0
Mozambique	4.6	2.0	30.3
Tanzania	0.6	3.6	857.1

*Source:* calculated using data from Sunderlin et al (2008)

ex-colonies became independent, with more or less the same features, but with central governments assuming the role of their former colonizers. Significant areas of Africa's forests remain under concessions of various types (Karsenty, 2007; Sunderlin et al, 2008). Forest area under community and indigenous peoples' management is increasing, albeit slowly, especially in countries with policies supportive of community and joint forest management. But despite policies for decentralized forest governance, concessions rather than local communities continue to manage a major portion of the forest estate – particularly in the heavily forested countries in Central Africa (see Table 19.1). The rapid pace of expansion of industrial relative to community models of forest management suggests a bias towards land uses that maximize state revenue (German and Cerutti, 2009).

## **LIVELIHOOD AND SUSTAINABILITY IMPACTS, REVENUE AND BENEFIT-SHARING**

The impacts of decentralization on livelihoods have been mixed. Under certain conditions, decentralization and devolution of rights can lead to improved livelihoods, particularly if it includes sharing of high-value resources, taxes/revenues and commercial opportunities; proactive efforts to meet the needs of different social groups; and effective cooperation among communities, local government, forest services and other key stakeholders (see Chapters 2 and 11; Randrianarisoa et al, 2008). However, the hoped-for impacts of decentralization and forest governance reforms on poverty alleviation have yet to materialize. Livelihood improvements also tend to accrue to relatively better-off communities and households. Jagger's (Chapter 5) systematic comparison of income changes before and after Uganda's 2003 forest-sector governance reform shows that wealthy rural households living in the Central Forest Reserve experienced large gains in income from forests, total household income and share of household income derived from forests. On the other

hand, households in the lowest-income quartiles suffered moderate losses in forest-derived income and significant losses in their share of household income from forests. Indeed, without the necessary institutional safeguards, livelihood improvements for some groups and households tend to be at the expense of other less endowed or powerful actors – or occur at the expense of long-term sustainability.

Decentralization can create perverse incentives and encourage corruption and rent-seeking by forest law enforcement authorities, especially in areas with high-value resources. For example, decentralization of forest management responsibilities to local government and communities typically has not been accompanied by financial and other resources needed to support their expanded roles, leading to increased reliance on revenues generated from forest resources to finance operations. The incentive for local actors to intensify exploitation of forest resources runs counter to the expectation that decentralization will improve forest management and reduce deforestation. In the absence of strong governance mechanisms, especially for financial accountability and recourse to justice, and where power is concentrated within elite networks bound by relations of patronage, this can fuel competition, further entrench the pre-reform status quo and encourage corruption. Increases in community and household income can come about through illicit harvest and sale of forest products and rent capture (see Chapters 6 and 15). In Jagger's (Chapter 5) case study sites in Uganda, for example, the major portion of forest income came from sawn wood harvested and sold illegally. In these sites, law enforcement authorities also tended to focus disproportionately on the poorest households.

In Tanzania, village councils have management responsibility over land and natural resources and the power to make legally binding bylaws. Legal mechanisms also exist for villagers to become owners, managers or co-managers of forest resources. Despite these provisions to help ensure that almost all forest management benefits are captured at the community or group level, there is little evidence that the legal transfer of forests has been accompanied by significant economic returns at the local level. Available data in southern Tanzania suggest that CBFM, the form of participatory management with greatest potential for economic empowerment, yielded only modest incomes of between US\$540 to \$720 per village per year (see Chapter 6).

The availability of large areas of forests in Tanzania that could be brought under community management offers the potential for generating higher incomes and revenue streams. However, the propensity to transfer degraded forest and low-value resources to communities coupled with generalized institutional failures and weaknesses constrain the realization of this potential. The key constraints are similar to those faced by many other countries in Africa and around the globe. These include limited information and basic data needed for management (on forest condition, extent and sustainable harvest, etc.); lack of awareness of and appreciation for the economic value and revenue generation potential of forests; conflicting roles in forest management and revenue collection between central and local government authorities; widespread graft and corruption; illegal logging and trade; poorly resourced and uninformed local government staff; lack of awareness of rights and laws among forest-dependent communities; and communication gaps between actors, which undermine accountability (see Chapters 2, 3, 4, 5, 11, 13 and 14).

