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LAND TENURE, PROPERTY RIGHTS, AND LOCAL LAND GOVERNANCE

INTRODUCTION

Failure to make and implement land governance policy through local institutions has contributed to frequent failures to realize objectives in the land sector as well as in development programs and projects. When decision-makers are too remote from the population and the population lacks access to decision-makers, decisions are not responsive to the needs of the communities and individuals impacted (Ostrom 1999, Alden Wily 2003a, Hilhorst 2010, Lawry et al. 2012). This applies to the management of land and land-based natural resources, as well as government delivery of land titling and registration services. Discussions of decentralization of land administration accept the need to strengthen roles for local institutions, but argue for centrally mandated standards, so that national land markets, for example, can function smoothly (Williamson 2000, Burns 2007).

Decentralization is currently being embarked upon across the globe by both developing and transitional countries (World Bank 2000, Agrawal and Ostrom 2001). Clearly a balance between decentralized land administration and management on one hand and national level policy direction on the other is necessary, and the balance struck will vary with the requirements of the governance task concerned. While there is a need for more land governance decisions to be made locally, national systems of land governance inevitably provide for some decisions to be made at the national level (especially policy decisions) and others to be made locally, with varying levels of central supervision or backstopping. The recently approved *Voluntarily Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (CFS 2012) reflect a pragmatic approach, suggesting that land governance decision-making and implementation be vested at the level at which they can best be performed. Some key concepts are defined in Box 1 (see next page).

Some countries have built strong local land governance institutions through watershed reorganizations of local land governance, as in Mexico after the 1914 revolution. Other countries have undertaken more gradual legislative and governmental reorganization. Incremental change often comes when programs and projects seek to change land use and it becomes clear that objectives cannot be realized without more effective land governance. In these contexts, the issue is how to work within or innovate, in a relatively cost-effective fashion, existing local institutions (Bruce and Knox 2009). This brief reviews some recent successes in local land governance; some involve strong local land governance institutions taking on new tasks, and others reflect efforts to reorganize existing institutions in the face of new challenges or opportunities.

There is a wide variety of local land governance institutions, including units of local government, community-based associations, user groups, customary authorities, and civil society organizations (CSOs)/nongovernmental organizations (NGOs). Often a number of these institutions play different roles in a single area. For project and program implementers, there will always be pros and cons in working with any of these institutions, and reforms of the institutions and their links to other institutions may be needed. Unless a broad land governance reform is intended as the primary objective, it will usually be too difficult and time-consuming to create new institutions.

Project-driven innovations in local land governance institutions can be interesting pilots, but these innovations often wilt when the project or program ends. It will be more efficient to work through an existing local institution, governmental or customary, seeking changes needed to attain objectives.

Those existing local land governance institutions include customary authorities who administer land under customary tenure arrangements in Africa, the Pacific island states, parts of south-east Asia, and indigenous areas of Latin America. There is a global trend to increase the legal recognition of these institutions, in sub-Saharan Africa (Alden Wiley 2011), south-east Asia (Xanthaki 2003, Perera 2009), and Latin America (Ortiga 2004). Customary land governance institutions typically reach deep into rural society and operate more effectively at community-level than government institutions due to accessibility and culturally-rooted legitimacy. In many circumstances they can deliver effective land governance, and this has been increasingly appreciated by the development community (Knight 2010, Freudenberger 2013, CFS 2012).. They can, however, be authoritarian and patriarchal, non-transparent in their operations, and ineffectively accountable to their communities (Ubink et al. 2009, Knight 2010). Reforms may be needed but reform efforts by the state are difficult because these authorities derive their authority primarily from a traditional ethos rather than the national government or statutory law (Bruce and Knox 2009).

