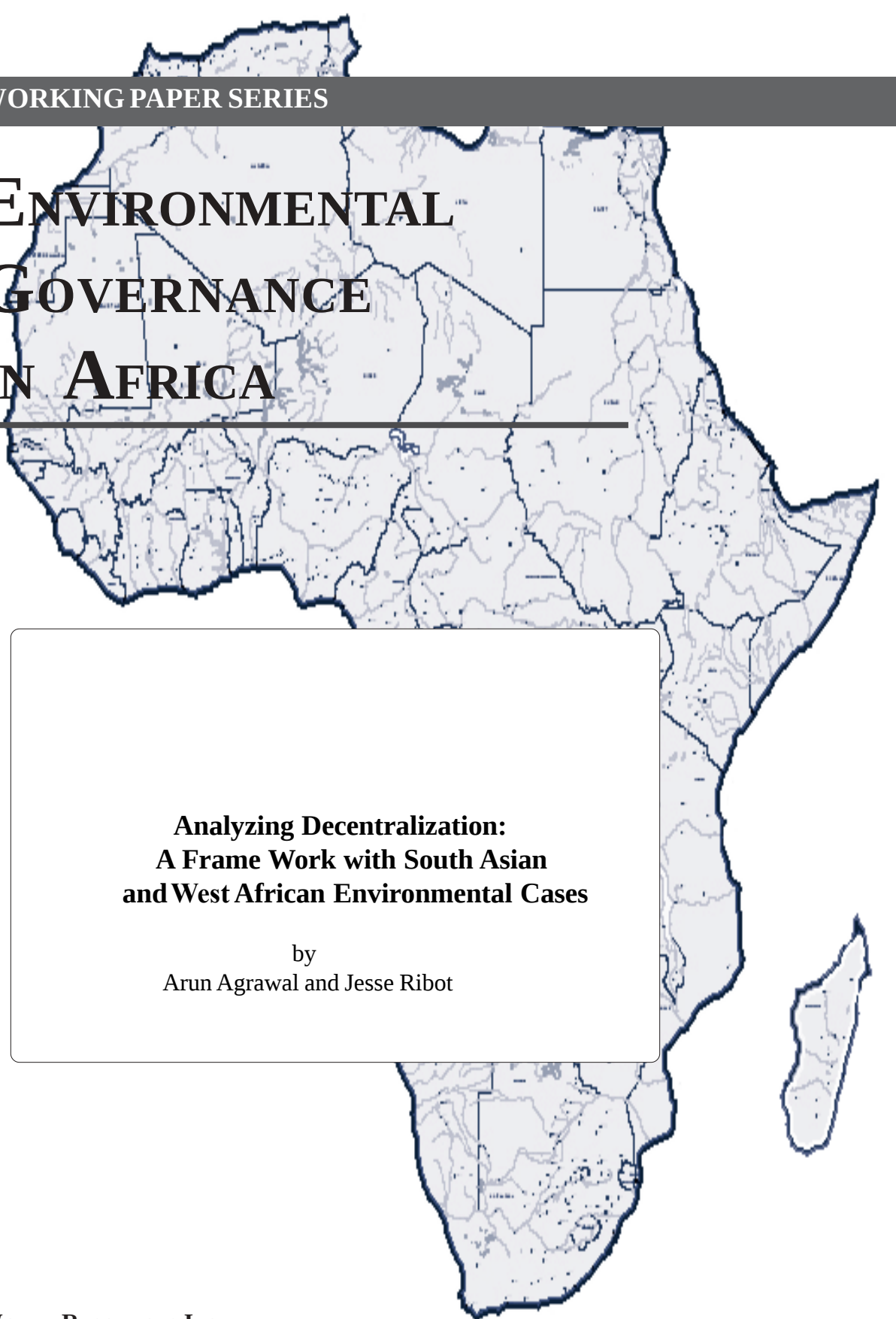




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ENVIRONMENTAL GOVERNANCE IN AFRICA

**Analyzing Decentralization:
A Frame Work with South Asian
and West African Environmental Cases**

by
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**ANALYZING DECENTRALIZATION:
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Arun Agrawal and Jesse C. Ribot

Decentralization is a word that has been used by different people to mean a good many different things. But what do we see in practice? Experiments with local government that end in chaos and bankruptcy; ‘decentralized’ structures of administration that only act as a more effective tool for centralizing power; regional and district committees in which government officials make decisions while the local representatives sit silent; village councils where local people participate but have no resources to allocate.

Philip Mawhood, *Local Government*, 1983

INTRODUCTION

Since the early 1980s, decentralization has reemerged as a valued political and economic goal in most developing countries.¹ According to a recent World Bank study, “out of 75 developing and transitional countries with populations greater than 5 million, all but 12 claim to be embarked on some form of transfer of political power to local units of government.”² Advocates of decentralization justify it on grounds of increased efficiency, more thoroughgoing equity, and/or greater participation and responsiveness of government to citizens.³ Despite these claims, most decentralization efforts end up not significantly increasing the powers of local authorities or peoples.⁴ Decentralization of natural resource management, the focus of this paper, is especially intricate because it is not only about providing services efficiently. It also requires the devolution of real powers over the disposition of productive resources. In addition, it requires the resolution of divergent interests among a host of actors so that externalities associated with natural resource management are not disproportionately borne by any subgroup.

¹ This global pursuit of decentralization, even if it appears novel, is not the first time governments have attempted the decentralization of fiscal responsibilities or institutional powers. In francophone West Africa, for example, since 1917 at least four distinct waves can be discerned. In each case, decentralization accompanied and perhaps was sparked by fiscal crises of the state. (See Ribot 1999:51.) In South Asia, at least three waves are visible since the mid-1800s. The first of these occurred as early as the 1860s (Fisher 1991). The second wave of decentralization can be seen to have taken place after independence through efforts at community development. A third wave is currently under way (Ribot 1999).

² Dillinger 1998:1. Wondering about how to think of the 1990s in the context of development, Uphoff and Esman (1974:607) see them as possibly the “decade of deregulation, democratization, and decentralization.” Several other authors also speak of decentralization in the same breath as democratization. (See Totemeyer 1994:49-61; Blair 1998.) But clearly the two are quite different. (See Fox and Aranda 1996 and Wang 1997:1431-42).

³ For a discussion examining the justifications advanced for recent attempts at decentralization around the world see Agrawal, Britt and Kanel 1999. For a more historical discussion of francophone West Africa see Ribot 1999:23-65.

⁴ For references dating to the mid-1800s, see Crook and Manor 1998; Crook and Manor 1994; Parker 1995; Leonard 1982; and Cohen, et al 1981.

New institutional economics and public-choice literature indicate that decentralization has the potential to achieve greater efficiency and equity in public decision making by internalizing externalities, deploying all available information,⁵ and better matching service provision to needs.⁶ In this paper, we suggest that representation and accountability are critical if devolved powers are to serve local needs efficiently and equitably.⁷ We conclude, analyzing four case studies, that the presumed benefits of decentralization become available to local populations only when empowered local actors are downwardly accountable. Actors, powers, and accountability emerge as essential elements of a framework that can help evaluate the effectiveness of decentralization.

However, in many instances around the world, decentralization reforms do not attend to these elements. In Senegal, responsibilities in forest management were devolved to local elected councils without devolving access to the related commercial profits.⁸ In Burkina Faso, powers to cut, sell, and manage forests have been devolved to private project-based committees, rather than to representative bodies.⁹ In Zimbabwe's CAMPFIRE program, powers were transferred to District Development Committees who were largely under the control of central government.¹⁰ In Nepal, one can point to projects that view decentralization as being accomplished simply by directing a stream of monetary benefits toward a group of resource users rather than attempting to create institutions that allow durable decision-making powers to local authorities.¹¹ Perhaps all who conduct research on decentralization are familiar with such examples.

⁵ Decentralization strives to allocate decision-making powers to those who have the greatest information about a particular resource. But the availability of greater information does not necessarily lead to the use of that information in favor of the people on behalf of whom decisions are made. Information can also be used to favor the decision-makers themselves or their friends and cronies.

⁶ Ostrom, Schroeder and Wynne 1993.

⁷ In theory, decentralization can increase efficiency by helping internalize costs and reducing transaction costs. See the *1988 World Development Report* which asserts that "decentralizing both spending and revenue authority can improve the allocation of resources in the public sector by linking the costs and benefits of local public services more closely" (World Bank 1988:1). The devolution of decision-making to local actors can reduce administrative and management transaction costs via the proximity of local participants to decision-makers and the access to local skills and information (see Crook and Manor 1998) and (Huther and Shah 1998:1). See also Bienen et al (1990: 61-75), who argue that in Nepal, decentralization worsened information flows, thereby increasing transactions costs. Decentralization is usually believed to increase effectiveness of coordination and flexibility among administrative agencies and in development/conservation planning and implementation. It is also regarded as a way to increase equity at the local level by allowing greater local retention of revenues and more equal distribution of benefits from local activities. Slater (1989:501-31) emphasizes the role of decentralization in reducing inequalities. Responses can be seen in Rondinelli (1990: 494-500) and Prud'homme (1994).