Local and intermediate levels of government need adequate resources and a strong degree of financial autonomy to achieve effective decision-making and policy implementation. Likewise, decentralized units need to have the capacity to generate sufficient financial resources. As in other regions, initial decentralization initiatives in Africa have been strongly criticized for devolving responsibilities without transferring adequate power and resources with which to undertake devolved functions. The pressure on local governments to raise revenues for their operations can encourage overharvesting of forest resources (Larson, 2005; Barr et al, 2006; see Chapter 14).

While there is evidence of improvements in forest quality from community forest protection, fire control and regeneration following decentralized management in many places (see Chapters 5, 6 and 11), there are also instances of increased deforestation and unsustainable forest exploitation following decentralization (Chapters 12 and 14). Decentralized forest management is not necessarily better than centralized management in terms of sustainability outcomes, especially if benefits and revenues from forests are not as attractive as alternative land-use options and local institutional capacity to regulate use is weak.

Fiscal reforms initiated in a number of countries in recent years have tended to incorporate provisions for improved forest revenue and benefit-sharing between central and lower levels of government and with communities. Apart from providing local governments and communities incentives for sustainable management and enhanced investment in forestry activities, such fiscal reforms are expected to increase efficiency and transparency in revenue and tax collection under decentralized forest governance (see Chapter 14; Oyono, 2006).

There are indications of some positive results from these tax and revenue sharing provisions. For example, efficiency of forest revenue collection increased substantially following the devolution of responsibility for revenue collection from district to village level in Tanzania's Iringa District (see Chapter 14). In many countries, using forest-derived revenue, communities are increasingly investing in social infrastructure and services and venturing into community enterprises. The multiplier effects on the local economy of such investments tend to be significantly higher compared with investments of equal amounts by external actors (ITTO/RRI/Forest Trends, 2007). With devolution of revenue collection to the community or village level, however, questions about financial transparency and accountability of local actors and institutions are increasingly being raised. There are also concerns about leakages and increased corruption at the local level (see Box 18.1 in Chapter 18; Oyono, 2006). Evidence suggests that efforts to strengthen local governance must accompany fiscal decentralization for it to be effective.

Despite the trend towards greater benefit and revenue-sharing across Africa, serious impediments to communities realizing their due share remain. Burdensome bureaucratic procedures imposed on communities (e.g. approved management plans, permit requirements, etc.) generally entail high transaction costs with uncertain benefits. Forests transferred to communities for management still tend to be concentrated in degraded, low-value areas which require considerable effort to restore to a productive status, while states retain control of the most productive and valuable forests and forest resources.

Insecure and unclear property rights over land and forest resources are a major source of uncertainty of benefit streams from decentralized forest management (Chapter 1; Sunderlin et al, 2008). Uncertain benefits can also be due to conflicts and political turmoil that grip parts of Africa from time to time (de Koning et al, 2008). In Zimbabwe, for example, the political crisis that has engulfed the country since 2000 has eroded institutional capacities and gains already achieved under programmes for CBNRM and co-management (see Chapter 11). Yet greater devolution is suggested as a means to enhance the resilience of forest management institutions, and thus forests, in times of political instability.

The reaction of powerful interest groups to decentralization and governance reforms can make the realization of potential benefits uncertain. Groups with entrenched interests often attempt to recapture devolved powers and push for a return to the pre-reform status quo. They also tend to develop new mechanisms and form alliances to maintain or enhance their positional advantage under the new regime. Under pressure from powerful vested interest groups who stand to lose from reforms, governments can suddenly reverse policies and wipe out potential benefits literally with the stroke of a pen. In Mali, for example, a decree on decentralization and revenue-sharing granted village communities between a 30 and 50 per cent share of revenues from different types of forest under their management. Before the decentralized units were operational and their rights established, a subsequent decree reduced their share to between 0 and 10 per cent (see Chapter 10).

Women and marginalized groups tend to be particularly disadvantaged in benefit sharing in Africa, as in other regions. Comparisons between Senegal and Cameroon show that women's access to resource management-related decision-making is very marginal (see Chapter 7). As a consequence, women's unique interests and concerns are not considered, restricting their access to forest resources and control over cash incomes. Ethnic minorities and marginalized populations such as the Pygmies of Central Africa also experience similar types of exclusion (see Chapter 16).

