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ENVIRONMENTAL GOVERNANCE IN AFRICA

**COMMERCE, KINGS AND LOCAL GOVERNMENT
IN UGANDA:
DECENTRALIZING NATURAL RESOURCES
TO CONSOLIDATE THE CENTRAL STATE**

by

Frank Emmanuel Muhereza
February 2003



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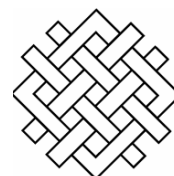
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ABSTRACT

This study critically explores the decentralizing of forest management powers in Uganda in order to determine the extent to which significant discretionary powers have shifted to popularly elected and downwardly accountable local governments. Effective political or democratic decentralization depends on the transfer of local discretionary powers. However, in common with other states in Africa undergoing various types of “decentralization” reforms, state interests are of supreme importance in understanding forest-management reforms. The analysis centers on the transfer of powers to manage forests in Masindi District, an area rich in natural wealth located in western Uganda. The decentralization reforms in Masindi returns forests to unelected traditional authorities, as well as privatizes limited powers to manage forest resources to licensed user-groups. However, the Forest Department was interested in transferring only those powers that increased Forest Department revenues while reducing expenditures. Only limited powers to manage forests were transferred to democratically elected and downwardly accountable local governments. Actors in local government were left in an uncertain and weak bargaining position following the transfer of powers. While privatization resulted in higher Forest Department revenues, the tradeoff was greater involvement of private sector actors in the Department’s decision making. To the dismay of the Forest Department, in the process of consolidating their new powers, private-sector user groups were able to influence decision making up to the highest levels of the forestry sector. The limited transfer of forest management powers and use satisfied the interests of the state to increase its legitimacy and support among pivotal rural constituencies. The state transferred powers to manage forests as a form of patronage insofar as doing so garnered it greater popular support and legitimacy. The shift of powers through decentralization, therefore, was carefully measured to consolidate the base of support upon which the state draws legitimacy and power. The essence of forest-sector decentralization reforms in Uganda lies in their instrumental value to prolong state control over natural wealth, which contradicts the ostensible intention of these reforms. Nevertheless, the recipients of these new powers challenged state decisions and lobbied for the further transfer of powers. The experience of decentralization in Uganda’s forestry sector is highly uneven. Ultimately, the state retained significant forest management powers, while selectively transferring limited powers to district and sub-county councils. Over time, powers shifted downwards and upwards, with the Forest Department regaining control of the coveted and larger central forest reserves in 1998. The unsteady progression of decentralization reforms in Uganda reflects the unwillingness of the central government to transfer significant discretionary powers over the management and use of forest reserves to the representative district and sub-county councils.

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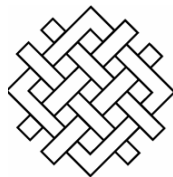
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CENTRE for BASIC RESEARCH

INTRODUCTION

Since 1993, Uganda has implemented a spectrum of decentralization reforms as part of a broader process of democratization. The expressed intention of decentralization reforms in Uganda is to ensure that representative and downwardly accountable local authorities hold decision-making powers over public affairs (Villadsen and Lubanga 1996; RoU 1998). Decentralization reforms involve the transfer of administrative and political authority from central government to semi-autonomous public corporations, autonomous local governments, and non-governmental organizations (NGOs). While reforms in Uganda are invariably termed “decentralization,” they involve a combination of delegation, de-concentration, privatization, and devolution. Only the latter, devolution, approximates a popular definition of “political” or “democratic” decentralization as the transfer of significant decision-making powers from central government to lower levels of elected government (Nsibambi 1997; RoU 1998).¹

This study examines the experience and outcomes of decentralization in Uganda’s forestry sector. Specifically, it critically explores the transfer of powers to manage forest resources in Masindi District, an area to the north and west of the Uganda capital Kampala and that is richly endowed with natural wealth. The study examines the politics of pit-sawing that grew out of the transfer of powers to manage protected Masindi District forest reserves. As this discussion imparts, decentralization is not a politically neutral process, but is instead inseparable from a broader political process controlled by the state in which some powers shift downwards whereas others shift upwards. It will be shown that the interests of the state are of supreme importance to understanding Uganda’s decentralization experience. Indeed, the interests of the state permeate the process of decentralization, which can be understood through the “actors, powers and accountability” framework conceptualized by Agrawal and Ribot (1999).

The central argument is that only limited forest management powers have been transferred to the level of local governments, and only to the extent that decentralization serves the state’s interests to extend its control of forest resources. The study is guided by the assumption that the outcomes of decentralization are determined by the means of transferring powers (which determines the security of powers), the forms of forest tenure resulting from the way that powers are transferred, and resistance to the reapportionment of powers. The analysis developed brings out the complexities inherent in relations of accountability that arise through the transfer of powers, and how these translate into practical environmental and economic outcomes.

There is substantial documentation of the origins, evolution and outcomes of decentralization reforms in Uganda, as well as the various constraints that hinder the

¹ Agrawal and Ribot (1999) describe devolution as the “creation of a realm of decision making in which a variety of lower level actors can exercise some autonomy.” They understand de-concentration as “devolution of powers to appointees of the central state.” Political decentralization, they maintain, occurs when “powers are devolved to actors or institutions that are accountable to the populations in their jurisdiction,” whereas delegation they view as a form of political decentralization that involves de-concentration (475). Finally, Ribot (1999) defines privatization as the devolution of central state assets and powers to non-state bodies including non-governmental organizations (NGOs) or other private groups and individuals.

effective transfers and use of powers to local governments (Villadsen and Rubanga 1996; Nsibambi 1997; RoU 1998; Wagaba 1998; Onyach-Olaa and Porter, 2000; Wagaba 2002). Elsewhere, other studies emphasize the actors involved in decentralization, the powers that are decentralized, the relationships between the various actors involved in the exercise of decentralized powers, and the corresponding relations of accountability between those wielding power and those “countering” power (Samoff 1990; Webster 1992; Agrawal and Ribot, 1999; Ribot 1999).

Agrawal and Ribot (1999) outline a framework to assess the social and ecological outcomes of decentralization. They caution that moves to decentralize powers through specific policies and legislation can be countered by moves to re-centralize powers elsewhere, reflecting the unwillingness of the state to relinquish control over resources. Based on research in Uganda’s forestry sector, this study contributes to their “actors, powers and accountability” framework by bringing out other factors that shape the various political, economic and environmental outcomes of decentralization. These factors include: (i) the “means of transferring” powers from the center to other actors; (ii) tenures arrangements resulting from the way in which powers were transferred, and; (iii) resistance by different actors and at different levels to the new balance of powers. This study shows, further, that the fiscal and legitimacy needs of the state, as well as the extra-legal social, cultural and political-economic relations in which the key actors of decentralization are embedded, are important to any comprehensive explanation of the outcomes of decentralization.

Conyors (2001) suggests that the security of decentralized powers is determined by the “means of transfer” through which powers are shifted or created at lower levels of government. Transfers may occur through principal or subsidiary legislation, executive directives, and administrative decisions or through forms of joint management. These means affect the exercise of powers because they determine whether decentralized new powers can be withdrawn indiscriminately and at will by central authorities.² Two considerations related to the means of transfer influence decentralization outcomes in ways that are outside the “actors, powers and accountability” framework. One way is that the extent to which local actors exercise new powers is shaped by the means through which these are transferred. A second and related way is that because central actors in government can apportion and appropriate decentralized powers as political need dictates, local actors may be hesitant to participate in new institutional arrangements supporting decentralized powers. This study emphasizes the uncertainty of powers, which are apportioned through politically contingent means of transfer. Assessments of decentralization must establish the security of powers that are decentralized. Finally, security in tenure is important in shaping who uses resources and how, and is an important consideration to understand the outcomes of decentralization. Wily and Mbaya (2001) found that secure tenure for user groups

² Ribot (1999) considers that effective participation in forest management, connoting not only power sharing in decision making, but also the existence of locally accountable representative bodies that enable local communities to wield real decision-making powers over valuable resources, as an important factor determining the outcomes of decentralization.

dependent on forest resources was one characteristic determining the success of decentralization reforms.³

As indicated above, resistance to the balance of new powers is a significant factor determining the many outcomes of decentralization. There are many forms of resistance that are important to analysis of decentralization outcomes in this study. One is the resistance by the state to the loss of power. A second is the resistance of representative local authorities to powers exercised by representatives of central government departments and agencies in the districts. A third form of resistance is by private sector actors at the local level to the exercise of powers by locally elected representatives and the field agencies. Finally, locally elected leaders resist the further transfer of powers to councils at lower levels and community groups. While it is recognized that the state, especially in the line ministries, occasionally resists relinquishing certain powers, this study shows that local-level actors in some cases exercise counter powers to resist state decisions.

It is important to give attention to the political process in which decentralization reforms are embedded. Understanding the outcomes of decentralization necessarily requires critical insight into how political dynamics articulate with the “actors, powers and accountability” framework. The imperative of the state to strengthen its legitimacy also helps to explain Uganda’s decentralization experience. Historically and today, the control and use of natural resources were critical to the calculus of power in Uganda, a fact mirrored elsewhere throughout eastern and southern Africa. Under British colonial rule, for example, control of forests was distinctly centralized, with few usufruct rights granted to communities living near to the forest.⁴ Control of forests, similarly, is an implicit objective of the current government’s forest policy. It is instructive to understand how current decentralization reforms in the forest sector have advanced the interests of the state to control forest resources, while also consolidating its base of power.

