

Legitimacy, Local Governments and Natural Resource Management in Sub-Saharan Africa

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Social groups of various kinds are increasingly involved in natural resource management (NRM) in many rural areas of Africa (Adams and Anderson, 1988; Little et al., 1987; Shepherd, 1992). Kinship, locality, or "traditional" political institutions¹, not wider ethnic or class based associations, tend to form the organizational basis for such groups. They are often limited in membership and geographical scope.

Involvement of social groups is often a necessary condition for sustainable NRM. Although much celebrated (Chambers, 1991), it is not sufficient. Often NRM problems involve actors above the locality (Atkinson, 1991; Toulmin, 1986). Frequently groups and individuals using a resource often neither control nor have effective corporate power over it: Village use of forests are interfered with by central government; migratory pastoralists and sedentary agriculturalists compete for the use of land (Arntzen, 1990; Moris, 1988); upstream water users affect downstream users (Boesen and Hansen, 1991); parastatals or absentee landlords colonize common land (Atwood, 1990). Local groups therefore often have pressing needs at the aggregate level of the district or above. This requires inclusive institutional arrangements above the locality that can serve as platforms for interest group aggregation, actions, struggles.

District level local governments are potentially interesting in this context. They consist, in principle, of directly elected councils with some autonomy to make decisions, the power to tax, issue bylaws,

¹ 'Traditional' refers to its present interpretations and meanings. See Lonsdale (1992).

and employ staff - subject to supervision/control by central government.

Failures abound in the experiences with local government in Africa, however (Mawhood, 1983; Wunsch and Olowu, 1990). The reasons are many and similar to those explaining the crisis in Africa in general: the character of external relations and the increasing marginalization of the continent, overexpanded state structures, lack of adaptation of state institutions to local conditions, and insufficient state legitimacy (Chazan et al., 1988: 62).

The focus of this paper is on the latter.² Without legitimacy, coercion becomes the only basis for local government involvement in NRM. Historically this has generally been the situation. The crisis of the state in Africa and the moves towards pluralism makes coercion decreasingly viable. The legitimacy of local government is therefore an important condition for their involvement in NRM based on consent. However, legitimacy is a nebulous theoretical and empirical concept. In this paper the ability of local governments to tax is taken as an indicator of legitimacy. The argument is that if local authorities cannot mobilize local revenues it indicates a lack of legitimacy which, in turn, constrains their ability to be effectively involved in NRM on a consensual basis.

The paper is divided into four parts: First a brief discussion of the concept of legitimacy. Then follows two brief accounts of local governance before and after independence with a focus on taxation. This forms the basis for the conclusions on the involvement of local governments in NRM.

² Macro-policy and structural adjustment policies in relation to NRM are not explicitly dealt with. The role of donors - so pervasive in most African countries - is not dealt with either.

LEGITIMACY

NRM involves a series of activities put into practice and often coordinated by rural people. Sometimes a state authority (central, local, or parastatal) may be involved as well.³ Subject to central government control, local governments in Sub-Saharan Africa may, where they exist, engage in NRM tasks such as regulation; control; implementation; and policy making. Local government legitimacy is crucial in this context. For at the local level only rule by consent seems sustainable, now that most governments are weak and local governments are even weaker. Weber argued that legitimacy derives from people's beliefs and these could have three bases: traditional, charismatic or legal-rational. This approach makes it difficult to explain why people acknowledge the legitimacy of power at one time or place and not another. Beetham (1991: 16-25), suggests instead that power is legitimate to the extent that (i) it conforms to established rules (unwritten or informal conventions; legal codes); (ii) these rules are justified by reference to beliefs shared by both the dominant and the subordinate; and (iii) there is evidence of consent by the subordinate to the particular power relations through concrete or symbolic actions. This concept of legitimacy includes not just western ideas of democracy but also specific local meanings of representation including, for example, traditional political leadership and the consent of elder males on behalf of wives, children, tenants.