## **TRADE AND INTERNATIONAL INFLUENCES ON LOCAL GOVERNANCE**

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The changing pattern of forest products trade in Africa is transforming the landscape and reshaping the forest sector architecture in many countries (see Chapters 4, 13 and 17). At the same time that it introduces new ways of doing business and raises standards of behaviour expected of state and corporate actors, it threatens to undermine progress already achieved.

Africa's expanded trade and engagement in international and regional fora for international environmental governance also serve to promote increasing alignment of norms and standards in individual countries with those of the international community. Demand for greater transparency and changes in norms of behaviour from the international community – particularly Western donor countries but also, increasingly

from neighbouring countries in Africa – are pressing governments to reform governance standards. The development of a multi-tiered, transnational civil society movement over the past two decades and its mobilization around forest-related issues has also brought new ideas and innovative approaches to the governance of forests within and beyond national boundaries. Civil society, often referred to as non-governmental organizations (NGOs), involves citizens acting collectively in a public sphere to express their interests, achieve mutual goals and demand accountability from the state. The active involvement of indigenous peoples and grassroots-based federations in this increasingly global movement has focused attention on local people's rights as a critical element in sustainable forest use and management. Combined with pressure from below exerted by organized local communities and grassroots organizations, these pressures from the international community are pushing some governments in Africa to follow through on decentralization and to further improve their governance record. Governments are beginning to respond, albeit often reluctantly, to the challenges associated with climate change and forest-related corporate investment and trade, and to align with international norms of governance (see Chapters 15, 16 and 18).

Initiatives spearheaded by civil society organizations, donor governments and the private sector are not only evolving industry standards, but also contributing new tools, voluntary codes of conduct and more ethical principles for doing business. These initiatives have been spurred on both by progress in the development of concepts/principles in international environmental conventions and by frustration with the slow pace of negotiation and action in international forest forums and processes (Gluck et al, 2005).

Innovative instruments, including certification, have been designed to improve forest and forest-related governance in ways that complement regulatory approaches – in what has been described as 'governance without government'. These instruments generally rely instead on market incentives, voluntary self-regulation and third-party monitoring and verification, rather than on government regulation (Nussbaum and Simula, 1995; Gluck et al, 2005). They also build on progressive language from international treaties and conventions – such as Human Rights, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on Biological Diversity (CBD), the United Nations Framework Convention on Climate Change (UNFCCC), etc.; legally binding international agreements on special subjects (e.g. trade of tropical timber); and on non-legally binding instruments ('soft law') on forests to push for behavioural change among state and corporate entities.

Legislation and behavioural norms developing around the concept of free and prior informed consent (FPIC) is one example of such an instrument that could strengthen indigenous peoples' rights and control over local forest resources. Enshrined in the CBD, International Labour Organization (ILO) Convention 169 and the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), FPIC pertains to all kinds of development activities affecting indigenous peoples' land and resources. In operational terms, FPIC means that local communities are given prior access to all relevant information pertaining to development activities affecting their land and resources and then consulted freely, without pressure or manipulation. After consultation and negotiations, they decide whether or not to give consent with a clear right to say 'no' (see Chapter 16). FPIC is a requirement for voluntary

certification under the Forest Stewardship Council (FSC) label, and is obligatory for states that ratify CBD and ILO conventions.

Making FPIC a requirement for awarding forest concessions and other land-based investments on customary land can potentially improve corporate practices and reduce incidents of conflict and abuses commonly associated with the concession system and large-scale investment. Widespread application of the FPIC concept can strengthen the hand of indigenous peoples in their negotiations with state and corporate entities and help to promote more just and equitable outcomes from their dealings with more powerful stakeholders. But for it to be effective, it needs to be implemented in a manner that recognizes and deals with asymmetries in power between often marginalized indigenous peoples and those who seek their consent, and that treats consent as an active process rather than a decision taken at one point in time (in which the decision to 'opt out' remains a possibility as experience is acquired). Freeman et al (Chapter 16) recommend processes and actions that include ascertaining local customary rights; developing effective communication and information-sharing strategies; ensuring that a share of profits and taxes derived from forest exploitation are invested locally; protecting locally important forest resources against the negative impacts of timber exploitation and wildlife management; and giving customary rights-holders a clearly defined role in decision-making processes that concern the forests that they use. They also recommend specific steps that companies need to take to establish basic processes and mechanisms for FPIC to contribute to more sustainable and equitable forest management. These include hiring staff with appropriate skills, articulating and publicizing company policies, recognizing and respecting traditional rights of local populations, and developing an ongoing dialogue between local residents and timber companies based on mutual respect.