This study concurs with Ribot (1999) who shows that the state uses politico-administrative means to dominate authorities in local government, as well as local resource users, to maintain powers that were ostensibly decentralized. In Uganda, there is evidence that local powers are circumscribed even when there exists a supportive policy and legal framework, as well as tenure arrangements. Effective political or democratic decentralization depends on the transfer of discretionary powers to local authorities. However, the instrumental use of decentralization reforms by the central government to prolong state control over natural wealth contradicts the nominal intent of reforms to widen local discretion in the management of natural resources.

³ According to the 1995 Constitution (article 237, section 2 [b]), forests are a national resource that the Government holds in trust for the people and are protected for the common good of all citizens.

⁴ The Crown held statutory tenure to forests under British colonial rule. The Forest Produce (Free issues) Rules of 23 December 1930 entitled Africans to “cut, take or remove” any forest products, including timber of “reserved trees,” they required for domestic use, on the understanding that forest products could not be bartered or sold. Exclusive rights to fell mahogany were granted to a European saw-miller under a ten-year license (Uganda Protectorate 1947).

The lack of discretionary powers at the local government level de-legitimizes authorities in local government who are rightly viewed with skepticism as impotent or as purveyors of state interests. Local authorities are not always downwardly accountable, in spite of the existence of electoral mechanisms to ensure real representation of local interests in important decision-making processes involving lucrative natural resources (Villadsen and Lubanga 1996; Ribot 1999). Given that the state still relates to local peoples as subjects rather than as citizens, it is understandable that authorities in local government are reluctant or ineffective in their use of decentralized powers to manage natural resources. The contradiction between the need of the state to be politically expedient by appearing to decentralize real powers and its interest to maintain ultimate control over valuable forest reserves in the districts is the essence of Uganda's decentralization experience. Ultimately, in order to fully understand the contradictions taking place, analysis must look beyond the seemingly straightforward transfer of powers to local government actors to the extra-legal social, cultural and politico-economic relations through which policies and legislation for decentralization are transmitted and acquire meaning.

A further dimension of decentralization in Uganda is the growing influence of neo-populist ideas of development. One justification for decentralization of forest management, for example, is that devolution will affect the efficiency and equity of outcomes by fostering cooperation and competition among different local actors (Wily and Mbaya 2001; Anderson 2002).⁵ A bi-lateral aid agency funding forestry reforms in Uganda proposed a "coalition approach" for managing forests, based on the assumption that it is more efficient to involve an array of agencies and departments at different levels of government in the management of forests (DFID 1999).⁶ The "coalition approach" presumes that a coalition comprised of disparate groups may not share a common interest, but will be inclined to identify and work toward a common objective, and involving different levels of government.

Following this model, powers to manage forests in Uganda were dispersed to actors at different levels, including outside of representative local government. However, owing to powerful interests at higher levels of government and the overall weak bargaining position of local government actors, few substantive powers were transferred to lower levels of government. Instead, powers were apportioned to private sector actors lacking accountability, undermining the potential power of popularly elected and downwardly accountable local level authorities. Privatization was favored over decentralization, and while it may lead to positive outcomes for specified actors, it is not decentralization.⁷ In

⁵ Wily and Mbaya (2001) argue that decentralization generates positive outcomes only if significant powers from the center are transferred to those actors who possess a stronger interest in the future sustainability of the forest, including forest edge communities. However, without effective incentive structures, communities dependent on the forest may collaborate in illicit uses of forest resources.

⁶ A strong perspective informing development policy is that competition in the private sector is positive, whereas competition within and between government agencies is unwanted. Tandler (1997) argues there is no basis for this assumption and that competition and cooperation can be productive both inside and outside of government.

⁷ From the perspective of the coalition approach, greater efficiency results from the distribution of powers to a variety of public sector and civil society actors. Competition is alleged to promote more efficient delivery of services. "Competition" and "cooperation" arguments underlie moves to distribute powers to many actors and

spite of the possible limitations of privatization, the new forest policy gives prominence to the role of the private sector in forest management, along side the central state, local authorities and communities (RoU 2001).

The study employs a case study approach to understand the transfer of powers to manage forest resources in Uganda. Research was carried out in Masindi District in western Uganda. Extensive interviews were conducted with key informants in Masindi, as were discussions with focus groups in Masindi and at the sub-county level in Budongo, Karujubu and Pakanyi. Other interviews were conducted with important actors in central government departments and ministries in Kampala, as well as with Forest Department personnel at its headquarters in Nakawa. Primary source documents, including correspondence and minutes involving district and sub-county councils, private sector user groups, and the Forest Department and other central government agencies and departments were closely assessed. Earlier working drafts of the paper were presented at peer review seminars at the Centre for Basic Research in Kampala, in addition to consultative sessions at the regional, national, and district levels.

The paper is divided into five sections. The following section outlines the background to forest sector reforms in Uganda. It includes discussion of important policy and legislation and the context for reforms in Masindi District specifically. Section three critically assesses relations of accountability in the management of Budongo Forest in Masindi District. It highlights the privatization of limited powers to licensed user groups in Masindi District, and how groups exercised their new powers to encourage the further transfer of powers away from the Forest Department. Section four outlines some important outcomes of broadly defined “decentralization” reforms on the management of forest resources in Masindi District. Section five concludes the study with an overview of main points and recommended changes to forest policy.

BACKGROUND TO FOREST SECTOR REFORMS IN MASINDI DISTRICT

Policy and Legislative Reform

Local forest reserves were defined by article 237 of the Constitution and section 5(ii) of the 1964 Forest Act. Local forest reserves were to be held in trust by local governments for the benefit of all citizens. Section 5(i) of the 1964 Forest Act defined local government powers to manage forests. Powers included maintaining tree crops, establishing requisite social and physical infrastructure (including a forest office), developing a forest use plan and collecting and administering forest revenues. Technical staff with the district office of the Forest Department provided oversight to these responsibilities. The state retained privilege, right, title and interest in forest reserves, or the embodiments of absolute ownership (section 5[ii]). The districts had powers to issue licenses for cutting, taking and removing produce from forests outside of central forest reserves, provided that it was in an area where there existed abundant forest resources (section 12[i]). Local authorities could issue

at many levels of the state. See, for example, the use of “competition” arguments by the World Bank to justify its establishment of “social funds.”

licenses on payment of prescribed fees, if any, for cutting, taking and removing produce from local forest reserves and village forests (section 12 [ii]).

In 1993, the management of natural resources was decentralized to the district level under the Local Government (Resistance Councils) Statute. The Minister of Local Government issued a statutory declaration in 1995 that categorized forest reserves as Schedule I or Schedule II. Schedule I or central forest reserves were above 100 hectares in size, whereas Schedule II or local forest reserves were below 100 hectares in size.⁸ The Local Government Act of 1997 effectively transferred most management functions over central and local forest reserves to districts and sub-county councils (RoU 1997). District councils quickly took advantage of their new powers to exploit the forests reserves, leading the Forest Department to complain to the then Minister overseeing the Forest Department.⁹ Responding to concerns that the district local governments were abusing their new powers to deplete forest reserves, the central government issued the Forest Reserves (Declaration) Order (1998), which limited district prerogative in management of forests to those that were less than 100 hectares in size, or local forest reserves. Powers over forests above 100 hectares (central forest reserves) were shifted back to the central government. The Order affected the management of seventeen forests in Masindi District that were re-classified as central forest reserves.¹⁰ With the exception of local forest reserves that were returned to the Bunyoro-Kitara Kingdom, control of forests has since remained unchanged.

The Forest Reserves (Declaration) Order of 1998 designated eight forests in Masindi as local forest reserves. Only two local reserves, Kirebe (49 hectares) and Masindi Port (18 hectares), were retained by the District Council after control of several local forest reserves were returned to the Kingdom of Bunyoro-Kitara in May 2000. In 2001, the Kingdom assumed control of the Masindi Port eucalyptus plantation, as well, leaving only Kirebe Forest under the jurisdiction of the Masindi District Council.¹¹

The state and district councils contested sharing revenue generated from central forest reserves following the designation of Schedule I and II forests in 1995. In 1996, policy was changed to share revenue from licenses, fees, fines and other royalties generated from central forest reserves on a 60/40 ratio between the state and district councils (Olet, 1996). This was in response to sentiment in the districts that revenue generated from central forest reserves should be shared more equitably with the districts. The state summarily increased the responsibility of district councils to oversee exploitation of central forest reserves. This

⁸ The Statutory Instrument No. 2 of 1995 was an amendment of the second schedule (No. 2) of the Local Governments (Resistance Councils) Instrument of 1995. The Local Governments (Resistance Councils) (Amendment of Second Schedule) (No. 2) Instrument of 1995 included forest reserves, land, mines, minerals and water resources on Schedule 2 of the Resistance Councils Statute. (Olet, 1995).

⁹ Frank Turyatunga, Director of the former EPED Project (Masindi), indicated that the state was concerned that the districts lacked forest management plans as well as scientific judgment in exploiting forests. Personal communication, e-mail to F. Muhereza, 11 June 2002.

¹⁰ Forests that were re-categorized as central forest reserves were Budongo, Fumbya, Kaduku, Kasokwa, Kasongore, Kibeka, Kigulya Hill, Kitonya Hill, Masege, Masindi, Musoma, Nsekuro Hill, Nyabyeya, Nyakunyu, Nyamakere, Rwensama and Sirisiri. See Appendix 1 for further details.

