



# Governing Access to Forests in Northern Ghana: Micro-Politics and the Rents of Non-Enforcement

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**Summary.** — Decentralization of natural resource management is often presented as a novelty. However, successive attempts to decentralize authority were undertaken during the development of forest policy in the Northern Territories of the Gold Coast Colony between the 1930s and 1950s. From 1960, however, this was rolled back. Forest policy was thenceforth characterized by centralization, exclusion, and restrictive legislation. New forest policies of local management from the 1990s attempt to change this but differ from “colonial decentralization” in terms of institutional fragmentation and the absence of effective fiscal decentralization. The assumed illegality of people’s use of the resources and the non-enforcement of the law provides a context for monetary and political rent seeking for political agents.

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## 1. INTRODUCTION

The decades of historic economic and political crises in Africa during the 1980s and 1990s exposed the weaknesses of states and challenged their right to continue governing civil societies on the basis of interventionist and intrusive state-led development strategies. Long-accepted relationships between state and society were questioned, as fragile economies increased public dissatisfaction and decreased the ability of leaders to shore up political support through the use of state patronage and other rent-seeking behavior. Civic organizations have increasingly demanded resources, participation, accountability, and local autonomy. This turbulent era in African political history provided the justification for, and the backdrop to, the growing interest in “democratic decentralization of natural resources” (Ribot, 2002).

The “Forest Principles” (United Nations, 1993) endorsed a paradigm shift in natural re-

source management away from state-centered control toward approaches in which local people play a much more active role. Contemporary interest in decentralization has also been bolstered by a plethora of attempts during the past two decades to develop effective participatory community based natural resource management (CBNRM) strategies throughout Sub-Saharan Africa (see, e.g., Brown, Malla, Schreckenber, & Springate-Baginski, 2002; Shackleton, Campbell, Wollenberg, &

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Edmunds, 2002; Wily, 1999). Discourses on the institutionalization of popular participation are, however, often historical, and decentralization *per se* is not as new as is often claimed. Rather, decentralization has come in waves (Ribot, 1999, 2002).

Thus, two apparently contradictory forest policies have been pursued. On the one hand, various forms of local natural resource management policies, in the form of indirect rule (Mamdani, 1996) or newer approaches to decentralization and popular participation have been encouraged. On the other hand, colonial and post-colonial administrations throughout West Africa frequently usurped local rights to woodland resources as state laws restricted or suspended customary communal use rights which were regarded as being inconsistent with rational forest management (Elbow & Rochegude, 1990; Ribot, 1995). And despite policies of decentralization, states have often maintained their influence through the continued exercise of state-granted privileges and management by restriction, exclusion, and fear (Ribot, 2001). Mamdani, coining the term “decentralized despotism,” points to some of the central features of colonial local political management,

As an institution, the Native Authority bore little resemblance to a local administration, say in Britain. Its personnel functioned without judicial restraint and were never elected. Appointed from above, they held office so long as they enjoyed the confidence of their superiors. Their powers were diffuse, with little functional specificity. ... Native Courts, Native Administration, and a Native Treasury... crystallized the ensemble of powers merged in the office of the chief. ... [T]hese powers also included a fourth: making rules. (Mamdani, 1996, p. 53)

This last element is in fact crucial since it put the power of distinction between legal and illegal in the hands of a select group of administrators. It is all the more relevant since current local political management in many parts of West Africa (Ribot, 1999), and as we will show, including northern Ghana, has retained significant “un-democratic” features.

The literature on law and land in Africa informs us that rules enshrined in formal law only provide part of the picture (Berry, 2001, 2002; Chanock, 1991, 1998; Comaroff & Roberts, 1981; Juul & Lund, 2006; Lund, 1998; Moore, 1986, 2000). People’s practice often differ significantly from what the law (-makers) could be held to expect. Law is not implemented or enacted unscathed by everyday negotiations, or

more dramatic circumvention, by manipulation, or outright non-observance. Thus, the meaning and effect of law in a particular place depend on the history, the social setting, the power structure, and the actual configuration of opportunities. This does not mean that laws and regulations do not have an effect. In fact, they constitute significant, though not exclusive, reference points for actors and politico-legal institutions in their negotiations of access and rights—even if they are not enforced. In fact, as we will argue, laws and regulations may have decisive effects in terms of the opportunities that their *non-enforcement* provides.

This article compares the influence of colonial efforts to decentralize access to natural resources in northern Ghana (formerly the Protectorate of the Northern Territories of the Gold Coast Colony)<sup>1</sup> to more recent policies. It argues that despite successive waves of decentralization, laws have become stricter and local people’s rights ever more circumscribed by the administration’s ability to cancel out policies of decentralization and retain crucial powers. This is often accompanied by references to certain orthodoxies about man’s inherently abusive relationship to nature.<sup>2</sup> The article, furthermore, explores the relationship between these contradictory policies and the *actual* governance of access to the forests resources. Underneath the changing waves of policy and the restrictive powers of government agencies, another pattern of actual governance unfolds. Thus, despite strict laws, the situation is characterized more by non-enforcement than by infliction of severe sanctions against people who circumvent policies of exclusion from access to forest resources. The non-enforcement of potentially strict regulations not only signals that people’s access is tolerated, it also combines with economic and political rent seeking by local public authorities.

Section 2 provides an overview of historical precedents to the formalization of forest policy in the Gold Coast and subsequent efforts to dove-tail experiences gained under “indirect-rule” with the Local Government Act of 1951. Section 3 describes the re-centralization of political authority in the aftermath of the colonial era. The “second wave” of efforts to decentralize natural resource management in the 1990s is described in Section 4. A case study is presented in Section 5 to illustrate how access to forest reserves is actually governed on the margins of the law and in the heart of local politics.

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