This brief first examines examples of successful land governance by different forms of local institutions: 1) decentralized or devolved local government institutions with broad mandates that are capable of meeting new land governance challenges; 2) a variety of local institutional forms and innovations that have enabled local communities, including indigenous communities, to participate effectively in decisions over the land they use; 3) changes in the roles of customary land governance institutions, and 4) user-group institutions created to access and manage publicly-owned natural resources under government supervision. It then draws some conclusions about the factors that are critical to the success of local land governance institutions, and these are highlighted in the discussion of the case studies institutions that follow. They are: 1) the institution's rights over the land it governs; 2) the organizational capacity and inter-institutional linkages of the local institution; 3) the enabling roles played by other actors; and 4) the incentives of the institution to undertake the governance task and related institutional reforms. Finally, some recommendations are ventured.

Box 1. Some Key Concepts

Institutions: Organizations, but also complexes of formal and informal rules, rights, conventions, and practices that establish expected patterns of interaction (e.g., the “institution of property”).

Land Governance: The process by which organizations provide normative frameworks and implement policies and programs with respect to land. Key land governance tasks are land administration (survey and registration), land information system provision (records), land dispute resolution, public land management, land use planning (environmental and developmental), land policy and legislation, and valuation and taxation.

Decentralization: The transfer of administrative and/or fiscal responsibilities for land governance to local government institutions. Such decentralization may or may not involve devolution.

Devolution: The transfer of substantial discretion in decision-making regarding the definition and performance of land governance tasks to local institutions, governmental or non-governmental.

For decentralization or devolution to be effective, local institutions and an enabling governmental policy need to be in place, and communities need to be empowered to hold leaders accountable. For a fuller discussion, see World Bank 2000 and Knox and Meinzen-Dick 2001).

ROBUST, BROAD-MANDATE LOCAL LAND GOVERNANCE INSTITUTIONS

The examples below present the basics of three robust, broad-mandate local land governance institutions (See box 2): Mexico's ejidos, Botswana's Land Boards, and Tanzania's Village Land Councils. These are all national systems of decentralized land governance in which local institutions have broad land management and administration mandates and have grown in competence over several decades. However, the three institutions have quite different origins. Mexico's ejidos were created to assume control over land appropriated through a land reform. Botswana's Land Boards were created to improve the management of tribal land under custom, and to give local communities the right to grant long-term leaseholds for specified land uses. Tanzania's Village Land

Box 2. Robust, Broad-Mandate Local Land Governance Institutions

Mexico's ejidos are land-based communities legislated after Mexico's 1914 revolution to enable land reform beneficiaries to receive and manage expropriated, state-owned land. They continue to be central to the organization of Mexico's rural society, playing a key role in reform of Mexico's land tenure system between 1993 and 2006. That reform offered full property rights to both ejidos in terms of common lands and households in terms of family holdings. The extent of the resulting changes and new marketability of land has varied as they have been determined by decisions within each ejido. The extent and speed of implementation of the reform (92 percent of ejidos) has been remarkable and testifies to the long-term value of strong local land governance institutions (Deininger and Brusciani 2001, de Ita 2006, Bray et al. 2012, de Janvry et al. 2012).

Botswana's Land Boards demonstrate that local land governance institutions are not necessarily either traditional or modern, but can be hybrids. The 1968 Tribal Land Act created 10 tribally based District Land Boards, later joined by 37 Sub-District Land Boards. The Boards are constituted as corporate bodies and hold title to the tribal land they administer (most of the land in the country). Originally, senior chiefs were ex-officio members of each board. Their participation has gradually been phased out over the years, but the Boards still rely significantly on lower-level ward chiefs in dealing with customary land. Today, 40 percent of Land Board members are elected by the *kgotla* (traditional assembly); these are joined by a member each from the Ministries of Lands and Housing, Agriculture, and Commerce and Industry. The Boards manage tribal land according to custom, but District Boards can also grant long-term common-law leases to residents or outsiders for commercial, industrial, and major residential uses. The institutional form of the land board has been or is being developed by governments in Namibia, Uganda, and Kenya, and hybrid land commissions are being created in Niger and Guinea (Adams et al. 2003, Knight 2010, de Satgé 2011).