⁸ Ribot 1995:1587-9.

⁹ Delnooz 1999.

¹⁰ Thomas 1992; Murombedzi 1997.

¹¹ There are, of course, success stories. Decentralized healthcare provision in Ciera, Brazil is argued by some to be a great success (Tendler 1997). Local governments in South America have experienced successful fiscal decentralizations. (See Fiszbein 1997.) Uganda instituted elected representatives at the village level in the mid-1990s. (See Karlstrom 1996.) These successes, however, are usually partial: Uganda's new representatives lack powers; in Brazil the efficiency of health services provision has increased but central control has scarcely declined.

This paper provides a framework to examine whether the policy choices being made even constitute decentralization. Governments often perform acts of decentralization as theater pieces to impress or appease international donors and NGOs or domestic constituencies. Our framework can be seen as an analytical lens for assessing reforms made in the name of decentralization. It can be used to identify shortfalls in decentralizations—design flaws or political obfuscation. Identification of such flaws can allow advocates of decentralization to push reforms beyond proclamations and closer to action on the ground. The framework can be applied to single sectors, pointing up sectoral shortcomings in an otherwise well-crafted institutional initiative, or to a core set of decentralization laws affecting all sectors. However, the framework does not analyze issues of training, physical infrastructure, or education at the local level that may also be necessary if decentralization is to be successful in its stated aims.

Instead of identifying decentralization simply as an institutional reform in the political, fiscal, or administrative realm as is commonly done,¹² our framework shows how a particular reform can be analyzed by referring to changes in actors, powers, or accountability. Using four case studies from South Asia and West Africa, we compare instances of decentralization of resource management and assess the utility of our framework by applying it to understanding the extent to which decentralization actually occurred in each case.¹³ The analysis of the cases in light of our framework leads us to focus on downward accountability as a key aspect of decentralization.¹⁴

¹² Manor 1999; Binswanger 1999. In their recent book Cohen and Peterson (1999:69-70) propose a framework in which accountability figures centrally. However, they characterize it as an outcome rather than as an element of administrative design.

¹³ The comparative strategy we use is best classified as the “comparative case-oriented method” described by Ragin (1987). See also Skocpol 1979; Skocpol and Somers 1980:174-97; Lichbach and Zuckerman 1997:3-16.

¹⁴ In their collection of essays on accountability, Fox and Brown simply state that accountability is the process of holding actors responsible for their actions (1998:12). Paul (1998:2) puts forth a discussion of problems of accountability in public agencies (1992). Crook and Manor (1998:2) see accountability as a “crucial link between enhanced participation and enhanced institutional performance.”

DEFINITIONS AND JUSTIFICATIONS OF DECENTRALIZATION

Decentralization has been defined as any act in which a central government formally cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy.¹⁵ Devolving powers to lower levels involves the creation of a realm of decision making in which a variety of lower-level actors can exercise some autonomy.¹⁶ *Deconcentration* (or administrative decentralization)¹⁷ is said to occur when powers are devolved to appointees of the central government.¹⁸ *Political decentralization*¹⁹ is different from deconcentration since powers in this case are devolved to actors or institutions that are accountable to the population in their jurisdiction. Typically, elections are seen as the mechanism that ensures accountability in political decentralization.²⁰

We propose definitions of political decentralization and deconcentration that foreground accountability more centrally. When powers are transferred to lower-level actors who are accountable to their superiors in a hierarchy, the reform can be termed *deconcentration*. This is true whether lower-level actors are appointed or elected because elections can still be structured in ways that make elected officials upwardly accountable. When powers are transferred to lower-level actors who are downwardly accountable, even if they are appointed, the reform is may be categorized as *political decentralization*. Critical to understanding the process, then, is empirical examination of the structures of accountability in which actors are located.

¹⁵ Mawhood 1983; Smith 1985. We should note that the formal transfer of power to lower levels of government may sometimes be a centralizing act if the powers being devolved were earlier exercised informally by non-state actors.

¹⁶ See Booth (1995:89-105) for a discussion of decentralization in France and how it led to greater autonomy for local governments, but at the same time also prompted a struggle for the redefinition of the roles of different levels of government. See Smoke (1993:901-02) for a short statement on the degree of local autonomy in several developing countries, and the relationship of such autonomy to the colonial experience.

¹⁷ “Bureaucratic decentralization” is another name given to deconcentration (Rolla 1998:27-39).

¹⁸ Adamolekun (1991:285-86) points out that deconcentration often takes place in the name of decentralization and that the two are confused.

¹⁹ Political decentralization is also called *democratic decentralization* by some authors (Manor 1999). Blair (1998:1) writes of democratic decentralization as “democratic local governance.”

²⁰ When powers are ceded from the state to non-state bodies such as private individuals or corporations, the process can be termed *privatization*, which we do not consider to be decentralization. When, under governmental supervision, powers and specific responsibilities are allocated to public corporations or any other special authorities outside of the regular political-administrative structure, it is called *delegation*. (See Ostrom, Schroeder, and Wynne 1993: 166.) *Devolution* describes “the increased empowerment of local organizations with no direct government affiliation” such as NGOs, private bodies, corporations, community groups, etc. (Maniates 1990: 1).

Most justifications of decentralization are built around the assumption that greater participation in public decision making is a positive good in itself or that it can improve efficiency, equity, development and resource management.²¹ By bringing government decision making closer to citizens, decentralization is widely believed to increase public-sector accountability and therefore effectiveness.²² At its most basic, decentralization aims to achieve one of the central goals of just political governance—democratization, or the desire that humans should have a say in their own affairs.²³ In this sense, decentralization is a strategy of governance to facilitate the transfer of power closer to those who are most affected by the exercise of power. In the rest of the paper, we use ‘decentralization’ as a shorthand for its political/ democratic form.

²¹ For arguments defending decentralization on the basis of greater participation of citizens in democratic governance see De Tocqueville (1945[1835]), J.S. Mill (1993:3) and more recently Dahl (1981:47-49). Webster (1992:129) is only one of the later figures to argue that decentralization is “seen as a means by which the state can be more responsive, more adaptable, to regional and local needs than is the case with a concentration of administrative powers” (Bish and Ostrom 1973; Weimer 1996:49-50.) Riker, in a counterview that does not see in decentralization any necessary benefits of responsiveness or freedom, says, “to one who believes in the majoritarian notion of freedom, it is impossible to interpret federalism as other than a device of minority tyranny” (1964:142). For an argument favoring efficiency through decentralization see Boeve (1996:94-117). For efficiency arguments in the context of public choice see Tiebout (1972) and Oates (1972:11-2).

²² Fox and Aranda 1996:1; World Bank 1997.

²³ The relationship between decentralization and democracy is discussed by Nzouankeu 1994:214-15 and Souza 1996:529-55.

A FRAMEWORK FOR ANALYZING DECENTRALIZATION

Many analyses of decentralization consider the transfer of powers in three sectors to be necessary for success. Manor, for example, argues, “If it is to have significant promise, decentralization must entail a mixture of all three types: democratic, fiscal, and administrative.”²⁴ Binswanger, in almost exactly the same terms, asserts, “The three main elements of decentralization—political, fiscal, and administrative—should be implemented together.”²⁵ While political, fiscal, and administrative arenas are critical for statecraft, new tools are necessary to understand the principles that make decentralization effective.

We suggest that three distinct dimensions underlie all acts of decentralization: *actors, powers, and accountability*. Without an understanding of the powers of various actors, the domains in which they exercise their powers, and to whom and how they are accountable, it is impossible to learn the extent to which meaningful decentralization has taken place. In our conceptualization, the political and administrative domains of decentralization are characterized by the mix of these three underlying analytical dimensions. Fiscal powers, through this optic, constitute just one of the types of power that may be devolved in administrative or political decentralization.²⁶ It is not an analytically distinct type of decentralization.

Actors in Decentralization

Actors in the local arena who exercise powers over public resources may include appointed or elected officials, NGOs, chiefs, powerful individuals, or corporate bodies such as communities, cooperatives, and committees. Each of these actors is typically located in particular relations of accountability and has certain types of powers. These relations depend on the historical, social, and political constitution of the powers of each actor, which may be based on ideology, wealth, heredity, election, appointment, or other factors. Actors may also be differentiated from each other by their beliefs and objectives, or if collective rather than individual, by the internal structure of their organization, their membership, funding sources and the laws to which they are subject.²⁷

²⁴ Manor 1999:7. Manor also suggests, against *World Development Report 1997*, that such tripartite mixtures are reasonably common.

²⁵ Binswanger 1999:2.

²⁶ Although accountability can be seen as dependent on the relationship between actors and the types of powers they exercise, we treat it as a separate dimension because of its critical role in the politics of decentralization. It is through different mechanisms of accountability that those exercising powers are held to account for their actions.