¹¹ Interview with Eriagu Alomu, District Forestry Officer, Masindi, April 10, 2002.

increase included lending material and logistical support to Forest Department personnel to check illegal pit-sawing.

Structural Reforms in the Forest Sector

Restructuring of the civil service coincided with decentralization reforms. To reduce operational costs, the civil service was reduced significantly. All patrol officers and forest guards in central forest reserves were retrenched and recruitment of new Forest Department staff was frozen. By July 2000, 154 forest rangers, 283 forest guards, 700 patrol persons and 25 forest officers were retrenched (RoU 2000: 36). The ability of the Department to manage the forest estates was reduced considerably. Field staff worked under extremely difficult conditions. Wages were often delayed. By April 2000, field staff representing the Forest Department in Masindi District had not received wages since November 1999 (Alomu 2000b). The presence of the Department in the districts was limited on average to one individual in each county. Considering that 46 percent of land in Masindi District is classified as protected areas controlled by the state, it is evident that retrenchment crippled the ability of the Forest Department to manage forest resources effectively.

Another reform impinging on the management of forests in the districts is the 1998 decision by the central government to replace the Forest Department with a semi-autonomous National Forestry Authority (NAFA). The establishment of NAFA is imminent. The National Forestry and Tree Planting Bill, 2002 has already been published and will in due course be debated by the legislature.¹² Among others, the Bill seeks to empower the proposed NAFA to promote conservation, sustainable management and development of the forests estate in the country. The Authority will provide oversight and technical support to local governments, communities, private landowners and traditional or

¹² The proposed Bill introduces procedural checks on the powers exercised by the Minister, without significantly decentralizing powers and control over the management of the forest estate in the country. It simply takes away some limited powers from the Minister. For example, it states that all forests, wherever they are located are to be held in trust by government or local government [5(1)], a curtailment of rights hitherto enjoyed by private land owners to forests on their lands. It also specifies the procedures to be followed in gazetting or de-gazetting (central, local or community) forest reserve [7(1,2); 8(1,2,3,4); 9(1,2,3,); 10(1,2,3,4,5); 12(1,2,3,4), which requires consultation with Local Councils and communities and approval of parliament. With clear procedures in place, the Minister has been empowered to control forests on private land, and to possibly take over LFRs or community forest reserves [16(1,2,3,4)], which will curtail wanton destruction of forests on private land and LFRs by local governments. Local governments still enjoy management, maintenance and controlling functions of LFRs [9(3)], but not CFRs, which has been an area of contention since high revenue forests were all gazetted as CFR. However, the Bill simply provides for “a responsible body may enter into a CFM arrangement with a forest user group for purposes of management of a CFR or LFR or part of it” [15]. While, for avoidance of doubt, government or local government has no ownership of trees or forest produce situated on private land [27], subject to administrative, technical and managerial controls as required by the law. Perhaps it is the issuance of licenses that has been decentralized to those bodies that are responsible for any forest [40(1)], but this is subject to the existence of a management plan approved by the minister or a person designated by the Minister [28(3)]. Another significant positive structural change in the Bill is that District Forestry Officers shall become appointed officials in district or urban council. The DFO will cease to be a centrally appointed official [47(1)]. Without making any specifications, the Bill provides for the Authority to enter into any agreement or arrangement with any person to provide forestry services on such charges as may be agreed upon [53(i)], which makes it possible for revenue-sharing arrangements between districts and central governments in CFRs, in return for local governments fulfilling limited maintenance and management functions.

cultural institutions that own forests on sound management of forests. The Authority will operate with a Board of Directors, directly reporting to the Minister. Its Chief Executive will be given defined powers to operate the Authority, and will be the leading agency in the forestry sector.

Monitoring of Illegal Timber Harvesting

The District Forestry Officer is charged with regulating the harvesting of timber within local forest reserves, including issuing licenses and charging fees for felling trees for saw milling and pit-sawing. According to public service provisions contained in the 1964 Forest Act (section 3(i)),¹³ the District Forestry Officer can change or cancel conditions for obtaining licenses, as well as award concessions, unilaterally. In principle, the award of licenses for saw-millers and pit-sawyers is based on an accurate allocation of specific trees, whose details are recorded. At any one time, the Forest Department is to be aware of the precise volume of sawn timber, beyond which a licensed pit-sawyer or saw-miller is not permitted to fell trees. All felled trees should be measured for volume and the off-take of individual pit-sawyers that is on the market must correspond to his/her measured quota (Forest Department 1998). Harvesting is further monitored and controlled using Timber Declaration Forms and Forest Produce Movement Permits. There is a database at the Forest Department headquarters in Nakawa that tracks the amount of timber harvested and revenue collected. A Timber Monitoring Team works closely with the Uganda Revenue Authority, the Police and the Internal Security Organization to impound illegally cut timber (Olet 1998).

Licensing and Taxation of Charcoal Production and Trade

The district council established, in 2001, the post of District Forest Extension Officer to oversee charcoal production and trade in Masindi District. The sub-county councils collect taxes from charcoal producers and traders. Revenue generated from producing charcoal and the charcoal trade is controlled by district level Charcoal Production Advisory Committees (MAPWUA). Licensing and taxing charcoal production and trade is a big revenue earner for local councils who struggle to deliver services. The former fee structure discriminated against charcoal producers, who paid a minimum 60 percent of the local retail price for each bag of charcoal produced toward the licensing fee. Many charcoal producers simply cut more trees to make up the difference. Charcoal transporters paid considerably lower fees, amounting to an estimated 11 percent of the urban market retail price for each bag toward license fees. Many charcoal producers grew hostile toward local and central government authorities, in some cases refusing to pay licensing fees and failing to cooperate with the government in other areas. Reflecting problems with the structure of charcoal fees, recent district revenue from various charcoal fees was estimated at 995 million US\$, out of a total potential income of 3.4 billion US\$ (about two million US dollars) (Diisi and Ayongyera 2001).¹⁴

¹³ The Forest Produce and License Order of 2000, Statutory Instruments No. 16 of 2000, established the fees and taxes that could be charged on forest products. It was formulated by the Forest Department through the Ministry of Environment and was passed by Parliament. It defined fees for different types of forest produce including timber, poles, and fencing posts.

¹⁴ In 2001 one US dollar equaled about 1710 US\$. Rates from <http://www.bou.or.ug/Dec2001Rates.htm>.

Recently, the fee for production licenses was reduced from 36,000 US\$ per producer, per month (or an estimated 1,800 US\$ per bag) to 400 US\$ per bag. Loading fees were increased to 1,000 US\$ (for charcoal bound for urban markets) or 700 US\$ for charcoal bound for local markets (or approximately 10 percent of the retail price). Further, in response to problems with licensing and taxing charcoal production and trade, the District Executive Committee, in line with section 18 of the Local Government Act, recently initiated and facilitated the formulation and passing of the Masindi District Production and Environment Ordinance of 2002. The intent of the Ordinance is to enable the district to “generate more revenue from charcoal business” (Nkunzingoma 2000; MAPWUA 1999). The Ordinance requires landowners to set aside a minimum of 10 percent of land to plant with trees, and has the power to penalize landowners who do not. The Ordinance also empowers the district council to make bylaws to regulate charcoal production in order to ensure sustainable use and to increase revenue from the charcoal trade.

Return of Forests to the Bunyoro-Kitara Kingdom

In August 2000, a Memorandum of Understanding signed between the central government and the Bunyoro-Kitara Kingdom returned several forests in Masindi District to the Kingdom in accordance with the Traditional Rulers (Restitution of Assets and Properties) Statute of 1993. Even after the Kingdom held possession of the forest reserves, it remained weary of the possibility that the central government would reclaim control of the forests. Following the hand over, one Kingdom official noted, “We [the Kingdom] have taken full control of the reserves and forest produce from them, including the issuing of licenses subject to Statutory Instrument No. 8/93 and the Memorandum of Understanding of 19 May 2000. It is hoped that Bunyoro-Kitara Kingdom will not be forced back to the negotiating table on this well concluded matter” (Byabazaire 2000). The return was beneficial both for the Kingdom and the government. The Kingdom now held relatively secure legal tenure over local forest reserves and by supporting the return of the forests, the ruling National Resistance Movement (led by the Uganda President Yoweri Museveni), cultivated patronage among a vital section of the electorate, increasing its own legitimacy.¹⁵

Powers to control and manage the forests were also shifted to the Kingdom as a result of the return. Prior to the return, the powers belonged to the Masindi District Council under the Forest Reserves (Declaration) Order of 1998. Other forests in the district, as noted above, were re-centralized under the Order (Byarugaba 2000).¹⁶ Following the return, the District Forestry Officer was directed to remit all revenues generated from the local forest reserves to the Kingdom, as well as to permit officials from the Kingdom to monitor revenue. New powers bestowed on the Kingdom under the return enabled it to determine

¹⁵ Traditional authorities were restored in 1993 amid claims by critics of the ruling National Resistance Movement government that the decision was intended to promote support for the “movement” system of government as opposed to a multi-party system (Kayunga 2000; Barya 1997).