Tanzania's Village Land Councils originated in the need to reestablish local land governance in the wake of the country's controversial post-independence villagization program. The Councils are part of a village governance structure prescribed in elaborate detail in the 1999 Village Land Act, which decentralized control of land used under customary rights (70 percent of the country) to these elected Land Councils in more than 9,000 villages. The Councils regulate natural resource use through local by-laws, mediate land disputes, and adjudicate and register rights based on customary use and occupation. The Land Councils are accountable to Village Assemblies. Implementation of the Act has relied heavily on donor-funded regional efforts, which in recent years have emphasized certification of first village lands and then individual or family rights of occupancy. Between 2004 and 2011, 6,616 villages had their land registered (66 percent of the villages), and 40,000 titles (5 percent of the land) were issued to individuals. Each village has an adjudication committee to determine household rights, and when the adjudication process is completed, the village is required to maintain a land register (Alden Wily 2003b, Knight 2010, Pedersen 2010).

Councils were created through the restructuring of local governance after the country's villagization program.

Basic differences are also found in the structure of these three local land governance institutions. Mexico's ejidos and Botswana's Land Boards are linked to, but not a part of, local government structures. Tanzania's Village Land Councils, however, are an integral part of a village government structure with broader roles. Both Mexico's ejidos and Tanzania's Village Land Councils have strongly democratic decision-making structures; this is less true for Botswana's Land Boards, for whom only a portion of members are selected by communities and there is considerable ex-officio membership of local government officials. While these three institutions exercise very considerable discretion in decision-making, in all three cases, the power to make land policy is retained by central

government, which also retains powers to override local decision-making in certain special circumstances (e.g., for priority national programs). Central government institutions also continue to provide survey services and land registry expertise.

It is significant that in all three cases, these robust local land governance institutions have taken on a major new role: the implementation of national land system modernization policies. In Mexico, ejidos implemented a fundamental land tenure reform between 1993 and 2006. In Botswana, Land Boards managed the shift from customary to long-term leaseholds for commercial, industrial, and high-value residential uses, and they have implemented a controversial grazing land policy. In Tanzania, Village Land Councils are playing a major role in the implementation of a national program of village and household land demarcation and registration.

As illustrated by these examples, countries which have established strong national systems of decentralized land governance enjoy a considerable advantage in implementing new land programs. That advantage is indicated by other cases as well. For example, China's rural collectives self-implemented that nation's de-collectivization program (Bruce and Li 2010), and Ethiopia's kebelles are implementing its ongoing land formalization program (Deininger et al. 2008). India's impressive three-tier panchayat system of local governance has been engaged in the implementation of important and innovative land sector programs in recent years—notably, in West Bengal State, the distribution of micro-plots to over a million poor households and, in Karnataka State, the computerization of land records of over 6.7 million landowners, with data being made available through e-governance computer kiosks (Chawla and Bhatnagar 2004, Santos et al. 2013).

INSTITUTIONAL OPTIONS FOR COMMUNITY MANAGEMENT OF SPECIFIC NATURAL RESOURCES

The local land governance institutions described above manage broadly defined land and land-based natural resources, and they are part of national systems of land governance. In other cases, the focus is a specific, local natural resource, and different approaches are taken. One institutional form that is used is a statutory institution linking several local customary land governance structures, as has been done in Namibia and Mali. Another such form is the indigenous reserve; an example from Brazil is discussed in Box 3. In all three cases, an overarching institution was created in part to manage interactions between multiple existing village-level governance institutions.

Namibia has designed its wildlife conservancies as statutorily private, common property management institutions designed to foster wildlife conservation. Each conservancy has a defined membership, a defined territory, a specified conservation mandate, and a governing constitution. It may merge wildlife areas of a number of villages for unified management. Once created, a conservancy has the right to manage and derive income from the wildlife within its territory. Today, there are 59 registered conservancies, covering 15 percent of the country's land area, and involving 220,000 residents; as of 2009, 21 conservancies were self-sufficient. Title to the land that a conservancy manages is vested in the local Communal Land Board, on which the conservancy is represented. Conservancy rights are being registered through an ongoing program of communal land registration (Jones 2010, Brown and Bird 2011, Government of Namibia web site 2013, N.A. n.d.).