²⁷ Many analysts do not consider devolution of powers to non-governmental organizations to be decentralization (World Bank 1997; Crook and Manor 1998; Manor 1999). We include NGOs in our list of possible actors since they are often recipients of public powers in the name of decentralization. They therefore deserve analytical attention. Whether a transfer of public powers to an NGO or any other non-state body constitutes decentralization is an empirical question. Such actors are often neither representative nor downwardly accountable (Fox and Butler 1994; Guyer 1994:215-229).

Actors are positioned at different levels of social action. Indeed, since decentralization is about changes in how actors at different levels of political authority exercise their power, by definition the actors involved must be located at different levels of action. In actual cases, any one actor or combination of actors may be seen as the appropriate legal bodies toward whom decentralization should occur. Because the dealings of particular actors are impelled by their interests,²⁸ it is likely that the same types of powers devolved to different actors will lead to variable outcomes. Consequently, the nature of decentralization depends to a significant degree upon who gets to exercise power, and the accountability relations to which they are subject.

Types of Power

We distinguish four broad powers of decision-making as being crucial to understanding decentralization. These powers are a) the power to *create rules* or modify old ones, b) the power to *make decisions* about how a particular resource or opportunity is to be used, c) the power to *implement and ensure compliance* to the new or altered rules, and d) the power to *adjudicate disputes* that arise in the effort to create rules and ensure compliance. Enlarged powers of decision-making at lower levels of the political-administrative hierarchy in relation to any of the above four categories constitute some form of decentralization. These four types of powers correspond to three more familiar categories: legislative (creation of rules), executive (making, implementing, and enforcing of decisions), and judicial (adjudication of disputes). Further, the classical issues of separation of powers and checks and balances that apply to central governments also have their corollaries in the decentralized arena.²⁹

The *power to create new rules* is usually held in some domain of decision-making over which governments seek to decentralize control, and in relation to some group of actors. Those who exercise the power to design new rules or modify old ones do so for some kind of resources, and for some groups of people. This set of powers allows decentralized actors to legislate principles that structure decisions and actions concerning who is to benefit from given resources or opportunities, as well as how, and to what extent, they are able to do so.³⁰

Typically, greater *powers to make decisions* in some domain of action that influences others increases the autonomy of the actor who gains these powers and can be considered a form of decentralization. Such powers enhance the discretionary authority of local bodies, and directly affect the use of resources. Decisions of this type need not affect the behavior of others by prescribing what they must, must not, or may do. Thus if a local body comes to have a larger budget or greater powers of revenue raising, and or greater autonomy to expend the budget as it sees fit, a degree of decentralization has been

²⁸ Interests of actors are always in the process of formation. The particular social, political, and economic contexts in which actors operate are instrumental in the formation and perception of interests, and in constraining interest-based actions.

²⁹ See Oloka-Onyango (1994:463-518). Also see Mahmood Mamdani (1996:145-6) who attributes the failure of the rule of law in colonial Africa to the fact that "...judicial and administrative activity was fused."

³⁰ For a discussion of these categories in terms of property rights, see Schlager and Ostrom (1992).

achieved even if it does not exercise greater powers of rule making. Many decentralization programs result in some autonomy to local governments in raising revenues, or in their spending discretion.³¹ Such an increase in powers of revenue and expenditure can be seen as contributing to the decentralization of fiscal powers.³²

Implementation and ensuring compliance to decisions and rules implies the power to execute, and to meter and monitor whether actors are carrying out the roles they are supposed to perform. It also includes the power to impose sanctions on those who do not subscribe to the tasks they are supposed to perform, and to enforce those sanctions. If a particular group of users are supposed to harvest certain levels of benefits distributed equally among themselves, the power to ensure compliance can include the determination of when they have actually harvested that level of benefits, and whether the distribution has been equal. Rule-makers may have decided upon particular types of sanctions to be imposed on those whose actions violate particular levels of harvest. The power to enforce compliance would also, then, include the ability to ensure that rule-breaking individuals conform to the sanctions imposed because of rule violations. In passing, we should note that devolution of powers to make decisions and rules without the devolution of powers to enforce them can be meaningless; these sets of powers are complementary. Further, all these executive powers require fiscal and administrative resources.

It is certainly possible that in a particular decentralization effort, powers to enforce are transferred to administrative branches of the state rather than to representative local governments at the same level. Whether such a transfer of power leads to effective decentralization depends on the nature of accountability relations (see below), the mix of powers that a given actor holds, and horizontal relations among actors at the same level. We suggest that the division between powers of rule-making and enforcement can lead to effective decentralization if the actors who possess the powers to enforce are either easily accessible to those with the power to make decisions and rules, or under the control of those who have the power to make decisions and rules.

The *power of adjudication* is significant whenever new rules are created, or there is a change in the type of decisions made by particular actors. Such changes also signify a modification in the powers of these actors. It is more than likely that when changes in powers take place, contests and negotiations will spill over into the arena of adjudication. Two aspects of adjudication, we suggest are important: accessibility and independence. Local populations who are influenced by devolved powers should have the possibility of appealing to accessible channels of adjudication. Further, these channels of adjudication should be institutionalized so that they do not have structural links with sectoral interests: constituents should be able to challenge the rules, decision, implementation, and enforcement by those who hold decentralized powers, and the outcomes of such challenges should not be biased in favor of power holders. What is critical about powers

³¹ Therkildsen and Semboja 1992:1101-13.

³² Martin Doornbos of the Institute for Social Studies at the Hague (personal communication, November 30, 1999) points out that decentralization may result in an increase of the power of the central state if, for instance, taxation powers are devolved in exchange for central transfers of funds and the local tax base is limited.

of adjudication is not that they be devolved to some representative bodies at the local level. It is more important they be exercised accessibly and without systematic bias.

Accountability in Decentralization

Rulers claim to be responsible to their people; people try to hold them to account.
Accountability is thus the measure of responsibility.

John Lonsdale, "Political Accountability in African History", 1986:127

The allocation of different sets of powers of decision-making and rule-making to lower-level actors creates decentralization. The effectiveness of decentralization hinges on a third dimension: accountability. We suggest that if powers are decentralized to actors who are not accountable to their constituents, or who are accountable only to themselves or superior authorities within the structure of the government, then decentralization is not likely to accomplish its stated aims. It is only when constituents come to exercise accountability as a countervailing power that decentralization is likely to be effective.

All modes of accountability are relational. To understand its nature, therefore, it is necessary to attend to the actors between whom relations of accountability exist. Accountability is also about the mechanisms through which countervailing powers are exercised by those subject to actors holding decentralized power. Accountability in this sense, to paraphrase Foucault, is not in a position of exteriority to power, but depends on the exercise of a counter power to balance arbitrary action. Since this paper focuses on the public actors to whom powers are devolved on behalf of a constituency, we are primarily concerned with the accountability relations of such actors *downward* to their constituencies. It is downward accountability that broadens participation.

Actors can be held downwardly accountable to local constituencies in numerous ways. The most commonly cited are electoral processes.³³ While elections may be important, they are not sufficient. Many elected officials are not accountable to their constituents—even when the electoral system is well crafted. Other mechanisms for increasing local or downward accountability—of elected or any other local actors—include: procedures for recall; referenda; legal recourse through courts; third-party monitoring by media, NGOs or independently elected controllers; auditing and evaluation; political pressures and lobbying by associations and associative movements; the provision of information on roles and obligations of government by the media and NGOs; public reporting requirements for governments; education; 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; threats of social unrest and resistance; central state oversight of local government; and taxation. Although long, this is not an exhaustive list. All these mechanisms can contribute to local accountability. There is always also some degree of

³³ For a study of competitive local elections in West Bengal, India that helped make policy more responsive to the poor, see Echeverri-Gent 1992:1401-22. For a similar argument from Colombia about the importance of competitive elections at the local level, see Fiszbein 1997a:1029-43.

upward accountability of appointed and representative actors. Upward accountability can also be structured through many of these same mechanisms.³⁴

Vertical and horizontal ties among branches of government can also shape the relation of accountability between local government actors and their constituencies. Similarly, the relations between customary authorities and their administrative superiors can shape their downward accountability.³⁵ However, downward accountability of those who receive powers from the central state on behalf of a constituency is the primary dimension of decentralization since it can broaden the participation of local populations and enhances the responsiveness of empowered actors. It is through such greater participation and responsiveness that the many lauded benefits of decentralization are realized.

³⁴ For a more developed discussion of this list of accountability means, see Ribot 1999a and O'Donnell 1998:112-126.

³⁵ Personal communication, Doug Porter, United Nations Capital Development Fund, Kampala, Uganda, October 1999. (Cf. Porter and Onyach-Olaa 1999.)

CROSS-REGIONAL CASE STUDIES OF DECENTRALIZATION

In this section we present four case studies of decentralization from South Asia and West Africa. India and Nepal provide the instances from South Asia; Senegal and Mali the West African cases. Each of the studies focuses on decentralization initiatives in the forestry sector. The cases vary in the type of decentralization that national governments attempted and implemented. We will see that although the framework presented above considers the devolution of four types of powers to be important, only rarely do local actors exercise all four.