¹⁶ The state assumed control of Kaniyo Pabidi, Kasokwa, Busaju, Musoma, Masindi, Fumbya, Kaduku, Kasongore, Kibeka, Kigulya, Nyankunyu, Nyamakere and Sirisiri forest reserves. Record of meeting between Onyango G., Deputy Commissioner FD, Mrs. Musoke, Assistant Commissioner, FD, Mr. I. Ndahura, Katikiro Bunyoro Kitara Kingdom, and Mr. Byabazaire Mathew, Deputy Katikiro. For sizes of forests, see Appendix 2.

the continued involvement of Forest Department staff in management of Kingdom forests. For example, the Kingdom could request that personnel with the Forest Department be moved. Although control of the forests was “decentralized” to the Kingdom, the Forest Department retained significant powers over how produce from the Kingdom forests entered the market. Under the new rules governing the Kingdom forests, the Forest Department clears any produce harvested within Kingdom forests before it is transported to markets and the District Forestry Officer issues transportation fees. However, no provisions were included to ensure that Forest Department staff enforced these directives.

The Omukama, King of the Bunyoro-Kitara Kingdom, appointed the Bunyoro Kitara Cultural Trust to manage the returned forests. As managers of the forests, the Trust carries out the same functions as the Forest Department, including inventory and monitoring of forest resources, and establishing and reviewing terms under which forest resources can be exploited. Forest resource users must sign tenancy agreements with the Trust, which receives revenue generated from royalties, fees and licensing of pit-sawing (Baharagate 2000). As of 2001, the Kingdom depended on its own technical experts to manage the forest. The role of the Forest Department was limited to issuing transportation permits.

The Cultural Trust was accused by the Forest Department of mismanaging the Kingdom forests, mainly by permitting increased pit-sawing in the hope of meeting the Kingdom’s objective to increase revenue from the forests. There is an alleged conflict of interest between the Kingdom’s powers to regulate pit-sawing in its forests and its own involvement in pit-sawing and trade in timber. Furthermore, the Trust did not formulate clear management plans for its forests, and it arbitrarily set royalties on forest products. Although the Forest Department issued guidelines to govern the management of the returned forests, the Trust relied on its own experts and rarely consulted with the Forest Department on complex technical-managerial issues (Amolu 2000a). One official with the Forest Department office in Masindi District observed:

The Kingdom was selling trees like cows. They sold standing trees without undertaking an inventory to establish the volume of wood. This had partly contributed to the current over-exploitation of trees in Kingdom forests. The Kingdom officials refused to allow field extension staff to access their [Kingdom] forests, and even issued their own licenses for harvested timber, which created a lot of confusion in the Department.¹⁷

The Bunyoro-Kitara Cultural Trust comprises of elders loyal to the Kingdom leader, Omukama Solomon Iguru. Accountability, therefore, is upwards to the Kingdom leader and not to communities near the forest who depend on it for subsistence needs and small-scale commercial purposes. In reaching management decisions, the Trust made little attempt to establish constructive dialogue with forest-edge communities. There is growing resentment in communities living adjacent to Kingdom forests. Particularly near to Wampanga and Musoma Forests, villagers have expressed resentment at not being consulted on the establishment of the Trust, or in the formulation of policies to manage the forest. Villagers have shown their opposition by failing to comply with regulations established by the Trust.

¹⁷ Interview with Mr. Eriagu Alomu, District Forestry Officer Masindi, April 2002

In an interview, the King admitted that individuals from forest edge communities were burning trees in Kingdom forests because Trust regulations restricted access to the forests by local communities. One documented incident was in the Musoma eucalyptus plantation in Bujenje County in April 2001.¹⁸

In September 2001, the King, through his Prime Minister, fired the Kingdom Estate Manager for mishandling the Kingdom's Forest Department. The King cancelled all licenses and *concessionaires* were required to vacate the forests or pay Uganda shillings 10 million each to remain. The post of Estates Manager was eventually abolished and the forests were brought under the control of the Kingdom's Administrator General.¹⁹ Some pit-sawyers who were evicted from the Kingdom forests have since raised civil cases in the High Court challenging their eviction and seeking damages for breach of contract and loss of income.²⁰

RELATIONS OF ACCOUNTABILITY IN THE MANAGEMENT OF BUDONGO FOREST, MASINDI DISTRICT

Pressures on the Forest

There is an extended history of environmental change in Budongo Forest, a large central forest reserve located in Masindi District. A large section of the Forest has gradually changed over the past 60 years from tropical high forest to a mixed-type forest due to selective logging and widespread silvi culture, which favored the growth of valuable timber species such as mahogany (RoU 2002). Most recently, larger tropical hardwoods were extensively removed throughout the Forest, leading to an opening of the forest canopy (RoU 2002: 78). Budongo Forest is endowed richly with valuable trees, especially mahogany. The annual off-take of timber by pit-sawyers and saw millers averaged 11,522.82 m³ of round wood between 1991 and 1996. This was in addition to large volumes of timber that were harvested illegally, peaking between 1992 and 1994 when there was a Forest Department ban on all pit-sawing in the Forest (RoU 2002: 89).

Budongo Forest is separated into zones for conservation, commercial use, community use, recreation and research.²¹ Tree felling is strictly prohibited in the 8,000 hectares zoned as a Strict Nature Reserve for conservation of bio-diversity and to protect water catchments. A majority of the Forest (75 percent) is earmarked as a production zone where harvesting of saw logs is permitted. A buffer zone, comprising 15 percent of the Forest, separates the conservation zone from the production zone. Inhabitants from local communities are

¹⁸ Interview with Omukama Solomon Iguru at his palace on 5 April 2001.

¹⁹ "Pay up or quit forest," *New Vision*, 30 September 2001.

²⁰ In one high profile case, a pit-sawyer is seeking special damages amounting to 8.24 million US\$. The claimant filed a civil suit in the High Court claiming that she was authorised to cut and saw 23.3 cubic meters of timber from Wampanga Forest Reserve belonging to the Bunyoro-Kitara Kingdom, and deposited 910,000 US\$ as payment. Under the agreement she signed with the Kingdom, the claimant contends that she was permitted to cut and remove trees from the Forest up to October 31, 2001. However, the contract was terminated before this date (Kyobe 2002)

²¹ Budongo Forest has a plan that was prepared by the Forest Department through funding and technical support from the European Community. Different stakeholders and local resource users were also consulted.

permitted to harvest in the buffer zone using low impact technologies (Forest Department 1998).

Budongo Forest is located in an area of increasing population. The population of Masindi District nearly doubled between the 1991 census and the 2002 census, increasing from 260,796 to 466,204, an average annual growth rate of five percent. The population of Budongo and Bwijanga sub-counties near to Budongo Forest increased from 44,054 to 76,929.²² Pressure on the forest is evident in a slow attrition of forest patches that form part of the larger Budongo Forest ecosystem. These patches are under continuous pressure from other land uses. These include large sugarcane plantations associated with the Kinyara Sugar Works, tobacco and food crop cultivation, as well as land for human settlement. Encouraged by corrupt authorities in the local councils, migrants from the Democratic Republic of Congo (DRC) are encroaching on the southern fringe of the Forest. Most migrants are seasonal farmers who clear land near to the Forest for producing tobacco and return to the DRC after selling their tobacco.²³ By protecting migrants from police harassment, local councilors curry favor with the migrants, who support the councilors in local elections.²⁴

Other pressures on Budongo Forest result from charcoal production. Insurgency has cut-off the supply of charcoal from the northern districts in Uganda, increasing pressure on Masindi and neighboring districts as producer areas. A recent study of potential sustainable levels of charcoal production in Masindi District showed that most sub-counties would be able to support less than one truck of charcoal per week on a sustainable basis, although current levels of production are much higher (Diisi and Ayongyera 2001).

However, harvesting of mahogany and other tropical hardwoods is by far the greatest pressure on Budongo Forest. Sale of illegally harvested mahogany is widespread in Masindi town in spite of a ban. The Forest Department and the District Council agree that market demand for mahogany and other valuable tropical hardwoods, is putting pressure on the Forest. Between 1997 and 1998, all trees in Budongo Forest were identified, assessed and mapped to determine the condition and growth of the overall Forest. The Forest was divided into blocks and each individual tree was allocated a reference number to be used by Forest Department personnel to monitor and control harvesting. With this information, a range of measures are used to enforce the ban, including joint forest protection patrols with the Uganda Wildlife Authority (UWA), the police and district administration; arrest and prosecution of illegal timber cutters; confiscation of tools and timber; and eviction of encroachers (Alomu 2000c). The Masindi District Forestry Officer reports that there is an average of 200 cases annually that involve prosecution of illegal harvesting. However,

²² The figures for the 1991 census were obtained from NEMA (1998, p. 53), while the 2002 census figures are available as provisional results of the 2002 National Population and Housing Census released by the Uganda Bureau of Statistic (UBOS) at their web-site: <http://www.ubos.org/fullreport.html>

²³ ACIDI/VOCA 2000. Budongo MPA December 2001 Monthly report, pp. 2

²⁴ Interview with District Forestry Officer, Masindi, April 2002

prison sentences and steep fines for those found guilty of illegally harvesting timber from the Forest are not stopping the on-going illegal removal of the most valuable trees.²⁵

The Beginnings of Masindi District Pit-sawyers and Wood-users Association

Beginning in 1989 the Forest Department began to develop ways to transfer management responsibilities to private-sector associations and user groups in the districts. One example was the establishment of district pit-sawyer associations. The Masindi Pit-sawyers and Wood-users Association (MAPWUA) was formed in July 1994 on the advice of the Commissioner for Forestry (MAPWUA 1999; Asaba 2001; Nyendwoha 2000). Concessions were awarded to MAPWUA in specific compartments of Budongo Forest. MAPWUA was charged with monitoring the activities of its members, including reporting illegal pit-sawing in areas where its pit-sawyers operated. Through MAPWUA, the Forest Department was assured of revenue gains, a supply of timber, policing and monitoring of illegal activities and more effective exploitation of valuable forest resources, all without actually committing its own scarce resources. From the perspective of the Forest Department, it was far easier and advantageous to work with an association of pit-sawyers than to regulate the production and sale of timber by hundreds of individuals (MAPWUA 1999).