Mali provides another example of a statutory institution linking several local customary land governance structures. In 1991, faced with problems of environmental degradation and growing farmer-herder conflict, Mali's multi-village communes (the base local government unit) were empowered to manage commune natural resources. The Commune Mayor and Council work with local villages through a Commune Natural Resource Management Advisory Committee. The Committee consists of representatives of stakeholders, including women-agriculturalists, agro-pastoralists, transhumant herders, and key actors in local government; with four-to-five members from each of the villages in the commune being elected by the Commune General Assembly. The Committee uses radio and other means to extend technical advice and services to villages and also resolves land use disputes. Each village has a Natural Resource Management User Group, consisting of village and herder representatives. There are also two trained environmental monitors in each village who are appointed by the chief. A General Assembly of the Village User Group members drafts and passes by-laws on internal structure, governance, and natural resource use. The User Groups and environmental monitors enforce use rules. The emphasis is on managing interactions between groups of users with conflicting interests (Moore et al. 2005,

Hilhorst 2008). This is a recurring theme in discussions of local land governance institutions in pastoralist contexts (Ngaido and McCarthy 2004).

In both the Namibian and Malian cases—as in the case of the indigenous reserve in Brazil—natural resource management was needed on a broad scale, but very different institutional forms were chosen due to differing secondary governance needs. In the Namibian case, the creation of a sustainable income source was an important secondary objective, and a private institution was created. In the Malian case, the need was essentially regulatory, including dispute resolution, and so a local government capacity was created at the commune, multi-village level.

In the case of the Brazilian indigenous reserve described in Box 3, the Xingu living in the reserve held secure rights in their natural resources. The scale of their social organization was too limited compared to the scale of management required by their extensive resources: the 2.6 million hectare Xingu Reserve, a multi-land use reserve with substantial forest resources. So, in order to manage the reserve, the local communities of 14 different ethnicities came together to form the Xingu Lands Indigenous Association (Schwartzman and Zimmerman 2005, Brondizio et al. 2009, SocioAmbiental web site 2013). For another indigenous reserve, the Kalahan Forest Reserve in the Philippines, where a similar need for management on a larger scale existed, management authority was conferred by the villages on an existing institution with strong local credibility, the Kalahan Educational Foundation (Dolom and Serrano 2005, Dahal and Adhikari 2008). In both cases, an overarching authority was used to engage multiple existing, village-level institutions in the governance of a natural resource to which they held strong statutory rights.

Box 3. Land Governance Institutions in an Indigenous Reserve

Brazil's Xingu Reserve and the Xingu Lands Indigenous Association: Where traditional organization exists on too small a scale for the task at hand, small communities can be linked through an umbrella organization to meet the new land governance challenge. Brazil's indigenous peoples enjoy strong legal backing of their customary rights. The Xingu Reserve (2.6 million hectares) has been undertaken by its indigenous population of 4,700, composed of 49 villages and 14 ethnicities. In 1995, those ethnic groups, supported by a regional NGO, organized the Xingu Lands Indigenous Association (ATIX). Governed by a council with representatives from all 14 ethnic groups, the Association organizes assemblies of ethnic leaders to discuss issues of land use, border control, development projects, and social services. The Xingu Reserve model has been so effective that it has been widely replicated within Brazil, and it has informed the design of recent legislation of indigenous land rights (Schwartzman and Zimmerman 2005, Brondizio et al. 2009, SocioAmbiental 2013).

In all of the cases discussed so far, a “modern” supra-community institution, on a larger scale, with a statutory basis, was used to link several village-level institutions to manage a particular natural resource more effectively.