The selection of cases from two different regions is motivated by the objective of examining whether the framework we have presented for analyzing decentralization is robust across contexts that vary quite dramatically. The choice of cases from two different regions is rarely attempted in the literature on decentralization.³⁶ But we suggest that it is precisely this type of comparison that must be carried out if the robustness of a theoretical framework is to be established. Within each of the chosen cases, we witness the devolution of different degrees and types of powers, and the enactment of different mechanisms of accountability. The objective in ensuring variation of these aspects is to examine how devolution of similar powers, or the implementation of similar mechanisms of accountability might nonetheless have different implications. Further, such variation is critical in assessing whether decentralization has occurred in a given case, and the extent to which it has been effective.

Decentralization of forest management in South Asia is, for the most part, a recent phenomenon. In both India and Nepal, the central state asserted control over forests as part of measures to ensure that it monopolized commercial profits from timber. In India, the British colonial state implemented a policy of centrally directed exploitation of forests that was based on the creation of one of the most systematically organized forest bureaucracies. The policy of central control continued well into the latter half of the twentieth century in most parts of India, and has only recently yielded to new initiatives that involve local populations in forest management.³⁷ But decentralization of forest management started much earlier in Kumaon (in 1931) and the events there prefigure the more recent Indian efforts to gain the participation of local populations. Decentralization of forest management in Nepal also began only in the last two decades with the passage of the Community Forestry Act in 1978.³⁸ Decentralization of forests in the protected areas of Nepal's Terai is of even more recent provenance, depending on a 1993 amendment that has substantially changed the provisions of the 1973 National Parks and Wildlife Conservation Act.³⁹

³⁶A notable recent exception is the careful comparison carried out for the same two regions (but different countries and sectors) by Crook and Manor (1998).

³⁷ Sivaramakrishnan 1996.

³⁸ Basnet 1992:390-93 and Heinen and Kattel 1992:723-33.

³⁹ Keiter 1995:591-675.

As former territories of French West Africa, Senegal and Mali share a common political, administrative and forestry history. While practices have differed since independence in 1960, their forestry policies only begin to diverge in the 1990s. In a series of land-tenure laws in 1825, 1848 and 1899, the French colony claimed forests as state property. The first forestry code in 1900 confirmed colonial state control of forests, established a set of usufruct rights, and gave the Governor-General and his delegates the right to allocate commercial permits and concessions.⁴⁰ A more elaborate forestry code, passed in 1935, placed jurisdiction over forests with the Forest Service that was established in 1923. At independence all forests belonged to the state and remained under Forest Service control. Rural populations possessed only the usufruct rights to gather and use commercially non-valuable products. Commercial rights over timber, woodfuels, bamboo, and wildlife were concentrated in the hands of urban merchants through allocation devices such as producers' licenses and production quotas.⁴¹ Independent Senegal revised its code in 1968 and 1974 with no substantive changes, while the French 1935 code in Mali was revised slightly in 1968 and then fines were raised and enforcement made stricter in 1986. Reforms toward more decentralized forestry began in both countries in the early 1990s.⁴²

The forests in India and Nepal are important for subsistence as well as for commercial uses. But in both countries, decentralization policies have devolved to local actors mainly the use of those forest products that are important for subsistence. The Forest Departments have retained significant control over how commercial benefits from the sale of timber will be realized and allocated. In Kumaon, India, local populations get only a small share in the revenues from commercial use of forests. Their access to commercial profits is even more limited in Nepal's Terai. In Mali and Senegal, forests are valued primarily for subsistence and woodfuel. Timber and other commercial products are relatively unimportant. Control over commercial production of woodfuel, the product that creates significant levels of revenues and profits, remains in the hands of the Forest Services of the two countries. To this extent, the decentralization that is being pursued in all four countries is limited because local populations get few or no rights to revenues from commercial exploitation of forests.

Kumaon, India: A Case of Durable Decentralization

Forest management in Kumaon has a long history of political struggles and changing rights.⁴³ At the beginning of the twentieth century, the British colonial state attempted to take over a large proportion of the forests in the region, ostensibly in the name of scientific forestry, but mainly because forests contained rich reserves of commercially exploitable timber. The takeover of forests was accompanied by elaborate new restrictions on forest use. The new regulations and new territorial limits on usable forests led villagers to stage widespread protests that were often violent. In 1921 the

⁴⁰ GGAOF 1916.

⁴¹ The allocation to urban merchants was required under colonial law where licenses and permits could only go to French "citizens," defined as those living in one of the urban communes and fluent in French.

⁴² RDS 1993 and RDM 1995b.

⁴³ Ballabh and Singh 1988; Guba 1989; and Somanathan 1991:PE37-46.

government was forced to appoint a committee to look into the demands made by the villagers. Based on the Committee's recommendations,⁴⁴ the government passed the Forest Council Rules of 1931 that permitted the villagers to form local forest councils and bring forests under council management from non-agricultural lands near village boundaries. This act of decentralization of powers over forests to village-level local bodies effectively met the demands villagers had voiced.

Actors Involved in Decentralization

Since 1931, villagers in the three districts of Kumaon—Almora, Nainital, and Pithoragarh—have formed nearly 3000 forest councils. These councils formally manage and control nearly a quarter of the forests in Kumaon.⁴⁵ The control they exercise is mediated and influenced by actors from the Forest Department and the Revenue Department. Forest council officials elected locally by the village population, and Forest and Revenue Department officials, are the three main sets of actors who have received new powers as a result of the decentralization embodied in the 1931 Rules.⁴⁶ The process of forming a forest council is initiated when a third of the village population petitions the District Collector who is the head of the revenue administration in the district. An official surveyor measures and maps the land that is to form the council's forest. Typically, the council's forest is created over land that is within the village boundary, but uncultivated. Some villages do not have such land and can petition the district administration to grant them rights over forested land further away from their village. Councils comprise between five and nine members and are headed by a Chief Councilor. All adult villagers are eligible to vote and compete in elections to the councils. Elections are held at periodic intervals in the presence of a Forest Council Inspector who is a part of the Revenue Department and is specifically appointed to supervise the functioning of forest councils. Each Inspector covers between 200 and 400 councils.

Nature of Powers Devolved

The Forest Council Rules of 1931 devolve considerable powers of everyday management to the forest councils. This can be seen to result primarily from villagers' protests in the early part of the century, but also from the relationship between local needs and the products contained in the forests. Since villagers exercise rights to fodder, firewood, and subsistence timber daily, their formal rights continue to have substantial meaning over time.

Government regulations, it is true, specifically forbid certain types of actions. Villagers cannot clear fell the forest. The fines they impose on rule-breakers cannot be higher than a certain level. They can raise revenues and spend them, but only through certain sources such as sale of fodder and firewood for household use, and fines. The forest councils have a share in the revenues from the sale of timber and resin from pine trees, but these revenues can be raised only with the cooperation of the Forest

⁴⁴ Kumaon Forest Grievances Committee 1921.

⁴⁵ Agrawal and Yadama 1997:435-65.

⁴⁶ *Van Panchayat Rules* 1931.

Department and transferred back to the village only after permission from the Revenue Department. The process can be cumbersome.

Collectively, the 1931 Rules can be seen as a framework for the management of forests rather than a defining straitjacket. They create a domain of relatively autonomous action and rule making in which local residents and their representatives can operate. Within this domain, forest councils possess substantial powers to make rules and enforce them. Their rules facilitate some kinds of actions by villagers and restrict others. Council members meet frequently to discuss, create, and modify specific rules that govern withdrawal of forest products such as fodder, firewood, stones (for construction), and leaf manure. They also create monitoring and sanctioning mechanisms to enforce their own rules as well as the Forest Council Rules of 1931. The council selects guards, fines rule breakers, manages finances, and maintains a record of its meetings, accounts, and local rule infractions. Contributions from villagers and fines from rule-breakers help pay the guard's salary. Councils also use revenues to undertake public works in the village such as construction of school buildings or religious celebrations.

Officials in the Revenue and the Forest Departments supervise and facilitate the activities of the councils. Forest Council Inspectors from the Revenue Department supervise council records. Forest Department officials coordinate the commercial harvesting of forest products from council forests and provide technical assistance in developing the forests' condition. Forty percent of the net proceeds from timber and resin sales are deposited in an account maintained by the Revenue Department in the name of the forest council. More importantly for everyday functioning, councils often call upon Revenue Department officials to help in the enforcement of rules. Their own powers of enforcement are limited, and when recalcitrant users refuse to listen, they have little recourse but to appeal to higher-level administrative officials. Many times help only comes after long delays, undermining the authority of the council. Since the councils have no powers of adjudication, they must rely on formal channels of dispute resolution when conflicts over interpretation of rules and enforcement procedures become intractable. If disputes reach the courts, cases may drag on for decades without being resolved. The limits on enforcement powers and the problems of adjudication limit the degree of decentralization.