MAPWUA was registered as a limited liability company. Members have to pay an initial membership fee in addition to annual membership dues. Members are given permits to fell trees inside the concession area awarded to MAPWUA. Its members were expected to abide by all Forest Department conditions and regulations regarding the harvest, transport, and sale of forest products. In particular, the Forest Department hoped to combat illegal harvesting of timber in protected forest reserves with the help of licensed pit-sawyers. MAPWUA thus could initiate patrols on illegal activities into the forest reserve alone or with Forest Department personnel. Apart from monitoring illegal activities, in return for support from the Forest Department, MAPWUA was expected to invest in infrastructure inside the forest reserves. This included opening the forest canopy to encourage new growth, and undertaking minimal road repairs such as the installation of culverts and improving the drainage system of the forest roads in their areas of operation.²⁶ The Forest Department envisaged that it could overcome fiscal constraints through its cooperation with private associations such as MAPWUA, while at the same time promoting sustainable forest uses by involving a larger group of users in forest management.

Under the Forest Department protocol, MAPWUA did not have any legal standing. However, in order to strengthen its position, the Forest Department assisted MAPWUA with management training that involved the development of action plans and assisting the Association to secure funding to finance its operations. In the 1999/2000 fiscal year, the Forest Department secured funding for MAPWUA of 1.2 million US\$ from the European Community (MAPWUA 2000). In July 2001, MAPWUA members were trained in

²⁵ In December 2001 alone, out of six *fundis* who were arrested by forest patrols and taken for prosecution at Budongo sub-county Magistrates Court, four pleaded guilty and were sentenced to six months imprisonment or a fine of 60,000 US\$. They chose to pay the money. Two pleaded not guilty and were remanded back to prison (Budongo MPA December 2001 Monthly report, pp. 2)

²⁶ Budongo MPA August 2001 Monthly report, pp.3

harvesting techniques to reduce waste and improve overall operational efficiency.²⁷ As more powers were transferred away from the center, opportunities were established in the private sector for those linked to central or local government, thereby ostensibly enabling the process of civil society formation.

The Masindi District Council also took an interest in MAPWUA. The Council sought the creation of a representative association that encompassed all pit-sawyers operating in the District. However, MAPWUA initially was more interested in increasing the income of its smaller membership base rather than recruiting new members further afield in the District. For its part, MAPWUA advocated further decentralization of powers from the Forest Department, which it viewed as unable to control illegal harvesting. MAPWUA felt that Forest Department powers should be transferred to the Masindi District Council, which it viewed as more accountable and therefore effective in curbing illegal harvesting of timber in the forest reserves (MAPUWA 1999).

The Politics of Pit-sawing in Masindi District

MAPWUA (1999) wanted exclusive control of timber harvesting. It submitted a proposal to the Forest Department requesting that the number of licenses be increased and that its concession area in Budongo Forest be enlarged. MAPWUA representatives argued that policing and detection of illegal harvesting would be easier should MAPWUA be permitted to operate in larger groups of 10 to 15 pit-sawyers to cover a larger area of the Forest (Nyendwoha 1999b). MAPWUA further reasoned that it required greater incentive in the form of larger concessions so that it could more effectively police illegal harvesting in Budongo Forest.

Ominously, in a sign of future disagreement with the Forest Department over the issue of concessions, the MAPWUA Chairman warned in February 1999 that unless it were awarded more concessions, “sooner or later, the association might engulf in rifts with political heavy weights” (Nyendwoha 1999b). MAPWUA organized two meetings with the Forest Department in June 1999 to convince the Department to award the Association “tangible concessions in Budongo Forest reserve,” to enable its policing powers to “curb illegality which was rampant in the forest reserve” (Nyendwoha 1999a).²⁸ However, the Forest Department denied its request. According to the MAPWUA Chairman, “the interpretation we got was that the forest staff were in support of illegal pit-sawing as no effort was done to combat this practice” (Nyendwoha 2000). By June 2000, MAPWUA was still unsuccessful in increasing its concessions in Budongo Forest and was limited to converting 360 cubic meters of timber annually (30 cubic meters per month).²⁹

MAPWUA regarded the steady decrease in the number of its active licensed members as evidence that many pit-sawyers were seeking to earn greater revenue by illicitly harvesting in the forest reserves, thereby avoiding payment of steep Forest Department fees.

²⁷ Budongo MPA July 2001 Monthly report, p.5.

²⁸ According to MAPWUA, its members incurred losses in compartment N.11, and were requesting new concessions in compartments B.3, B.5, B.7 where there was more valuable timber.

²⁹ MAPWUA attempted unsuccessfully to persuade the Commissioner for Forestry to increase the number of licenses awarded to the association (Nyendwoha 2000b).

MAPWUA argued that the fee structure unfairly taxed the licensed pit-sawyers, and encouraged illegal harvesting by those seeking to evade paying fees. MAPWUA complained that licensed pit-sawyers were out-competed by illegal pit-sawyers who were able to sell their timber more cheaply on the local market by illegally harvesting (MAPWUA 2000). Licensed pit-sawyers were required by the Forest department to pay an annual registration fee of 350,000 USH; pre-payment for trees while still standing of 350,000 USH; and a felling permit fee of 4,500 USH. After a tree was felled, Forest Department personnel measured the tree and valued it, charging royalties that differed according to the species of tree. Loading fees amounted to 15 percent of the value of the timber and was paid to the Forest Department. An additional Value Added Tax (VAT) was charged where earnings were sufficiently high.

In the meantime, while MAPWUA wanted to secure lucrative concessions to fell timber in Budongo Forest for itself, personnel with the Forest Department's office in Masindi District allowed a group of "satellite pit-sawyers" to cut timber from logs left behind by the licensed saw-millers and pit-sawyers. The Forest Department intended that the satellite group would enhance forest re-growth and reduce waste by converting logs left behind by pit-sawyers, mainly members of MAPWUA. The satellite group was awarded a concession next to the Strict Nature Reserve inside the Forest. However, individuals within the satellite groups used their concession to carry out illegal felling of mahogany.

Illicit harvesting of mahogany by the satellite group caused great frustration in MAPWUA, which initially was awarded an exclusive concession to harvest timber in the Forest (Olet 1998). According to the Chairman of MAPWUA:

The Association enjoyed good relations with the Forest Department in Masindi and at the Headquarters until the District Forestry Officer in Masindi created satellites for reasons best known to himself, and illegal activities started in Waibira block and have to continued to exist since then. To cater for their existence, some officials in the headquarters are favoring them to the disadvantage of MAPWUA because they created them.... We are warning and advising you [the Forest Department Commissioner] that the nature reserve is going to be depleted and management will be difficult (MAPWUA 1999).

The MAPWUA Chairman argued that the satellite group comprised former members of MAPWUA who were suspended for illegally felling larger trees. In the meantime, MAPWUA sought to widen its control over pit-sawing in forest reserves in Masindi District at the time that pit-sawyers belonging to the satellite group were alleged to be illegally harvesting valuable larger trees in the forest reserves. In return for assisting the Forest Department to combat illegal harvesting, MAPWUA demanded that it be issued with more licenses.

Counter Powers Exercised by MAPWUA

A political fracas in 1998 that resulted in the eventual removal of the then Commissioner of the Forest Department highlighted the potency of pit-sawyer politics in Masindi District. There is evidence that the dispute between MAPWUA and the Masindi District Forest

Department office over forest concessions infiltrated upwards into higher levels of authority and accountability within the Forest Department.

The fracas began in February 1998, when the Permanent Secretary raised several concerns in a letter with the then Commissioner for Forestry, Mr. E.D. Olet. The Permanent Secretary expressed concern that the Commissioner lacked vision as to how to move the Department forward and that the Department was failing to utilize and develop its human resources.³⁰ In the letter, the Permanent Secretary threatened to recommend to the Public Service Commission that the Commissioner be removed for failing to meet his responsibilities, and invited the Commissioner to first defend himself (Kaliisa 1998). Among the more serious concerns raised by the Permanent Secretary was the extensive illicit harvesting of timber in forest reserves, and the inadequate response of Forest Department personnel in the districts to the growing problem (Kaliisa 1998). As early as 1997, the Permanent Secretary raised with the Commissioner his concerns of alleged mismanagement in the forestry sector, a problem that seemed to worsen. The Commissioner was accused of contravening the law by allowing subordinate staff to engage satellite pit-sawyers in managing some forest reserves, including Budongo Forest. The Commissioner was held directly responsible for all illegal activities committed by the satellite group and was negligent for failing to respond to the problem of illegal harvesting in the central forest reserves controlled by the Forest Department.³¹

The Permanent Secretary cited the issue of illegal harvesting by elements in the satellite group of pit-sawyers operating in Budongo Forest as evidence of mis-management in the Department. It was suggested that illegal harvesting had worsened because of the actions of satellite pit-sawyers, who were viewed as acting with the assistance of Forest Department personnel. In his defense, the Commissioner protested that personnel in the Forest Department acted reasonably well under the circumstances, although they were forewarned not to engage satellite pit-sawyers without clearance directly from the Office of the Commissioner.³² However, the Permanent Secretary concluded otherwise, accusing the Commissioner of “recurrent serious weakness.”³³ On March 22, 1999, Commissioner Olet was interdicted on many grounds, including mismanagement of the forestry sector “by

³⁰ In his reply to the Permanent Secretary, the Commissioner argued that the Department had a clear vision, and any shortcomings in his methods of work should not be construed as lack of vision, since, in his opinion, the Department was professionally managed on the basis of well established principles. (Olet 1998, para. 8).