Consent to pay tax is one significant action conferring legitimacy on the tax collecting institution. State agencies with limited legitimacy have limited power to rule by consent, including consent to pay tax. At the local level such agencies rarely become important political institutions. As Alexis de Tocqueville observed long ago:

It is important that, in general, men's affections are drawn only in the directions where power exists.... The New Englander is attached to his township not so much because he was borne there as because he

³ Shepherd (1991, 151) suggests the first part of this definition, but excludes the last part.

sees the township as a free, strong cooperation of which he is a part.
(Quoted from Olowu, 1990; 93).

The ability of local governments to mobilize revenues in cash and kind for public purposes with a high local priority is therefore an important indicator of their legitimacy and importance as local political institutions⁴. It also reflects their ability to draw powerful individuals and groups into the political processes at the local level: Hence the relevance of taxation for the discussion of the role of local governments in NRM.

Legitimacy should be seen in a historic perspective. Although much has changed since colonial rule, experiences of the past are still of substantial relevance to present day NRM issues, and memories of this past are still very much alive in rural areas.

Two questions are relevant in this context: Have local governments, imposed during colonial rule, adapted to the diversity of primary groups that exist in rural areas? How have such adaptations, to the extent that they have occurred, affected the role of local governments in NRM?

The discussion will be based on a small selection of material only, mainly from Eastern Africa, and almost exclusively from the Anglophone part.

⁴ Local governments are never free to tax as they like. Central government sets limits. It is the ability to mobilize resources within these limits that reflects the legitimacy of local governments.

LOCAL GOVERNANCE⁵ DURING COLONIAL PERIOD

Colonial rule has had profound and lasting impact on state formation in Africa, including that of local government. It also had a profound influence on state-society relations.

In various ways, colonial powers tried to justify their rule. Lord Lugard's famous "Dual Mandate" of 1922, for example, said that colonial administration should be to the mutual benefit of the African peoples and the world economy. This type of argument helped to justify absolutist rule. Colonial governments did not exist as agents of the governed, but as instruments of an external power intervening in the colonies in the presumed interest of the latter.

Day-to-day administration reflected this. All legislative authority in British Africa was held by the Governors. In French ruled Africa such powers were even centralized to Paris. "Advisory Assemblies" were eventually established in both parts of Africa, but they were just that. District level administrators - ultimately responsible to the governor - had extensive powers and functions: responsible for law and order, judge, tax collector, financial controller, in charge of public health, inspector of education, protector of forests, etc.

In the British colonies local administration policies were also closely tied to the concept of "indirect rule," that is, rule through "traditional" authorities. According to Lugard, "[t]he policy of the Government was that these chiefs should govern their people, not as independent, but as dependent rulers." (quoted from Wunsch, 1990: 26). Traditional authorities could issue their own instructions provided they were in line with that of the district officer, and ultimately the Governor. The aims of indirect rule were penetration and control rather than rule based on cooperation with traditional authorities.

⁵ Mainly based on Mawhood (1983) and Wunsch and Olowu (1990). By local governance is meant the manner in which power is exercised at the local level in the management of resources (political, economic, natural, etc).

Several consequences of indirect rule are noteworthy. Often colonial administrative units were created with little understanding of traditional African political systems. Small traditional units were amalgamated for administrative convenience. There was no systematic linking of the corporate structures of government to local forms of governance. Chiefs (and tribes) were sometimes "created" where they did not previously exist. Chiefs often used their links to the colonial structure to weaken their vulnerability to customary controls.

To the colonial regime the chief was the official embodiment of the community. To the African nationalists, chiefs were seen as the agents of colonial rule. In the 1950s nationalists typically viewed the control of local councils as a tactic in the struggle to force new and secular links with peasants to reduce the power of the chiefs and thereby the colonial administration.

After World War II the British colonial strategy changed somewhat. It was decided to introduce an "efficient and democratic system of local government" in each dependency. But the Colonial Office maintained a firm grip on policy at the macro-level and combined this with strengthening the Governor's authority over the district offices. The main purposes of these strategy changes were to train Africans in democracy and administration so that they could "learn from their own mistakes without being in a position to do much harm" (Kasfir, 1983: 28). It was initiated at a time when the colonial power still imagined that independence was generations away.