Relations of Accountability

Three principal relations of accountability are obvious among the chief actors empowered by the Forest Council Rules. The first, and most important relationship is between the forest councils and village residents on whose behalf the councils exercise their powers. The forest councils hold and exercise substantial formal powers of rule-making and enforcement in relation to local forests. They are downwardly accountable to their constituents (all village households who have subsistence rights in the forests) through periodic elections in which all adult villagers can vote, are entitled to contest for office, and are selected for office on the basis of a simple majority vote. The number of council members ranges between five and nine, and one of them stands for election as the head of the council. Villagers can attend meetings of the council and lodge complaints

about its performance. This mechanism of accountability, by comparison to elections, constitutes a specific and timely constraint on arbitrary exercise of power by council members. In addition, the rights of specific council members to hold office can be and sometimes are challenged if evidence of wrongdoing is available. Councils are upwardly accountable to the district administration for accurate record keeping and enforcement of the general provisions of the Forest Council Rules.

A second relation of accountability makes forest users accountable to the councils for following rules. Forest councils enforce this accountability through the guards they appoint. Councils also sometimes create other forms of monitoring: by rotation, and mutual monitoring by village households. Finally, the guards appointed by the forest councils are accountable to the councils for reasonable performance of their duties. Councils dismiss guards who are lax in the protection of forests, or who are overzealous in enforcing rules.

Nepal's Terai: The Limits of Decentralization

Nepal is one of the leaders among developing countries in setting conservation priorities and creating programs and legislation. Beginning with the passage of the National Parks and Wildlife Conservation Act in 1973, Nepal has established an extensive network of national parks, wildlife areas, and other protected areas that cover nearly 15% of the country's total area. Because coercive forms of exclusionary conservation in protected areas have enjoyed only limited success, His Majesty's Government/Nepal (HMG/N) has crafted new legislation to gain greater involvement of local populations in the management of resources in protected areas. The most important steps have been taken in Nepal's Terai where the greatest number of villagers live in proximity to protected areas. The Parks and People Program was launched with the help of the United Nations Development Program, facilitated by an amendment in 1993 to the Conservation Act of 1973.⁴⁷ Through this amendment to the Act, villagers living in the 1,866 square kilometers of the buffer zone of the protected areas can be constituted into user groups with specific rights over forest resources in the protected areas. By late 1997, 13% of the population residing in the buffer zone had already been constituted into user communities in the hope of reducing the level and intensity of conflicts between local populations and protected area authorities.

Actors Involved in Decentralization

Since its launching in 1995, the Parks and People Program has facilitated the creation of more than 400 user groups in the buffer zone settlements of the protected areas in Nepal's Terai.⁴⁸ These user groups are analogous to the forest councils of Kumaon in that they are the chief local bodies to whom rights and powers are devolved through legislative and programmatic initiatives. Their activities are mediated and influenced by officials in the Department of National Parks and Wildlife Conservation, existing protection forces stationed in each protected area, officials in the Forest

⁴⁷ United Nations Development Program (UNDP) 1994.

⁴⁸ His Majesty's Government HMG/UNDP 1997.

Department, and the new office holders in the Parks and People Program. The two new bodies that influence activities of the user groups in the buffer zones are the Park Management Unit (PMU) and the Buffer Zone Support Unit (BSU). The Park Management Unit is primarily responsible for protection activities within the boundaries of the protected area. The Buffer Zone Support Unit is charged with the responsibility of implementing development and conservation activities in the buffer zone of each protected area.⁴⁹ The Chief Warden in each protected area coordinates the activities of the two bodies.

Most of the objectives of the Buffer Zone Support Unit relate to the improvement of the livelihoods of local residents in the buffer zone. These objectives are implemented through user groups and their committees. At least for now, informal authority and leadership within the settlement ensures the selection of particular individuals to leadership positions within the user group. But the documents of the Parks and People Program also prescribe formal electoral procedures for choosing leaders. Over time, and as elections continue to take place, these formal electoral processes may lead to the creation of a new leadership.

Nature of Powers Devolved

The nature and types of powers that user groups exercise are at best limited. The chief objective of the Parks and People Program is to enhance participation of local populations in the development activities it sponsors. Despite claims to the contrary, the activities being carried out by the Program are unlikely to devolve control of decision-making over protected-area resources. Program officials have retained control of most decisions about managing resources, and devolved to local populations only the right to manage their user groups and harvest some subsistence benefits from the protected area.

Existing regulations forbid the use of park resources except for limited periods during the year. Villagers and members of user groups can harvest some grasses from within the protected areas for up to three weeks in a year. In most cases, they also are able to gather firewood from protected area forests.⁵⁰ They also participate in the construction of trenches and planting of vegetation as fencing around the boundaries of the parks. Most of this work is as paid labor. Although local residents and user group members are able to harvest some benefits from forests, they do not have any powers to make rules about how forests can be used, enforce rules that protected-area officials make, or monitor and sanction the actions of these officials. In terms of devolution of powers, user groups and their officials possess very limited powers to harvest benefits from protected areas. The existing hierarchy of officials has retained most powers of decision and rule-making for the use of protected area forests.⁵¹

⁴⁹ HMG/UNDP 1996.

⁵⁰ A number of studies of parks and protected areas in Nepal point to the limited powers of use and management that local populations exercise in the Terai (Heinen 1993:225-34; and Nepal and Weber 1994:333-41).

⁵¹ One reason for such limited devolution of powers may be the very nature of protected areas. A large number of small user groups making varying decisions about the part of the protected area under their control, it can be argued, will be unable to produce coherent rules to manage the withdrawal of benefits

In some cases, user groups have come to control and protect small patches of land earmarked as community forests. These lands belong to the Forest Department, and user groups have received them as areas to be protected. Most of these lands have little vegetation cover and their total extent is also small.⁵² With protection over time, it is possible that these plots of land will come to have vegetation and offer their users access to fodder and firewood. However, at the moment, few of the local patches of “community forests” provide residents with benefits or opportunities.

Most user groups meet frequently. Formed as savings and credit societies, their main powers are in the arena of raising contributions that can be used to advance loans to those members who demonstrate the greatest capacity to use the loans productively. As savings and credit societies, the user groups have demonstrated substantial success and mobilized the participation of men as well as women. But the creation of funds through savings and the participation in savings and credit societies has had only limited impact in the arena of decentralization of resource use and management. Illegal harvests of fodder and firewood from the protected area forests continue apace. Many of the households who have high levels of assets and income, harvest forest products at a high rate even if they participate in the Program’s activities.⁵³

The Chief Warden of a protected area, together with the Park Management Unit exercises most powers to make and enforce rules about the forests in the protected areas. The principal actors in charge of enforcement of these rules are units of the Royal Nepal Army stationed at the protected areas. The Chief Wardens of the protected areas and the newly constituted Park Management Units and the Buffer Zone Support Unit also informally address small disputes. But there are no formal powers of adjudication that locally accountable authorities exercise on an institutional basis. The usual channels of dispute resolution and adjudication in the shape of the formal court system are for the most part inaccessible to the residents of the buffer zones.

Relations of Accountability

The powers to manage forest resources in the Protected areas and their buffer zones are divided between two sets of actors. The Chief Warden, the Park Management Unit, and the Buffer Zone Support Unit are responsible for managing existing natural resources in the protected areas, and for much of the buffer zone. The user groups and their leaders hold the power to manage the activities of the user group members in relation to fund-raising and advancing loans. Although there are several potential relations of accountability between the local residents and the actors who exercise power over the use of Park resources, there are almost no formal mechanisms in place to ensure the downward accountability of power holders to their constituents. One arena in which there is some accountability of decision-makers to their constituents is through user-

from the protected area. The argument depends in part on the assumption that protected areas constitute an identifiable ecological unit. Olsen and Dinerstein (1998:502-15) offer arguments defending ecologically based boundaries around protected areas.

⁵² This information has been gleaned from the various issues of the *Quarterly Bulletin of the Parks and People Program* published between 1995 and 1997 by the Parks and People Program in Nepal.

⁵³ Agrawal and Ostrom 2000.

group officials being held to task by the groups' members. Regular meetings in which decisions are made jointly by the members about who should receive loans from the accumulated savings ensures that no one is favored systematically. Organizational relations of upward accountability ensure that the army units patrolling the protected area forests report to the Chief Warden.

The lack of powers of decision-making and rule-making, and the absence of accountability of decision-makers such as the Chief Warden and the new management units to local constituents means that benefits to local residents have changed little since the implementation of the Parks and People Program. Existing patterns of resource use have survived because little has changed to strengthen downward relations of accountability. Army units deter local users only to a limited extent since it is impossible for such protection to be effectively implemented every moment.