A mix of voluntary and regulatory instruments has also emerged to address pervasive corruption, illegal activity and criminality in the forest sector. With a great deal of encouragement from donors and international agencies, African countries are also increasingly cooperating to address common transboundary governance challenges, such as illegal logging and forest products trade, to promote more sustainable forest management in the region. Within the framework of Africa Forest Law Enforcement and Governance (AFLEG), countries have agreed on an action plan that emphasizes capacity-building; law enforcement and monitoring; attention to wildlife resources; forest management practices; mobilization of financial resources for forest-dependent communities to reduce illegal activities; promotion of cooperation between law enforcement agencies within and among countries; involvement of local communities in decision-making; and awareness-raising regarding the impact of illegal logging and associated trade. The action plan also calls for the implementation of AFLEG in harmony with the New Partnership for Africa's Development (NEPAD) and other regional processes (see Chapter 15).

These regionally focused initiatives are complemented by actions agreed by donor countries and trading partners, notably the European Union (EU). The EU Action Plan adopted by the European Council in 2005 sets out a range of measures to support improved governance and capacity-building in timber-producing countries; reduce the EU's consumption of illegally harvested timber; and discourage investments by EU institutions that contribute to illegal logging. The action plan also includes provisions

for the development of voluntary partnership agreements (VPAs) with timber-producing countries to prevent illegally sourced timber from entering the EU market (see Chapter 15). These complementary initiatives are notable in their efforts to address both the supply and demand sides of illegal logging, trade and corruption and in their recognition of the intricate links between illegal forest products harvesting and trade, on one hand, and the subsistence and livelihoods of forest dependent communities and households, on the other.

Indeed, what constitutes 'legal' and 'illegal' remains a grey area, especially when laws and regulations are inconsistent, and when formal law is at odds with customary law and traditional practice. Onerous bureaucratic requirements and the high transaction costs associated with legal compliance often induce communities to operate outside the law, making customary forest uses technically illegal. In such contexts, more vigorous law enforcement can end up unfairly targeting and unjustly penalizing forest-dependent communities, even while laws and regulations are applied more selectively and benignly in favour of logging companies and large forestry enterprises (Colchester et al, 2006). There is also a tendency to equate informal economic activities (i.e. those operating outside formal markets and, thus, outside formal regulatory authority) with illegality. Government economic policies can also be a major factor driving segments of the economy towards informality (see Chapter 13). Restricting international market access to 'legally' harvested timber can also discriminate against small- and medium-sized enterprises and poor timber-exporting countries that cannot afford or easily comply with the requirements imposed by legality and certification schemes (see Chapter 15; ITTO, 2002; ITTO/RRI/Forest Trends, 2007). In Ghana, for example, policies adopted in 1983 as part of the country's structural adjustment market liberalization reforms promoted an aggressive export-oriented expansion in forest products trade. This led to increased dualism in the forest sector, with a formal sector producing high-quality timber for export to generate foreign exchange revenues, and an informal sector producing largely for the domestic market, but also serving (illegally) as sub-contractors for the formal sector (see Chapter 13) – further marginalizing forest communities and leading to domestic lumber shortages.

Alongside the regional and international initiatives to address systemic weaknesses in forest-related governance, dynamic changes in the pattern of trade in Africa are creating new opportunities as well as threats to the progress already made towards decentralization and governance reforms. The threats are especially pronounced in the resource-rich countries of Central Africa. The emergence of China and India as economic and geopolitical power figures is manifest in Africa in the form of increased exports of raw materials and natural resources, particularly to China, and increased inflows of foreign direct investment in raw material-producing sectors. The 2006 China–Africa Summit attended by representatives of 48 African countries was accompanied by the signing of new commercial contracts worth US\$1.9 billion. By 2009, Chinese aid to Africa is expected to double and Chinese credit and grants to Africa are expected to grow to US\$5 billion. The Chinese offer African countries direct, condition-free financial assistance in exchange for guaranteed access to strategic resources (see Chapter 4). These flows of trade and investment are providing timber and natural resource-rich countries significant sources of finance outside of the traditional donors and multilateral development banks, which have been pushing

for governance reforms and the adoption of Western standards of business practice as conditions for assistance. There are concerns that this would encourage countries to backtrack on governance reform commitments and unravel voluntary agreements already in place or under negotiation (Chapter 4). The costs and impacts of illegal logging and trade can be significant. In Tanzania, up to 96 per cent of potential revenue from forest royalties was found to be lost due to unreported and under-reported harvest volumes. In 2003/2004 alone, this amounted to US\$58 million (see Chapter 14).