What emerged was therefore a local government system grafted onto a deconcentrated political-administrative system controlled from above. Typically local governments were divided on racial lines (for Natives, Indians and Europeans). They consisted of councils with directly elected and appointed members. During this period commoners were also gradually supplementing chiefs in the native councils. The councils had powers to tax, employ staff, issue bylaws, and make certain decisions - all subject to the approval by central authorities.

Except in areas of interest as labour markets or export crop production, and contrary to conventional wisdom, "[c]olonial attention to rural taxation seems to have been a little absentminded," as Guyer (1992: 54) writes on southern Nigeria. Tax burdens were therefore often very low by any standards, and they were regressive.⁶ Tax became the symbol of subjugation to external rule. Therefore tax collection was often a violent affair causing much local resentment as Iliffe (1977: 134 and 494-96) describes it for Tanganyika and Berman and Lonsdale (1992) for Kenya.

The financial logic of indirect rule meant that taxes for Native Authorities were typically collected by chiefs and their headmen who were also entitled to their own appropriations. This blurred the distinction between Native Authority revenues and tributes to chiefs. In short, taxation, however small, was viewed as an imposition without importance for or relation to the level of services provided. It was collected by force rather than consent.

Pre-colonial governance was therefore strongly affected - corrupted according to some - by colonialism. For colonial rule suspended traditional constitutions and laws and moulded local level institutions to suit centralized rule. The state also used force extensively in NRM. Experiences from Tanganyika are typical in this respect (Kjekshus, 1977: 126-179). The colonial policies strained traditional accountability to people and effectively constrained the evolution of traditional institutions. At independence they were simply not realistic and legitimate alternatives to centralized rule at the local level (Wunsch and Olowu, 1990: 29-30).

⁶ British style local government has always been based on property tax until Ms. Thatcher arrived. This tax has never been common for African local governments.

LOCAL GOVERNANCE AFTER INDEPENDENCE

Two features characterize local governance in the post-colonial period. Ruling groups have sought to control formal local level influence of public affairs regardless of regime type. In turn, social groups generally sought to avoid or disregard⁷ the increasingly powerless sub-national political-administrative organizations. A historical perspective on this situation is instructive.

The attempts by the colonial regimes to introduce British style local governments were dismantled after independence. Removals were swift, took place across different regime types, and with little or no popular resistance. Despite some differences between countries, local governments were generally turned into local administrations under the direct control of the central government, or they became adjuncts to deconcentrated structures of authority. Major functions of local governments prior to independence - such as primary schools, health, road maintenance, local tax collection - were transferred to central government. Elections to local councils were abolished or centrally controlled.

Within this trend the political-administrative systems at sub-national level have repeatedly undergone changes since independence. Sometimes a pendulum movement occurred. Ghana, Sudan, Nigeria and Tanzania, for example, have changed the formal structures fairly significantly. They moved between more centralized and more locally representative forms. In other countries, like Botswana, Cameroon, Kenya and Zimbabwe, changes have been less dramatic (Mawhood, 1983). In many countries competition for political office has also been controlled by the party in power. Indeed, in one-party states⁸ local administrations were increasingly dominated by the party. In Zambia, as a result of the decentralization reforms of 1969,

⁷ This does not imply disengagement from state institutions in general as in the interpretation by Chazan and Rothschild (1987).

⁸ Before 1990 these included at one time or the other Kenya, Côte d'Ivoire, Cameroon, Senegal, Nigeria, Niger, Zaire, Tanzania, Ghana, Mali, Zambia, Malawi, Uganda. The list is not complete (Chazan et al, 1988, 129-147).

1971 and 1980, the party's political control over district administration gradually increased. Financing and sectoral responsibilities remained unchanged, however, so central ministries did not lose their control of district activities. The same trend can be observed in Tanzania from independence until 1984, when the local government system - abolished in 1972 - was reintroduced. But even after 1984 the party controlled council elections. In Kenya the structures of the inherited local government system has basically been left intact, but consecutive decentralization moves (1964, 1970, 1974 and 1982) have depleted local governments of importance. Local administration in Kenya has become increasingly centralised. Kenyatta used the provincial administrations to establish a stable and ethno-regional base for his rule. Later Moi attempted to build his political support through the district administration (Barkan and Chege, 1990).