Senegal: Decentralization to Upwardly Accountable Local Government

In Senegal's 1994 forestry law "the rights to exploit forests and forest lands in the national domain belong to the State which can exercise them directly or grant them to third parties [concessions to private firms] or local collectives [local governments]..."⁵⁴ Commercial concessions and permits have been the mode for allocating commercial access to forests since the turn of the century. The new dimension of decentralization in the forestry law is the inclusion of local governments as *possible* actors in forest exploitation to whom production permits may be allocated. This measure was designed to make forest management more 'participatory.'⁵⁵ If a local government's elected rural council would like to participate in commercial forestry, it must request that the Forest Service draw up a management plan for their zone. The plans specify when, where and how much wood can be cut, along with methods to be used and reforestation measures that must follow. After the plan is drafted the rural council can assign individuals, cooperatives or corporations exploitation plots within their zone. This new arrangement gives rural councils considerable say in local exploitation.

There is a catch, however. Rural councils can request a plan to engage in commercial production. Rural councils wishing to forbid commercial exploitation of forests within their territorial jurisdiction, however, have no legal mechanism to do so. If they are not interested in commercial exploitation the Forest Service can grant commercial concessions in surrounding forests to private producers. If they choose not to 'participate' in exploitation themselves (via a management plan) they risk losing surrounding forests to commercial concessions. In other words, rural populations can participate in the Forest Service's *exploitation* plans or lose their forests. They do not get to 'participate' in decisions as to whether or not the forests will be commercially exploited. They lack the right to say 'no' to production and to conserve surrounding forests.

Actors Involved in Decentralization

⁵⁴ RDS 1993:1.

⁵⁵ RDS 1994:1.

Rural councils in Senegal, the basic units of local government, are the recipients of new powers to exploit the forests in their domain commercially. They can engage individuals or any legally recognized group to exploit forests within the areas fixed by the Forest Service's management plans. Individuals, cooperatives, corporations and interest groups recognized by the government can apply to rural councils for permission to work in commercial forestry. Most powers, however, remain with the local branch of the Forest Service via their control over management plans.

Nature of Powers Devolved

The rural council has gained the powers: 1) to request permission to exploit, and 2) to allocate the right to exploit (i.e. labor opportunities) to individuals or any legally recognized group (once the Forest Service grants them a management plan). Local populations have gained the right to engage in forest exploitation under the guidance of their rural councils.⁵⁶ Before these laws were enacted, urban merchants with licenses and permits would come into a zone with their own migrant laborers and conduct the exploitation without engaging the local population.

The Forest Service has retained powers over commercial forestry decisions. Forest Service management plans outline the extent of and procedures for exploitation and management, usually aimed at supplying urban centers with woodfuel. The Forest Service determines whether the forest will be commercially exploited, how much will be cut and at what rate. Local populations do not have these choices. Further, if the rural population does not request a production management plan, the Forest Service can allocate production rights to commercial interests. Hence, the rural council's real choice is between commercial exploitation under Forest Service terms or risking losing the forests to outside commercial interests. In short, decentralization has not given rural councils decision-making powers over the disposition of forests since they do not have the power to say 'no' to production. This power has been reserved for the Forest Service.

The Forest Service is setting up a national forestry fund over which it has retained disbursement powers. The fund is fed by fines, taxes, and other fees.⁵⁷ "Subsidies and reimbursements, not totaling in excess of 20 percent [i.e. it can be as low as zero percent] of the annual amount of the National Forestry Fund, *can* be allocated to Rural Councils and local organizations, to public and private establishments, as well as to physical persons who are distinguished by their acts of environmental protection and reforestation (authors' emphasis)."⁵⁸ This is effectively a discretionary fund for the Forest Service to reward good forestry practices.

Relations of Accountability

⁵⁶ The right to transport and sell wood products has not been granted to local populations or rural councils. It is in this upstream part of forest-product marketing that most of the profits are made. There has been no attempt to decentralize powers to grant access to distribution or retail outlets. Therefore, local producers are still obligated to sell to urban merchants at very low producers' prices. (See Ribot 1994.)

⁵⁷ RDS 1993:3.

⁵⁸ RDM 1995a.

Senegal's rural councils – who receive most of the newly transferred powers – are elected. These elections, however, do not make the councils representative of nor accountable to local populations. Candidates for rural councils can only be presented for election by nationally registered political parties. In a winner-take-all election the winning slate sits on the council for a five-year term. The slates fill three fourths of the council. The remaining one fourth of the representatives are chosen by a general council of state-organized producer and marketing cooperatives and associations (such as youth and women). The winning council then elects a president from among its members.⁵⁹

Given this system of elections, villagers often feel that rural councils do not represent them. Rather, they represent political parties and the cooperatives.⁶⁰ Villagers do not get to choose candidates and few parties have the resources to organize local government slates. So there is little competition in local elections.⁶¹ As one villager (in Koumpentoum, June 1994) explained: "the Councilors are chosen by Deputies in the National Assembly. Deputies choose people based on those who support them in their elections.... The Councils are chosen by the parties." Hesseling writes, based on her research in Senegal in 1983, that councils "...are at times nothing more than sections of the Socialist Party [the party in power]...."⁶² Indeed, in 1994 the ruling Socialist Party dominated over 300 of Senegal's 317 rural councils. In short, the elections in Senegal are not structured to create a downwardly accountable rural council.

The Forest Service agents, who retain most powers over forest use and management, are upwardly accountable to the Regional and National Forest Services. There are no formal mechanisms that make them accountable to rural councils or rural populations. Any disputes over forestry-related matters (including even disputes with foresters) are officially referred to the local foresters and can be appealed to the Director of the National Forestry Service. These disputes cannot go to an independent judiciary.

Further, the private bodies to which the rural council chooses to give commercial production opportunities will be accountable to the rural council, and to the Forest Service. Both the councils and Forest Service have the ability to revoke or not renew access to these productive opportunities. These private bodies are also accountable to the Forest Service by dint of the Forest Service's power to sanction.

In matters of dispute between the Forest Service and parties outside the forestry sector, problems are brought to the courts. The Forest Service director can make its own prosecution and has rights of appeal.

⁵⁹ RDS 1972; and RDS 1993:185-195.

⁶⁰ Cooperatives in Senegal are usually dominated by a few powerful notables (Cruise-O'Brien 1975; Ribot 1995).

⁶¹ The role of political parties in local government needs to be examined in greater detail. At the end of the colonial period, the question of whether parties should be introduced into local government was already being contested. Those against party involvement argued "that the matters dealt with in local councils are essentially *local* in nature and that therefore the major parties whose differences may be on matters of national policy have no place in purely community problems" (Cowan 1958:221).

⁶² Hesseling n.d.: 17.

Mali: Decentralization to Downwardly Accountable Local Government

Forestry Service practices in Mali have undergone a major transformation since the 1980s, in large part because of the 1991 revolution. In the 1980s, particularly following the highly restrictive 1986 forestry reforms, forestry in Mali was an unfortunate farce. Forestry field agents, a form of paramilitary forest police, were famous for cooking up charges of forest-fire setting, tree cutting and branch breaking, and using these trumped up—or real—charges to extract exorbitant fines from rural populations.⁶³ During Mali's 1991 revolution, popular discontent at the old regime's draconian enforcement of the forestry laws boiled over. Angry rural residents chased state forestry officials from the countryside, and in some cases reportedly burnt them alive. The events of 1991 are only the most dramatic illustration of the conflicts and resentments that state forestry policies have provoked in the Sahel. Since the colonial period, forestry policies have consistently penalized rural communities in the name of "conservation" and served the interests of political and economic élite.⁶⁴ In 1995, new, participatory forestry legislation was passed.⁶⁵ The local-government-based participatory portion of this law is only now going into effect as the first local government elections were held in 1999.

Actors Involved in Decentralization

At the central level, the Mission of Decentralization (in the Prime Minister's office) determines the territorial extent of the forested domain of local governments. The Ministry for Forests,⁶⁶ in conjunction with the Director of the Forest Service, is charged with the development of the forestry laws that allocate powers to the local governments (called Decentralized Territorial Collectives, that is, elected local councils).⁶⁷ Within the local arena, decentralization primarily involves the Forest Service from whom powers are being devolved, and the newly elected local governments in whom devolved powers are to be vested.

According to the new laws, any individual or group wishing to engage in commercial woodfuel cutting will be required to form a Woodfuel Management Structure (WMS) which can be any kind of organization (cooperative, corporation, or association) recognized by the state. These are groups of private individuals interested in commercial exploitation. Under these laws, the WMS or local government must request that the Forest Service develop a management plan for them. Under new proposed legislation, however, local governments will be allowed to develop their own management plans,

⁶³ Ribot 1996; Benjaminsen 1997.

⁶⁴ Ribot 1995a and Ribot 1996.

⁶⁵ RDM 1995.

⁶⁶ We use the term "Ministry for Forestry" since the legal texts speak of "the ministry responsible for forests," the exact name of which has changed several times over the past decade. At the time of writing this article, forestry was under the *Direction Nationale des Ressources Forestieres, fauniques et Halieutiques*.