The mode of operation of (typically ethnically based) trading networks gaining ascendancy in Africa also raises questions about the effectiveness of new governance tools and even of conventional regulatory measures. These trading networks combine the efficiency and organizational capacities of Western corporate operations with flexible and adaptive strategies negotiated and coordinated 'within the family' of companies in the network, employing cooperation and competition as needed. Entities within the trading networks can be selective in their compliance with voluntary and regulatory requirements, depending upon the local context (see Chapter 17). The same company or family of companies operated by allied groups in a trading network can behave as exemplary corporate citizens in one context and flagrantly violate social and environmental standards in another. The nature of the competition, the strength or weakness of a host country's overall regulatory and governance instruments, and the capacity of local citizens to demand accountability and defend their rights all figure in the choice of strategy in a particular arena of operation.

Market-based incentives may have limited effectiveness in influencing corporate practices of companies within the network, particularly when they are integrated vertically and/or horizontally with other members of the network, when they monopolize specific markets, or when they rely on the network rather than on regular credit and capital markets to finance their operations. These business networks have demonstrated the ability to operate even in the most unstable and difficult conditions due to their flexibility and economic efficiency. While capitalizing on opportunities to minimize their costs or maximize profits, and thereby capable of inducing negative social and environmental costs in contexts of weak governance, this does not necessarily make them more predatory than traditional Western companies (see Chapter 17).

International initiatives for climate change mitigation and adaptation are also creating opportunities and challenges for African decentralization and governance reforms. With deforestation, forest degradation and other land-use changes accounting for approximately 20 per cent of annual greenhouse gas emissions worldwide, forests and how they are managed would have to be among the key elements of a comprehensive global response to climate change. Africa can potentially benefit from the evolving carbon market for afforestation/reforestation, while heavy initial investment, high levels of expertise needed and the requirement of clear property rights for investment make it very difficult for decentralized government bodies, smaller forest owners and forest communities to participate and realize the potential benefits from the evolving Clean Development Mechanism (CDM) market (see Chapter 18), the benefits of voluntary carbon markets are reaching local communities in some countries. A new financial instrument (the Forest Carbon

Partnership Facility, or FCPF), launched by the World Bank with contributions from Norway and other countries, is also making available new resources (US\$500 million over a five-year period) for new public policies and deforestation reduction programmes in forest-rich developing countries.

Whether and to what extent this infusion of funds will benefit Africa, and how these will impact upon local communities, remains to be seen. What is clear, however, is that a reputation of poor governance and corruption can inhibit carbon sequestration finance and climate change-related investments from flowing into a country. It is also clear that secure and unambiguous property rights and tenure are essential for any market-based compensation mechanism, whether for carbon sequestration or other environmental services provision, to function (see Chapter 18). The necessity of large-scale geographic coverage, possibly spanning a number of districts or provinces, can be challenging if forest management is decentralized. There is concern that climate change mitigation initiatives could be used by governments to recentralize forest management and reconsider their commitments to decentralization, further marginalizing communities from resources upon which they depend (see Chapter 4). On the other hand, communities are well situated to deliver carbon sequestration and environmental services under payments for environmental services schemes if the contracts are negotiated with communities responsible for the protection and maintenance of these services.

## **CONCLUSIONS**

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The trajectory of decentralization and governance reform in Africa is similar in many respects to those unfolding in other developing regions. Decentralization still needs to be implemented fully as real sharing of power, authority and benefits have yet to happen in most countries. So far, the outcomes of this incomplete decentralization and associated governance reforms have been mixed and their impacts uneven. As a work in progress, it will require more time for the results to be apparent and fully understood. Effective monitoring systems to proactively identify barriers to success and to identify lessons and 'good practice' are essential in realizing the potential benefits of decentralization and other forest governance reforms.