Many countries in West Africa also introduced reforms after independence. Their main official objective was often to introduce participatory local governments. In practice the reforms lead to growing central government control - even in countries where democratic local government was written into the constitution (Ghana, Nigeria) or given special legal protection (as in Francophone countries).⁹

Exclusion of traditional political institutions from the local formal political structures has also occurred in many countries, although to varying degrees. Chiefs in Tanzania were excluded from political and administrative office right after independence. In Kenya, chiefs still play an important administrative role at the locality and sub-locality level. In Nigeria, the role of chiefs was significantly reduced after independence, and certain restrictions were written into the constitution. However, in 1985 a federal committee recommended that the chiefs may still be consulted on tax assessments and tax collection, for example. In Sudan, under Nimeiri's regime, traditional leaders were excluded from the councils created by the People's Local Government Act.

⁹ Based on Chazan et al. (1988, 133-136); Mawhood (1983); Wunsch and Olowu (1990, 81-84).

While the corporate powers of chiefs have generally diminished, their informal powers have not necessarily declined as well. Van Rouveroy and Van Nieuwaal (1987) suggest, for example, that traditional leaders have reasserted their influence in a number of countries that earlier attempted to limit their role. These include, Ghana, Niger, Chad, Côte d'Ivoire, Senegal, Nigeria, Sierra Leone, Zambia and Tanzania.¹⁰

Most of these changes - including those involving local governments - have been judged failures. Local governments have, for example, been unable to raise sufficient funds, and "local peoples appear apathetic toward decentralized local institutions" (Wunsch and Olowu, 1990: 90-91). The twin related problems, legitimacy and inability to mobilize resources, persist. Therefore local groups increasingly avoid local governments as formal political-administrative institutions.

The latter is easy to demonstrate. Olowu and Smoke (1992: 7) found that the "best" rural local governments in Kenya and Zimbabwe collected yearly revenues of only between \$2,5 and \$4,5 per capita at the end of the 1980s¹¹. At that time, less than half of the population obliged to pay local poll tax in Tanzania actually did so (Therkildsen and Semboja, 1992). This proportion has declined ever since local governments were reintroduced in 1984. Resistance towards women paying this poll tax had grown so much by 1991 that Parliament had to permit the local governments to decide whether women should pay this tax or not in their respective areas.

A flat, and therefore regressive, poll tax rate is typical for many rural local governments. However, rates tend to be very low both in historic and comparative terms. Present rates in Tanzania vary between shs 300 to shs 800 per adult per year, which is less than 15 percent of the market price for a bag of maize. During the mid-60s adult males paid the equivalent of some four bags of maize in poll

¹⁰ Quoted from McIntosh (1990, 27).

¹¹ Because of various methodological problems, these figures overestimate the revenues collected by the councils themselves.

tax to the local government. The trend is similar in southern Nigeria. Guyer (1992: 56) reports that a male farmer here paid around 8 percent of income in local tax in 1968, and 1 percent in 1980.¹² By 1988 it was under 2 percent for a poor farmer and "literally disappeared as a percentage of net income of a successful farmer with ten acres." It belongs to the picture of local taxation in Africa, that property tax is of far less importance than anywhere else in the capitalist world. This tax is only important for local (and central) government revenues in some urban areas in a few countries.¹³ Yet land values have risen dramatically in many places in the 1980s, and ownership is increasingly skewed. The virtual absence of property tax suggests that ruling elites largely have avoided to contribute to the public sector.

Low local tax rates and widespread tax evasion could simply reflect poverty. Some poor and destitutes are clearly unable to pay poll taxes, but for most it would not be a major economic burden. This is reflected by the substantial amounts of money collected by various social groups (for a harambee activity in Kenya, community organized projects in Nigeria, secondary schools in Tanzania). To this should be added the large sums of money contributed for social purposes (marriage, burial) - and beer. Many people would pass substantial funds to social groups for collective activities, but would hide from the local government tax collector.