⁶⁷ RDM 1995.

giving local representatives more control.⁶⁸ In either case, the local government's elected council must approve the plan before work can begin.⁶⁹ If local governments develop their own plans, a forester or an auditor from the central government will still have to approve it. The plan includes an annual production quota not to exceed the sustainable yield of the domain in question. The annual quota will be set by an *ad hoc* committee of two members from the WMS, one from local government and one from the Forest Service.⁷⁰ To address the contentious issue of quota setting, there will also be a regional quota conflict resolution committee organized by the Minister of Forests.⁷¹ Once the management plans and quota are approved by all parties, the Forest Service will deliver a cutting permit upon receipt of a forest exploitation tax.⁷²

Nature of Powers Devolved

Powers of the elected council of the local government include: 1) the ability to reserve part or all of any forests in their domain for any purposes they see fit, 2) the right to develop or to reject forest management plans presented by the Forest Service, and 3) the right to a 'portion' of the forestry tax (this portion is to be determined by ministerial decree). Under the laws still in force, the Forest Service has reserved for itself 1) some control over the elaboration of commercial forest management plans, 2) the right to adjudicate disputes over the quantities allowed for commercial exploitation, and 3) the role of collecting forestry taxes and of delivering permits.

Through its influence over forest management plans and the quota-setting process the Forest Service can set *how much, where, when, how and with which management obligations* exploitation will take place. This power is balanced, however, by the local government's ability to reserve its forests and to veto proposed plans. Nonetheless, adjudication remains in the hands of the Ministry for Forests. This tips the balance of power over quota setting back toward the Forest Service. Other matters of adjudication are also vested in the Ministry for Forests. The powers and rights of local individuals remain restricted to the historical set of use rights. Because Forest Service agents, under the laws reviewed, have the power to develop management plans and withhold or delay their services and approval, they also have the power to prevent commercial production

⁶⁸ According to Yafong Berthe, the former Director of Mali's Forest Service and currently in the Malian Ministry of Rural Development, new laws are about to be passed according to which a simplified management plan can be developed by the local government or by a consultant hired by the local government (personal communication, December 1999). The forest service will then play the role of verifying its legality. Its approval will require a signature by an appointee of the central state whose role will be to verify legal compliance.

⁶⁹ RDM 1995b.

⁷⁰ RDM 1995. Again, according to Berthe (personal communication, December 1999), the Forest Service agent on this committee will be replaced under the new laws by someone from local government or someone with local expertise hired by the local government.

⁷¹ RDM 1995b.

⁷² RDM 1995b and RDS 1994. These laws are currently being revised. (Berthe, personal communication, December 1999).

from taking place. In this manner, local governments and anyone wishing to engage in commercial production remain dependent on the Forest Service.⁷³

It is important to note here that the powers of local government to reserve or exploit its forests are only as extensive as the local forested domain they receive in a process that will divide rights to forests among National, Regional, *Cercle* and Local levels of government.⁷⁴ In this process local governments will be left only with forests that do not interest any other level of government. This residual territory (whose extent is yet to be determined) could be extremely limited. Further, the forests attributed to other levels of government all certainly have 'local' people living in and around them who depend on and use these forests. Hence, much of the forested domain may not be decentralized to local actors. Its management and use may remain at a level of authority distant from and inaccessible to the local populations that live in and use the forests in question.

Relations of Accountability

The process outlined by the Decentralization Ministry to distribute forests among different levels of government favors higher levels. This process is to be determined by ministerial decree. The minister is accountable to the President in what is effectively a one-party-dominated system. In effect, the critical process of allocation of the forested domain will not be systematically accountable to local populations or any of their representatives. In addition to the extent of the local domain, the portion of the tax to be devolved and the mode by which disputes will be resolved are to be determined by ministerial decree. Even though these decisions determine the extent of powers local government and local populations will ultimately have, there is no downward accountability built into the decree process.

Forest Service agents are upwardly accountable to the Director of the Forest Service who is appointed by the Minister for Forests. These agents are only downwardly accountable in so far as they must save themselves the work of re-doing their planning exercises to avoid rejection by local government representatives. It is unclear whether the local government can hold the Forest Service accountable so that the forestry tax, a portion of which is earmarked for the local government's coffers, will return to the local level. The local government's primary mode of accountability is through elections. Local government elections in Mali admit independent candidates. The WMS are accountable to local governments and Forest Service agents. They are required to exploit in accordance with the management plan—including any conservation measures that are

⁷³ Note that because the local-level forest agent will be an employee of the appointed local-government officials, "it is not entirely clear whether [the forester's] role will be advisory, or if he will also control permits for use and sanctions for misuse of natural resources." Further, the attitude that "if the government decides to leave the management of the land to peasants, the trees will be finished off in a short time" is prevalent in today's Forest Service. Whether the devolution of these decision-making powers to local elected authorities will occur with the implementation of the new laws is uncertain. (See Benjaminsen 1997:135.)

⁷⁴ RDM 1996. However, Ribot on a recent visit was unable to locate a decree or law stating such a change.

specified. They are held to account by the fines that the Forest Service can levy for illegal exploitation and by the fact that the Forest Service can revoke their exploitation privilege.

Because the representative of local government on the quota committee is only one of four members, this committee cannot be considered downwardly accountable; the single local representative seldom has a decisive say in outcomes. In this role, the representative can only be considered to be advisory. The committee is dominated by those who have an interest in exploitation—foresters and WMS members. Further, the “...mode of allocation of the quota...” is still to be specified by order of the Regional Governor (another central government appointee). Adjudication of disputes on quotas are internal to the Ministry for Forests, hence, it cannot be considered to be independent. Adjudication of other disputes with the Forest Service can be taken to the courts, however, the Forest Service director can appeal or annul decisions with the agreement of the public prosecutor.⁷⁵

⁷⁵ RDM 1995b.

LESSONS FROM THE CASE STUDIES

Far different from deconcentration... is the creation of bodies separated by law from the national center, in which local representatives are given formal power to decide on a range of public matters. Their political base is the locality and not—as it is with the commissioners and civil servants—the nation. Their area of authority is limited, but within that area their right to make decisions is entrenched by the law and can only be altered by new legislation. They have resources which, subject to the stated limits, are spent and invested at their own discretion. This is the meaning of *decentralization*.

Philip Mawhood, “Traditional Political Authority in African Pluralism” 1983.

The four cases above depict both deconcentration and political or democratic decentralization. However, they also demonstrate the variations that are possible within the two broad types. The India and Mali case studies illustrate political decentralization. In India, considerable powers of decision and rule-making over everyday management have been devolved to elected forest councils. These elected officials are accountable to villagers. In Mali similar powers are being devolved to elected local governments. But the territorial extent of forests over which local governments can exercise authority is different in the two cases. In Kumaon, the forest councils control nearly a quarter of the total forests in the region. The portion of forests to be devolved to Mali’s local government is still in question. Since devolution of powers is only as extensive as the forested area over which the powers apply, it is still difficult to determine the extent of local power in Mali. Further, the extent of local powers and the degree to which they will be shaped by administrative appointees is yet to be established.

In the Indian case, the forest councils also possess monitoring and sanctioning powers. The power to sanction is limited in that the councils can only impose a few kinds of punishment. For stricter enforcement they must appeal to higher-level government officials in the Revenue or Forest Departments. In Mali, the powers of rural councils to enforce are even more limited and they must call on higher enforcement bodies. In India and Mali adjudication occurs through the courts. In Mali, however, some adjudication is still under the control of the Forest Service and the Forest Service has considerable power to appeal or annul judgments. Therefore, we can hypothesize, there is still some bias in adjudication toward the interests of the Forest Service in Mali. In light of our framework, decentralization has occurred in both India and Mali, but more effectively in Kumaon than in Mali. Note that in both cases, decentralization policies were initiated following popular demands for political change.

Nepal and Senegal can be seen as instances of deconcentration. In both, the balance of powers are transferred to bodies upwardly accountable to the central state. It is true that the central governments initiating the policies construe their acts as political decentralizations. But an examination of the provisions in the relevant documents suggests that the new policies empower actors whose decisions reflect the needs of the local populations only to a limited extent. In Nepal, the new bodies that have received powers to make decisions and rules to manage forests in protected areas are the local

arms of the state. The officials of the user groups, elected by a majority of the local residents, exercise few powers worth the name. Although they have the power to make decisions over community forests, the extent and benefits of such forests is small. In Senegal, elected “local representatives” are upwardly accountable to the central state because of how elections are structured. They are, in effect, extensions of the state bureaucracy instead of representing the rural populations who elect them. It is only the political-administrative incentives imposed from above that can lead the decision-makers to represent the interests of their constituents in the local population in each case. Such incentives have proven insufficient in Nepal. It may be too early to say what will finally happen in Senegal, but the current structure of relationships and powers can only be characterized as deconcentration.