³¹ Similar accusations were never made against MAPWUA, whose constitution clearly stipulated undertaking many functions done by Forest Department personnel in the districts. Yet there was no legal instrument permitting the Association to do so.

³² The Permanent Secretary felt that the Commissioner for Forestry was compromised by the actions of Forest Department staff in Masindi District, who permitted a group of pit-sawyers to pursue unlicensed harvesting inside a protected forest. The Permanent Secretary further held that there had been no change in policy allowing private individuals to harvest inside protected forest reserves. (Kaliisa 1998. para. 4 and 5). (Olet, 1998).

³³ Apparently, the Permanent Secretary was unhappy that the Commissioner delegated some responsibilities to junior field-based staff. The Permanent Secretary contested that the Commissioner should have acted swiftly and decisively, and was warned to reprimand junior staff previously in a meeting between the two in November 1997 (Kaliisa 1998. para. 6).

allowing senior department staff to illegally engage “satellite pit-sawyers,” a group that destroyed the Budongo forest,” (RoU 2000: 43).

The strong influence of MAPWUA in decision making at the highest level of the forestry sector was also apparent in a scandal surrounding the attempted transfer of six forest officers from Masindi District. The Minister of Natural Resources at the time was alleged to have pressured the incoming Commissioner for Forestry to transfer six forest officers from Masindi, “on grounds that they were not getting along with the local authority administration.”³⁴ The Minister’s request echoed complaints MAPWUA raised concerning an increase in illegal activities and the alleged involvement of Forest Department personnel (MAPWUA 1999). Investigations by a Parliamentary Select Committee did not support the allegations, however, and concluded that Forest Department officers in Masindi District had performed well. There were reports that “these officers were actually clashing with illegal operators who had been sanctioned to fight insecurity” in the forest reserves and were operating there with the knowledge of the Minister (RoU 2000: 60). The Minister, while appearing before the Parliamentary Select Committee, refuted the claim that he exerted undue pressure on the Commissioner (including threatening death), but admitted having asked the Commissioner to transfer the six officers in good faith. The Minister argued that his request was normal by public service standards, and argued conversely that the Commissioner acted unethically by informing the officers concerned that her office was considering their transfer. The Committee dismissed the allegations made against the Minister for lack of independent evidence that could corroborate the claims (MAPWUA 1999, pp. 78 to 79). However, the investigations illustrated clearly that whereas MAPWUA and the Minister agreed that Forest Department personnel in Masindi District were an obstruction, it was for different reasons.

Locked in Dispute

Although the Forest Department office in Masindi District clearly wanted to distance itself from MAPWUA and assist other associations to establish, circumstance continued to draw the Department and MAPWUA closer together. In February 2000, after MAPWUA was awarded six pit-sawing licenses, the Association contacted the Commissioner for Forestry requesting that it be issued with additional licenses. MAPWUA claimed it was an established partner to the Forest Department in managing Budongo Forest and thus deserving of lucrative concessions in the Forest that would enable it to expand its operations (Nyendwoha 2000b). However, hoping to limit the power of the demonstrably influential MAPWUA, the Department’s interest was to award licenses to other pit-sawyers outside MAPWUA, or the very individuals and groups that MAPWUA accused of illegal harvesting in Budongo Forest (Nyendwoha 2000b). Afraid of further damaging its relationship to MAPWUA, the Department ultimately decided to support the emergence of smaller, less powerful associations at the sub-county level. In Masindi District, the Forest Department helped to establish one association in each sub-county adjacent to Budongo

³⁴ In a sworn affidavit dated 20 June 2000, the Commissioner told the Parliamentary Select Committee on Forestry that the Minister had directed her to transfer the officers on 17 May 2000. However, MAPWUA wrote to the Committee claiming that the Minister had never directed the Commissioner, and that the Minister’s request had been in the best interest of the Department to have the officers transferred because they failed to stem illegal pit-sawing in the District (MAPWUA 2000).

forest, including the Budongo sub-county Pit-sawyers Association, the Biiso sub-county Pit-sawyers Association, the Masindi Group Pit-sawyers and Wood-users Association in Pakanyi sub-county, and the Bamugumu Women's group, in Pakanyi sub-county. However, the sub-county associations failed to break even.

Elsewhere, MAPWUA remained steadfast in its determination to change policy within the Forest Department. In particular, it advocated that the ban on felling mahogany be lifted. The Association claimed that it was unable to carry out its functions, including maintaining roads in the Forest, in light of poor profits. MAPWUA viewed the mahogany ban as unjustified. The Chairman of MAPWUA charged, "it is an un-refuted fact that mahogany timber is on the market to day in the country. This is evidenced by a lot of furniture made out of mahogany and is bought by most senior government officials." He further questioned, "Where is this mahogany timber coming from? Our Uganda mahogany is so distinctive. The illegals are in business to the detriment of the legals." The Chairman pleaded that "the ban on mahogany be re-visited lest all mahogany trees will be cannibalized including mother trees and there will be no trees for self-enrichment in the not too distant future" (Nyendwoha 2000b). Specifically, he requested that "each licensed member be allowed to cut two mahogany trees" (Nyendwoha 2000b).

MAPWUA remained vigorously opposed to the various fees the Forest Department imposed on licensed pit-sawyers. MAPWUA explained that the high fees imposed by the Department encouraged illegal harvesting, which was more profitable than licensed pit-sawing. Burdened by high fees, MAPWUA argued, pit-sawyers were increasingly turning to illegal harvesting. Between fiscal years 1998/1999 and 1999/2000, taxes were increased substantially on Class 1 timber (mahogany), and Class 2 and 3 timber (hardwoods), reaching 480 percent. In September 2000, MAPWUA estimated that licensed pit-sawyers incurred production costs averaging 5,905 US\$ for a 12 by 1 by 14 piece of mahogany timber, and sold the timber for 6,000 US\$. Licensed pit-sawyers, therefore, were earning only a profit of 95 US\$ on an extremely valuable piece of mahogany timber. MAPWUA estimated that illegal pit-sawyers earned a far greater profit amounting to 1,485 US\$ (MAPWUA 2000). MAPWUA considered that it was treated unfairly by the Forest Department, and suggested that its members were "unwanted elements in the government forests." The MAPWUA Chairman questioned, "Should we succumb (leave) this business and live on what? Is it not encouraging people to go illegal?" (MAPWUA 2000). The fact that MAPWUA challenged the Forest Department and contested central government powers, was indicative that they gained some powers in the process of "decentralization" in Masindi District.

The overtly political stance of MAPWUA was a source of deep aggravation to the Forest Department in Masindi District, which initially sought the formation of MAPWUA as a way to transfer limited monitoring and policing functions to those directly involved in felling timber. Instead, MAPWUA became embroiled in broader management problems within the Forest Department. To the dismay of the Forest Department in Masindi District, the very powers that were transferred to MAPWUA were subsequently used by the Association to challenge the Forest Department on its decisions to allocate licenses and concessions to harvest valuable timber. The relationship between the Forest Department

and MAPWUA deteriorated as collaboration broke down in the wake of allegations and counter allegations related to illegal timber harvesting.

THE NATURE OF OUTCOMES OF FOREST SECTOR REFORMS

From the outset decentralization reforms in Uganda's forestry sector coincided with a host of other government reforms. It is therefore extremely difficult, if not questionable, to source specific economic, ecological and political outcomes to decentralization reforms since these were contiguous to other reforms bearing on the management of forests. Furthermore, outcomes of decentralization, as suggested earlier, cannot be fully understood outside of the fiscal and legitimacy needs of the state, as well as the extra-legal social, cultural and political-economic relations in which the key actors of decentralization are embedded. This section outlines a variety of outcomes for which decentralization played a significant role.

Illegal Harvesting of Timber

One of many explicit objectives of decentralization of the management of forest resources was to reduce illegal harvesting of timber in forest reserves. The Forest Department reasoned that enforcement of its ban on the felling of endangered and valuable trees species was easier if local government and private sector actors were involved in monitoring and policing illegal pit-sawing. However, the decentralization experience in Masindi District exemplifies a failure to check illegal harvesting of timber. For example, mahogany is commonly sold in timber yards in Masindi town. Despite involving local government and MAPWUA in monitoring and policing activities, illegal harvesting is pervasive. Examples include harvesting above individual quotas permitted under licenses, as well as unlicensed pit-sawing inside and near the Strict Nature Reserve inside the Forest by "mahogany diehards."³⁵ Other pressures on the Forest include encroachment by subsistence farmers, sugarcane out-growers and migrant tobacco cultivators for land, as well as for charcoal. Illegal grazing inside the forest reserves is also common during the dry season.³⁶

Illegal harvesting of timber is well organized, defiant and carried through with confidence. It is common, for example, for harvesters to operate near the management road running through Budongo Forest. Most illegal pit-sawyers operate with the help of insider information, possibly from within the Forest Department itself, in addition to well-connected traders and politicians in Kampala.³⁷ Many illegal pit-sawyers have access to new technologies such as mobile telephones that enable them to more easily detect patrols

³⁵ Budongo MPA December 2001 Monthly report, p. 3. It was noted that Nyakafunjo Strict Nature Reserve (inside Budongo Forest) was not under invasion by illegal pit-sawyers. The situation in Waibira Strict Nature Reserve was also checked during the same month by Department staff. They found that many pit-sawyers were operating illegally inside the Forest.