Obviously the capacities of local governments are severely affected by this. The political implications have been ignored, however:

With such low contributions...., financial management becomes a poor basis for people's demands for accountability; with no graduation of taxation there is no official theory of inequality and no way for the poorer majority to demand higher contributions from their wealthy brethren; with no property tax there is no basis for ... growing outside businesses in the area to support its development... The material basis for a [Western style] form of democratic struggle for accountability and control is more or less defunct. (Guyer, 1992: 57).

¹² I.e. income excluding cash value of income in kind and cash cost of production.

¹³ See for example Olowu and Smoke (1992).

Lack of legitimacy is at the heart of this. Many people are not only apathetic, as Wunsch and Olowu observed, they are outright hostile to local governments. In Tanzania, for example, local governments are widely regarded as corrupt, inefficient, a waste of time - and "foreign." Many local political leaders dislike that local governments are not allowed to hire and fire their own top executives, but must accept out-of-district officials appointed by central government¹⁴. And many inhabitants of the districts resent that "foreign" officials employed by the district get access to public resources that make it possible for them to buy land around their duty station.

Based on such observations it is not surprising that the elected representatives to local councils often are men of limited consequence in local politics. Centralization has therefore had significant political consequences at the local level. It has stunted the political development of locally based institutions both by penetration (seeking to control local "development" activities), and by removal (moving the decisions to the centre). This has helped to channel the political and organizational activities in localities away from and upwards in formal political structures.

LOCAL GOVERNMENT AND NATURAL RESOURCE MANAGEMENT

Across Africa the legitimacy of local governments as political-administrative agents is being questioned by their constituencies. Consequently they are unable to provide a platform for interest group aggregation, actions, struggles and mediation.

This has contributed to a vacuum in the institutionalization of natural resource management. On the one hand there has been a significant increase in the number of social groups involved in natural re-

¹⁴ A legacy from the colonial period, when it was argued that high level civil servants in local governments should be protected from "unreasonable" pressure from local electorates.

source use, but their corporate powers¹⁵ as resource managers have generally declined since independence. On the other hand central government, parastatals and absentee private capital are increasingly important agencies in natural resource management and use.

The political-administrative vacuum at the intermediate level contributes to two phenomena. Natural resource management decisions are taken outwards from formal state organizations towards associations based on kinship, gender, locality and 'traditional' political institutions. Management decisions, furthermore, move upwards within the formal state apparatus. Conflicts about resource management and use can therefore only be mediated at higher levels in the hierarchy, where local representation is limited, or fought out on the ground, often among unequal groups.

Present moves towards political pluralism in most African counties will influence this situation. Increased local representation in local government affairs does not, however, imply that all interests will be heard. The present fashionable celebrations of civil society ignore the unequal powers of various groups. The emergence of wealthy businesspeople and farmers in many places is a case in point. So is the apparent revival of the chieftaincy. Traditional political authorities have often been viewed as the extended arm of the state in the locality, and usually regarded as inefficient, corrupt, undemocratic and excluding women. But, as Wunsch and Olowu (1990: 62-63) point out, traditional authority means more than "chiefs" and "councils of elders". It means the complex rules of common law, jurisprudence, sanctions and incentives that guide collective action, that hitherto have been excluded from local governance by colonial regimes and the new African governments.

At the sub-national level the challenges to the political administrative system are therefore both to establish key features of democratic local government and to adapt to and increase the representation

¹⁵ I.e. rights defined by law.

of local social groups. Such experiments are under way in Uganda and Ghana (Owosu, 1992).

Without increased local autonomy, increased local representation has little meaning. Local autonomy does not just concern relations between central and local governments that are usually in focus in decentralization debates. It also concerns social groups and traditional political institutions in relation to local governments. This dimension of autonomy is often ignored, but it is crucial in the context of NRM.

Many examples of good natural resource management practices by social groups are now emerging. To strengthen this trend, social groups should become more autonomous to manage their own resources. This requires that they get more corporate powers as owners of resources, and that they get the benefits from this ownership. However, at present such social groups operate in an institutional vacuum. It often weakens their capacity for NRM. This weakness is amplified by the lack of legitimacy of local governments. The relations between the autonomy of social groups and local governments is not necessarily a zero-sum game.

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