As in Mali, the Senegalese councils can call on higher authorities for assistance with enforcement. In Nepal, enforcement powers are available to the new bodies (the Park Management Unit and the Buffer Zone Support Unit) with the help of the Park’s Chief Warden. Finally, in neither case are arenas for adjudication of disputes easily accessible to local residents over whom decentralized actors exercise power. In Nepal, adjudication is so prohibitively expensive that few users ever resort to it. As a result, there are few institutional checks on state officials who manage the forests in the protected areas. In Senegal, in past practice, disputes among forest users and between forest users and the Forest Service are referred to local forestry agents and if unresolved they move up the bureaucratic hierarchy to the national Director of Forestry. Under the new Forestry Code, disputes are to be referred to the courts. In our framework, these cases cannot be counted as decentralization.

India and Mali illustrate political or democratic decentralization according to our framework. In Kumaon the powers devolved are significant while in Mali the powers are carefully circumscribed. As a result, Mali’s decentralization may be less effective. In Nepal and Senegal, deconcentration has taken place in the name of decentralization. In the latter two cases, different strategies are used to limit the downward accountability of actors who exercise decentralized powers. In Nepal it is administrators rather than representatives who have received powers. In Senegal, although it is elected representatives who have received powers, they are upwardly accountable through a centralizing electoral system. They therefore have few direct incentives to use their powers to benefit their electoral constituents. In both these cases of deconcentration, the powers devolved also remain rather limited.

More generally, in at least one of the cases the effectiveness of decentralization is diminished by biased or inaccessible adjudication arrangements. Even in Kumaon, where adjudication is through the existing court system, it is relatively inaccessible to most villagers. Resolution of disputes favors those with more wealth and the ability to be involved in a protracted legal engagement. In the other three cases, disputes over the exercise of decentralized powers are first addressed by local actors whose interests mesh with those of the Forest Service or of the Park authorities. Adjudication, however, does not belong within institutions that are inaccessible, or partial to particular sectoral interests. The discussion in the case studies shows that powers of adjudication should: 1)

be devolved so that more marginal actors can make use of them when disputes arise, and 2) be independent from systematic bias toward elite or sectoral interests. They should follow basic principles of separation of powers.

Thus two necessary conditions for effective decentralization are demonstrated by the cases under consideration: 1) local governments should have the power to make and enforce decisions and rules, and 2) locally empowered actors should be downwardly accountable to their constituents. Adjudication plays a dual role. It is a power that local governing bodies exercise in resolving conflicts among constituents or individuals. But it is a means of accountability when citizens use it to challenge the decisions of governing bodies. It is this latter aspect of adjudication that must remain independent of governing bodies. Although elements of both deconcentration and decentralization are present in all of the cases, for each the critical questions to ask are: what kinds of power have been devolved; and what types of accountability have been instituted? If elected bodies are accountable to superior officials rather than to those who elect them, what has taken place is a species of deconcentration, not political decentralization.⁷⁶

The case studies also indicate that to assess whether the two necessary conditions for effective decentralization are in place, it is important to attend to the complexities of the various laws that affect decentralization rather than simply to a single text or rule. Forestry laws may tell only part of the story. Provisions in electoral laws, judiciary codes, administrative codes, and penal codes may have a significant bearing on decentralization. Each strand in the bundle of powers that is devolved must be analysed if we are to understand the resulting relations of power and accountability. These different components may be all within the same legal instrument or may be spread across a number of legal texts. For a full analysis, it is crucial to examine the multiple texts and institutions that circumscribe the meaning of decentralization in a given context.⁷⁷

The studies confirm the tendency of central governments to retain control even in the context of decentralization initiatives.⁷⁸ Although in each case the government proclaimed decentralization as the goal of reform, the type of decentralization reforms produced was incomplete. Even in the Kumaon case that illustrates the most thoroughgoing decentralization, the colonial government initiating decentralization ensured limits on the powers of local bodies. It did not devolve commercial rights to the sale of timber, and it created supervisory officials who limit the autonomy of the downwardly accountable forest councils. In the other three cases, the nature of decentralization is even more limited. Where devolution of powers to lower-level bodies actually takes place, we find that they are upwardly accountable, strengthening the central government. Where local bodies are downwardly accountable, they seldom receive significant powers.

⁷⁶ In a similar vein, if state officials at lower levels receive new powers and are downwardly accountable to constituents over whom they exercise power, then it is possible to argue that the unfolding process is one of political decentralization, not deconcentration or bureaucratic decentralization.

⁷⁷ Ribot 1999.

⁷⁸ Smoke and Lewis 1996:1281-99; Parker 1995; and Crook and Manor 1998.

A CONCLUDING DISCUSSION

The tendency of democratic participation to break down into administrative involvement requires constant attention.

Philip Selznick, *TVA and the Grassroots*

The application of the framework to the case studies revealed some specific issues that we discussed in the previous section. But certain general themes also emerge from the discussion of the four cases. The first and most important of these, perhaps, relates to the institutional underpinnings of decentralization and by extension, to whether it will endure or be generalizable over a large territory. All of the cases we have examined involve permanent institutions—local governments, elected forest councils, local administrative bodies. Projects that create temporary institutions or processes, such as participatory mapping that temporarily mobilizes populations to inform a process or engage in activities, may not produce enduring or ‘sustainable’ decentralization.⁷⁹ Further, temporary and spatially limited activities may not be as amenable to generalization as are legislated state institutions—such as representative local governments—that can be replicated across an entire nation by legislative acts. Similarly problematic are acts of decentralization that rely primarily on NGOs. Usually NGOs are accountable only to a minority: their members, donors, and leaders.⁸⁰

Sustainability is also linked to the form in which reforms are encoded. Many powers are re-allocated via ministerial decree, administrative order, concession or even through permits. These changes, however, do not represent legislated reforms. They are matters of administrative discretion. As seen in the West Africa cases, questions of fiscal allocation and procedures for adjudication are often left to decree or order. To be sustainable, however, we argue that reforms must be legislated so that their very existence is assured within broader relations of accountability, and national-level separation and balance of powers. Decrees and orders are useful tools for lower-level actors to exercise their powers. When used to determine lower-level ‘decentralized’ powers by higher-level political and administrative bodies they compromise the autonomy of decentralized actors. Although a full discussion of generalizability and sustainability issues is beyond the scope of this paper, these two aspects of decentralization are relevant to any vision of long-term and widespread reform.

The paper discusses the nature of powers that are devolved and the arenas in which devolution takes place. But it is important also to examine why some powers are not devolved. It is precisely by an examination of what is not devolved that the hidden politics of decentralization becomes visible, and the influence of these hidden interests

⁷⁹ In November 1999 the World Bank hosted the “International Conference on Upscaling and Mainstreaming Participation of Primary Stakeholders.” Most of case discussion centered around the mobilization of participation in project design, monitoring, and assessment. (See Aycrigg 1998; World Bank 1994.) The goal of “upscaling and mainstreaming” that the World Bank emphasizes is less about institutionalizing participation through representation or permanent institutions, and more about the adoption of temporary participatory interventions.

⁸⁰ Fox and Butler 1994; Guyer 1994; Mazonde 1996:54-56; Najam 1996:339-53; and World Bank 1997.

becomes amenable to analysis. For example, in none of the four cases that we describe do local actors gain the power to decide the disposition of commercial profits from forest resources. Forest Departments, merchants, or conservationists control how the most valuable forest products will be utilized, and how the profits from these products will be allocated. Even in successful cases of decentralization, local actors come to gain only subsistence benefits, small in comparison to potential commercial revenues. Control over commercially valuable products and species is retained in the name of more scientific management of forests, the alleged inability of local actors to husband and use forests, reluctance to give up real power, or simple cupidity. Ultimately, we suggest, decentralization occurs only when local populations and their downwardly accountable representatives gain control over resources necessary to govern.

The study of cases across regions emphasizes an enduring insight garnered during earlier cross-cultural scholarship, one often ignored in recent comparative political analyses. We note that the same phenomenon, across cases, can have such different meanings and implications that it is simply incorrect to use a common word to refer to it in each different case. This observation applies when the phenomenon in question is decentralization of formal powers. But it is also true when we consider forms of accountability in detail. Elections to the forest councils in Kumaon are very different from the elections to rural councils in Senegal. In one case, elections involve the selection of officials who are selected from among the local residents, and whose tenure depends on how well they are seen by local residents to make decisions. In the other case, elected officials are chosen from a restricted slate, their performance is judged not by their constituents but their superiors, and their reelection depends not on whether local residents want them in office but on whether senior actors in the political-administrative bureaucracy deem them reliable. These differences in the meanings of elections only become clear through investigation of the legal-administrative and political context within which they are situated.

Our paper thus fulfills two important objectives. It underlines the need to undertake carefully contextualized empirical work that can throw into relief the implications of any underlying theoretical framework. Two, it demonstrates the utility of our framework for analyzing decentralization reforms in diverse settings and multiple sites.

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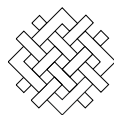
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