³⁶ Budongo MPA, Monthly report, July 2001

³⁷ Para. (iv), Alomu 2000b. A recent newspaper expose indicated that illegal pit-sawyers in Masindi have backing from inside the Forest Department (see Gerald Tenywa, "Loggers bribe Budongo Rangers," *New Vision*, 27 August, 2002), a claim denied by the Commissioner for Forestry in a statement to *New Vision* (of 30 September 2002).

and the movements of Forest Department personnel, as well as licensed pit-sawyers. Most patrols evidently are detected even before they take place. Illegal pit-sawyers also operate at night to avoid patrols by the Forest Department.

If anything, the determination of illegal pit-sawyers increased as patrols of Budongo Forest were intensified. A pattern emerged where illegal harvesting increased in the weeks before Christmas and other significant public holidays, when family expenditures increase.³⁸ Without viable alternatives to generate income, pressure on the Forest by illegal pit-sawyers is unlikely to slow, and local communities are not likely to collaborate with the Forest Department to stop illegal activities from which they (local communities) earn income. There is evidence that communities near to the forest reserves collude with illegal pit-sawyers. For example, school children are commonly used as spies to monitor the movement of Forest Department personnel. The children use coded messages such as blowing windpipes to alert illegal pit-sawyers of an approaching patrol (Langoya 1999). Observers positioned near to the entrance of the Forest typically alert illegal pit-sawyers inside the forest by ululating whenever a forest patrol approaches, as well.³⁹

Resistance to patrols is well documented (Alomu 2000c). Personnel from the Forest Department have been assaulted with bows and arrows, as well as machetes.⁴⁰ In January 2000, a Ranger from the Nyakafunjo Forest Station was cut on the stomach with a machete when he attempted to arrest an illegal pit-sawyer (Alomu 2000c). Also in January 2000, a patrol officer sustained a machete cut on his hand after his patrol encountered two people harvesting charcoal from a fallen tree at the Forest's edge. In July 2001, nails were scattered across a service road inside the Forest to trap a Forest Department Land Cruiser after personnel with the Department confiscated two saws and five bundles of rattan cane.⁴¹ Witchcraft was also commonly practiced to scare away Forest Department staff. Towards the end of 1999, various witchcraft articles were thrown into the compound of the District Forestry Officer (Alomu 2000c).

Revenue Increases for the Forest Department and District Council

There have been real increases in revenue for the Forest Department and District Council resulting from decentralization in the forestry sector. Sub-county councils have benefited less. Forest Department revenue generated from fees imposed on pit-sawyers has increased considerably, although it is still considerably below expected levels. Since licensed pit-sawyers are confined to Nyakafunjo and Waibira compartments in Budongo Forest, they can be more easily monitored, taxed and fined. Corresponding to the higher level of revenue is a corresponding increase in the number of reported illegal activities inside the Forest.

Prior to decentralization reforms, the powers of the District Council were limited to issuing permits for trade in forest products, particularly charcoal and furniture. With the

³⁸ See Budongo MPA December 2001 Monthly report, *pp.* 2

³⁹ Budongo MPA December 2001 Monthly report, *pp.* 2

⁴⁰ The particular conflict was recorded in File No. BD 13/14A of Budongo Forest Office, December 1996.

⁴¹ Budongo MPA July 2001 Monthly report, *pp.* 4

introduction of a new charcoal production, certification and marketing system, however, the District Council was able to increase revenue generated from charcoal production, while narrowing the profit margin between producers and transporters.⁴² Under the new system, the district issues licenses to cut, take, or remove forest produce from local forest reserves, village forests, private and public land. The power to issue licenses for charcoal production was transferred to sub-counties. A single license covers all links along the charcoal commodity chain, including production, transportation and marketing under the new system. The license fee is proportional to the gross income earned by the producer or transporter. By wresting limited powers to issue licenses and permits covering specific exploitative activities, the District Council has successfully asserted its control over some forest resources. However, the Forest Department retains the power to issue more lucrative licenses and permits for pit sawing.

In the 1996-1997 fiscal year, the Masindi District Council received 27.6 US\$ million in revenue as its 40% share of all revenues generated in central forest reserves in the District. This increased greatly to Uganda 66 million US\$ in the 1997-1998 fiscal year.⁴³ These amounts exclude the revenue generated from local forest reserves, which are collected directly by the local government. The 40% share of forest revenue from central forest revenues also excludes revenue generated from the auction of illegal timber, which the central government formerly kept. District councils contested that illegal timber should be auctioned in the districts.⁴⁴ In August 2001, the Forest Department reached a precedent-setting agreement with Rakai District according to which district councils auction illegal timber that has been impounded and keep 40 percent of the total revenue earned. In return, district councils agreed to step up their efforts to reduce illegal harvesting.⁴⁵ The change in policy reflected the effective exercise of counter powers by district councils, and a shift in relations of accountability downwardly toward the districts.

Sub-counties have benefited less from the shift of powers resulting from decentralization in the management of forests in Masindi District. The District Council reallocates little revenue generated from central forest reserves to the sub-counties where most of the revenue is generated to begin with. Although admitting it was unfair, one official with the District Council in Masindi defended the Council's decision, claiming that the District is permitted to retain all revenue earmarked for the District.⁴⁶ Although a provision exists according to which sub-county councils can request a portion of revenues generated from

⁴² Potential revenue for the district from fees and licenses from charcoal was 995 million US\$ out of a total potential income of 3.4 billion US\$, out of which 60 percent is returned to the central government. By April 2002, the district collected less than 15 percent of the potential revenue (Budongo MPA July 2001 Monthly report, pp. 4)

⁴³ Finance Department, "Masindi District Integrated Budget Recurrent and Development Expenditures, 1997/8," 14 June 1997.

⁴⁴ Interview with the District Chairman, Mr. John Majara, December 2000

⁴⁵ "Rakai timber wrangle resolved," *New Vision* 28 August 2001.

⁴⁶ Interview with ACAO, Masindi, Mr. Jack Byaruhanga on 4 December 2000, at Masindi District Local Government Headquarters.

central forest reserves that are allocated to the districts, several sub-county councilors were not aware of it.⁴⁷

CONCLUSION

This paper critically reviewed the context and consequences of transferring powers to manage forests in Masindi District to local government, custom authorities and the private sector, implemented as part of the Government of Uganda's cross-sectoral decentralization policy. Discussion hinged on three policy changes with the greatest affect on the management of forests in Masindi District. Most prominently, these included the 1993 statute that decentralized the management of natural resources to district and sub-county councils. Another important policy bearing on the management of forests was the designation in 1995 of forests as central and local forest reserves. This was followed in 1998 with a Ministerial declaration that returned powers over central forest reserves to the Forest Department, thereby limiting the powers of district councils to local forest reserves. In Masindi District, significant changes resulted from the return of most local forest reserves to the Bunyoro-Kitara Kingdom. Prior to the return of the forests to the Kingdom, the District Council held powers over the management of the local forest reserves. Finally, certain management functions in the central forest reserves under the control of the Forest Department were privatized to licensed user groups, notably MAPWUA.

Rhetorically, the intent of decentralization reforms was to devolve significant discretionary powers to the district and lower sub-county councils through which they could generate greater revenue to improve the overall delivery of services. As Agrawal and Ribot (1999) show, actual political or democratic decentralization occurs when discretionary powers are transferred to popularly elected and downwardly accountable local authorities. However, powers to manage most forest reserves in Masindi District were privatized, not decentralized. In Masindi District, significant powers over few forest reserves were devolved to the District Council. Instead, the Forest Department retained control of larger central forest reserves. Limited powers to manage central forest reserves were privatized to licensed user groups. Powers over most local forest reserves were transferred away from the Masindi District Council to the Bunyoro-Kitara Kingdom, a form of privatization. This left the District Council with significant powers, but over only one local forest reserve.

The impetus for privatization, can be seen in the state's need to overcome severe reductions in its expenditures resulting from austerity measures imposed by international financial institutions. By privatizing limited functions to manage central forest reserves, the Forest Department hoped to generate greater revenue while increasing the capacities of private sector actors to assume management responsibilities, and without actually committing any of its scarce resources. The Forest Department, therefore, was interested in transferring through privatization only those powers that increased revenues while reducing expenditures.

To the frustration of the Forest Department, private sector actors who acquired powers through the process of privatization sought to consolidate their new powers. MAPWUA

⁴⁷ Interview with Mr. Kyomya Rumbiha, Chairperson Pakanyi sub-county, April 2002.

used its new powers to challenge Forest Department decisions over forest concessions and to demand the devolution of further powers to its members. Through its exercise of counter powers, MAPWUA was able to influence decision-making at the highest levels of decision-making within the forestry sector, culminating in the dismissal of the Forest Department Commissioner. While privatization did result in higher Forest Department revenues, the tradeoff was greater involvement of private sector actors in the Department's decision-making.

The limited transfer of forest management powers through decentralization satisfied the interests of the state to increase its legitimacy and support among pivotal rural constituencies. The state transferred powers to manage forests as a form of patronage insofar as doing so garnered it greater popular support and legitimacy. The shift of powers through decentralization, therefore, was carefully measured to consolidate the base of support upon which the state drew its legitimacy and power. The instrumental value of decentralization to strengthen the position and power of the state, however, contradicts the ostensible intention of these reforms to share powers more widely with local government actors. It is therefore understandable that local government actors in some instances viewed their new powers with a degree of ambiguity and hesitation.