As in other regions, there are many constraints and impediments to effective and equitable decentralization and forest governance reform in Africa. Recommendations for action formulated by participants in the Durban workshop to address some of the key issues are summarized in Box 19.1. Perhaps more so than in other regions, however, Africa has to grapple with more difficult challenges associated with widespread poverty, fragility of states and vulnerability to violent conflict, generalized weakness of state institutions, and lack of information and technical capacity. But Africa has a tremendous reserve of capacity not only to deal with difficult issues but also to innovate in the face of new challenges and unfolding opportunities. Much of this capacity resides in local institutions, social networks and in the hitherto invisible local actors generally sidelined in discussions of decentralization and governance reforms. It will be important to enable this capacity to be expressed, to flourish and to become integral to decision- and policy-making going forward.

### **Box 19.1 General recommendations from the Durban Workshop on Forest Governance and Decentralization in Africa**

#### *Theme I: Decentralized forest management and livelihoods:*

- *Improve forest governance* through the establishment of clear and enforceable rules on forest management and transfer of powers and responsibilities; third-party and self-monitoring systems; enhanced public debate over privatization; and strengthening of networks capable of influencing policy.
- *Strengthen democracy* by enhancing downward accountability of local authorities; mechanisms to counter-balance existing inequities; establishing mechanisms for managing conflict among stakeholders; and implementation of national and international policies on gender, minorities and indigenous groups.
- *Strengthen capacity* through civic education on rights and responsibilities of different actors; forestry research in social and natural sciences; enhanced public access to research findings; support to local technical, organizational and revenue-generation skills; and mechanisms for regular communication between local communities and government.
- *Ensure economic benefits to local people* by enhancing incentives for sustainable management through stronger rights over lucrative resources (along with responsibilities to ensure that a minimum set of rules and standards for forest management and use are met); identification and removal of barriers to marketing and value addition; and through meaningful fiscal decentralization.

#### *Theme II: Conservation, sustainable forest management and forest governance:*

- *Support democratic forest conservation and management initiatives* by allocating meaningful resources for capacity-building of all actors; encouraging open fora for deliberation over natural resource management; and fostering an incremental shift by forest agencies from a regulatory to a support function.
- *Allocate decision-making roles and responsibilities to the lowest appropriate level* through improved support to a more strategically chosen set of priority conservation functions (and devolving others to customary forms of management); interpreting policy as a framework for action rather than as a detailed set of management prescriptions; and ensuring that decentralized functions receive adequate financial and human resources.
- *Ensure that comprehensive monitoring and evaluation systems accompany governance innovations* to monitor livelihood and environmental outcomes of these reforms and foster adaptive learning among concerned stakeholders.
- *Consider the true value of forest and landscape goods and services in decision-making* through adequate consideration of the full range of forest ecosystem goods and services and the interests and values attached to these by different stakeholders; explore innovative means to leverage science and multi-stakeholder cooperation to identify and govern trade-offs in multi-stakeholder forest landscapes; and support cross-sectoral checks and balances in the governance of environmental services.

- *Support and develop regional cooperation on shared resources and challenges* to enable improved management of transboundary resources and support harmonization of policies so that governance successes in one country do not contribute to governance challenges in neighbouring countries.

*Theme III: International trade, finance and forest-sector governance reform*

- *Improve outcomes of trade, investment and marketing* by rethinking approaches to regulatory and incentive-based mechanisms for corporate behavioural reform; leveraging the potential of market-based instruments (certification, voluntary partnership agreements and Forest Law Enforcement, Governance and Trade processes) to support public policies; and the pursuit of holistic anti-corruption efforts with greater attention to high-level corruption and improved checks and balances (e.g. audit and accountability mechanisms).
- *Improve equity in finance* by supporting reinvestment of forest revenues into enhanced productive capacity and social welfare infrastructure; strengthening mechanisms for distributional equity associated with private-sector investments and market-based payments for forest ecosystem services; enhancing financial incentives for certification and corporate social and environmental responsibility; and improving upon national accounting systems so that the full value of forest goods and services is recognized.
- *Support local communities' efforts to reduce capture of resources by local and external elites* by clarifying and securing rights and tenure over forest land and resources; addressing the barriers to value capture by local communities; and ensuring that restrictions on rights associated with private-sector investments and environmental service provision are equitable (e.g. similar rules applied to all; customary rights honoured).
- *Promote appropriate responses to climate change* by fostering national-level dialogue among government agencies, the private sector and civil society in the development and adaptation of norms and standards that support concrete returns from carbon offsets to sustainable forest management and poverty alleviation; and supporting active participation of forest-sector actors in the development of the post-2012 United Nations Framework Convention on Climate Change agenda to enhance benefits to local stakeholders directly involved in land use change and forest use.

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