The state relied on a spectrum of policy and legal instruments to transfer powers, confusing rather than clarifying the new roles and responsibilities of different actors in central and local government. Different means used to transfer powers included principal or subsidiary legislation, executive directives, administrative decisions and forms of joint management. The different ways in which powers were transferred sometimes left local governments uncertain and in a weak bargaining position. It was therefore difficult for local government to consolidate its new powers, uncertain whether these would persist or be transferred elsewhere.

Understandably, the means used to transfer powers in part determined the way that recipients of new powers were inclined to use these powers. Apart from the means through which powers were transferred, outcomes of reforms in the forestry sector were also shaped by: (i) the forms of forest tenure resulting from the manner in which powers were transferred; (ii) resistance by central and local government actors to the new balance of powers, and; (iii) the exercise of counter powers by recipients of new powers.

The experience of decentralization of forest management in Masindi District is uneven. Decentralization in the forestry sector has contributed to new opportunities for corrupt commercial exploitation of valuable timber inside forest reserves. It has also contributed to greater inefficiency, as the transfer of powers is mired in a confusing array of legal and policy changes. Analysts note that decentralization is not a "value-free" process, but that the transfer of powers creates winners and losers, a point supported in the case of decentralization of the management of forest resources in Masindi District. The state ultimately retained significant powers over the management of forests, while selectively "decentralizing" limited powers to representative district and sub-county councils. Over time, powers shifted downwards and upwards, with the Forest Department regaining control of the coveted and larger central forest reserves in 1998. The unsteady progression of decentralization reforms in Uganda points to an unwillingness to transfer significant,

discretionary powers over the management and use of forest reserves to the district and sub-county councils.

Recommendations

The importance of this paper is its explanatory offerings and insights into a specific decentralization experience. This short narrative does not claim to address the broader achievements and shortcomings of environmental decentralization in Uganda. Instead, it does bring out some important lessons to inform possible adjustments to policy that are reviewed here.

First, the Forest Department should retain limited powers to set policy and ensure conformance to technical guidelines for managing forests. The new forest legislation needs to separate the power to award licenses from the broader legislative powers in central and local government through which broad guidelines and procedures are established. The power to award licenses and collect fees should be vested in representative local governments, who by virtue of the Decentralization Act of 1997, are expected to lead the management of natural resources in the districts.

Second, clear lines of communication and engagement need to be established between central and local governments and the private sector. Furthermore, the Forest Department should be required to consult with district and sub-county governments when awarding concessions in forest reserves in the districts. The involvement of local government is a possible check on arbitrary decisions concerning valuable natural wealth.

Third, the roles and responsibilities of different actors to manage forest resources in the context of decentralization requires clarification. The relations of accountability between some actors should be redefined in order to strengthen the powers of representative actors in local government, while establishing a viable role for civil society and the private sector in forest management.

Fourth, there is a need to strengthen the capacities of institutions at the district and sub-county levels so that they can exercise their powers effectively, and to check the decisions made by the state regarding forest resource management in the central forest reserves. Related to this point, the Forest Department should seek to involve forest edge communities more actively in the management of lucrative, income earning activities.

Fifth, there is need for political will to support the transfer of significant and discretionary powers to representative and downwardly accountable district and sub-county councils for decentralization to succeed.

Finally, sanctions against illegal activities in the current forest legislation are inadequate and do not constitute sufficient deterrence. The Forest Department in consultation with district and sub-county councils affected should revise sanctions to make these more enforceable and realistically effective in reducing the most destructive activities.

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APPENDICES

Appendix 1. Forest Reserves in Masindi District

FOREST RESERVE	AREA (HECTARES)	COUNTY/COUNTIES OF LOCATION
<i>a) Central Forest Reserves</i>		
1. Budongo	81,893	Bujenje, Buliisa and Buruli
2. Fumbya	425	Bujenje
3. Kaduku	583	Kibanda
4. Kasokwa	73	Bujenje and Buruli
5. Kasongoire	3,069	Bujenje
6. Kibeka	9,570	Kibanda
7. Kigulya Hill	391	Buruli
8. Kitonya Hill	293	Buruli
9. Masege	951	Buliisa
10. Masindi	39	Buruli
11. Musoma	278	Bujenje
12. Nsekuro Hill	137	Bujenje
13. Nyabyeya	347	Bujenje
14. Nyakunyu	466	Bujenje and Buruli
15. Nyamakere	3,898	Kibanda
16. Rwensama	127	Bujenje
17. Sirisiri	492	Buruli
Sub-total	103,027	
<i>b) Local Forest Reserves</i>		
18. Kirebe	49	Buruli
Sub- total	49	
GRAND-TOTAL	103,076	

Source: The Forest Reserves (Declaration) Order, 1998, Statutory Instrument No. 63 of 1998

Appendix 2. Forest reserves returned to the Bunyoro-Kitara Kingdom

DISTRICT	FOREST RESERVE	TYPE	SIZE (HA.)
Masindi	1. Musoma CFR	Eucalyptus Plantations	278
	2. Masindi CFR	Eucalyptus Plantations	39
	3. Masindi Port LRF	Eucalyptus Plantations	-
	4. Kaniyo Pabidi	Natural High Forests	-
	5. Kasokwa	Natural High Forests	73
	6. Busaju	Natural High Forests	-
	7. Fumbya	Hill Savannah forests	425
	8. Kaduku	Hill Savannah forests	583
	9. Kasongoire	Hill Savannah forests	3,069
	10. Kibeka	Hill Savannah forests	9,570
	11. Kigulya	Hill Savannah forests	391
	12. Nyankunyu	Hill Savannah forests	466
	13. Nyamakere	Hill Savannah forests	3,898
	14. Sirisiri	Hill Savannah forests	492

Source: The Forest Reserves (Declaration) Order, 1998, Statutory Instrument No. 63 of 1998.

Appendix 3: Revenue generated from timber royalties in Budongo forest

Year	Round wood extracted by pit-sawyers (M ³)	Round wood extracted by Saw millers (M ³)	Royalties and permits (Ushs.)
1991	-	52,843.3	20,421,569
1992	-	5,163.7	23,700,449
1993	-	3,242.4	14,127,093
1994	-	871.4	17,395,500
1995	402.44	669.8	15,532,905
1996	4,812.97	1,130.93	75,945,962
Total	5,215.41	63,921.53	1,761,234,478

Source: NEMA (1998: 50), quoting District Forest Office, Masindi, and Forestry Nature Conservation Master Plan, June 2002 (RoU 2002: 89).

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The Decentralization, Accountability and the Environment effort aims to identify and promote policies and laws essential for effective, efficient, and equitable decentralization, including those establishing accountable representative authorities for local communities in participatory natural resource management; laws specifying the distribution of decision-making powers over nature among state authorities, civil, and private bodies; laws assuring just recourse; and laws ensuring an enabling environment for civil action. Through informed analysis, the effort aims to influence national-level policy-makers to develop environmentally sound decentralization policies and an enabling environment for civic action concerning environmental policy and its implementation. It reaches this audience directly and through the international financial and donor organizations, environmental policy research institutions, and international and local non-governmental organizations involved in environmental policy matters. This effort supports research on existing decentralization policies and on the enabling environment for civic action. To further these

goals it conducts research jointly with independent policy-focused institutions, the preliminary results of which are presented in this series.

The Environmental Procedural Rights component of the EAA initiative is designed to establish and strengthen an enabling environment for citizens and advocacy organizations both to enforce their constitutional rights to a clean environment and to meet their constitutional responsibilities to ensure sound environmental management. This environment includes fundamental civil liberties, such as freedom of association and expression, and basic rights, including access to information, justice, and decision-making in environmental matters. This component works at three levels. At the national level in pilot countries, the initiative supports the work of local policy groups to improve the law and practice of environmental procedural rights. At the regional level, the initiative supports networks of local organizations to promote legally-binding regional environmental governance instruments, similar to the European Aarhus Convention, that provide for procedural rights irrespective of citizenship and place of residence. At the global level, this component supports African involvement in a coalition of organizations to collaborate on the establishment of international environmental governance norms and on ensuring compliance by governments and private corporations.

The Non-Governmental Organization Capacity-Building component of the EAA initiative aims to strengthen a select group of independent policy research and environmental advocacy groups and their networks. This group includes, for example, the Lawyers' Environmental Action Team (LEAT) in Tanzania, Green Watch, Advocates for Development and Environment (ACODE) and the Center for Basic Research in Uganda, and the African Centre for Technology Studies (ACTS) in Kenya. These environmental advocacy organizations seek to improve environmental management and justice by contributing to policy and legislative reform, and ensuring compliance to environmental laws and norms. The groups use a range of approaches and tools to influence policy formation, including policy research and outreach, workshops and conferences, public debates, press releases, and litigation. This EAA project component supports efforts in organizational development, capacity building in advocacy approaches and skills, and technical competence in specific environmental matters. Federations and networks of such NGOs, joint initiatives, and South-South collaborative efforts are also facilitated and supported.

The *Environmental Governance in Africa* Working Paper Series aims to further these objectives. All papers in this series are reviewed by at least two outside reviewers. It is the aim of the editors that select working papers be published in more broadly circulating fora, including academic journals, or as WRI reports. The feedback gained from discussion of these working papers should form the basis for the authors to rewrite their papers for publication.

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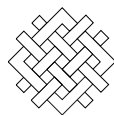
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