CUSTOMARY LAND GOVERNANCE INSTITUTIONS

The increased openness of policy-makers to working with customary land tenure institutions raises a question: *How can customary community land governance institutions be reformed to better contribute to improved land governance?* In the cases from Mali, Namibia, Brazil, and the Philippines, the land governance challenge was on a supra-community scale and institutional innovation occurred on that scale, leaving customary institutions largely unchanged. In Mali, customary authorities are involved in decision-making bodies at commune level, and take a lead role at village level. In the case of Namibia's wildlife conservancies and the cases of the indigenous reserves in Brazil and the Philippines, customary authorities are integrated into over-arching institutions that enable them to participate in land governance.

Other countries have reworked and sometimes limited the land governance roles of customary land governance institutions. Botswana's Land Boards and Tanzania's Village Land Councils involve the phasing out of customary land institutions, while ratifying customary landholdings, and in the case of Botswana, continued administration of customary law by the Boards.

Institutional reform has taken yet a different path in Ghana, where customary tenure is recognized by national law and 80 percent of land is under customary tenure. Since 2004, 37 Customary Land Secretariats (CLSs) have been created to assist chiefs and elders with the administration of customary land. The CLSs are based on memoranda of agreement between the government and each customary authority. The government's priorities are to improve

record-keeping, transparency, and accountability. Customary authorities have pursued a variety of local priorities through the CLSs. Performance has been uneven, but the CLSs were recently given an overall positive evaluation. A draft bill is under discussion which would provide the CLSs with a firmer legal basis as well as clarify their roles and the linkages between government and customary authorities. The Ghanaian government hopes to engage the CLSs in a systematic registration of customary rights that it is currently piloting (Antwi 2006, Bugri 2009).

Other reforms that preserve customary land rights do not give the same attention to institutional arrangements as that of Ghana. Mozambique's 1997 Land Act represents a remarkably laissez-faire approach to institutional needs. It recognizes the customary land rights of rural communities, and customary institutions continue to play a major role in local land governance. The law simply calls for land committees of six members to be formed, often on an ad hoc basis, to deal primarily with external actors such as the government and investors (Tanner 2005, Knight 2010).

As described in Box 4, customary and other community-level land governance institutions, due to their strong knowledge of local land rights and holdings, can play an important role in programs to formalize customary and other informal rights.

Box 4. Formalization and Local Land Governance Institutions

The policy of formalizing customary land rights has received a new impetus from the realization that many communities are, by virtue of their lack of formal rights, vulnerable to loss of the land on which their livelihoods depend due to the current wave of domestic and foreign investors.

The formalization process typically involves legal recognition of customary and informal land rights, adjudication of particular rights of landholders, demarcation of existing landholdings, and registration of the rights in those holdings. It may involve recognition of customary rights as defined by custom, or convert those rights to statutory tenures such as ownership or usufruct. Where customary institutions continue to provide land governance, there may also be a need to formalize and define their legal identity and roles better.

Customary land governance institutions have been successful in implementing participatory processes of rights adjudication, although caution is needed to ensure that gender or other biases do not infect the process. They have been less successful in keeping land right records up to date. The potential role of customary land governance institutions in formalization processes depends in part on the choice of technology for survey and registration: the more complex the technology, the lower the likelihood that the customary institution will be able to maintain the records produced. Ghana's CLSs offer an example of one solution, as they seek to upgrade the technical capacities of customary land governance institutions.

Where strong statutory local land governance institutions have been established, they are able to respond to this challenge and take on new roles in implementing the formalization process. This is the case in both Ethiopia and Tanzania, where local land governance institutions, originally established primarily with land management functions in mind, are today playing important roles in systematic demarcation and titling of both village and household lands. In contrast, Mozambique does not have such strong statutory local land governance institutions. Mozambique's 1997 Land Act allows each community to take the initiative to have its territory demarcated and use-rights certified. Donor-funded NGOs have assisted communities and coordinated with the offices of the concerned ministry. The self-selection of communities for formalization of rights does have the advantage that it embodies an element of community empowerment, and it also provides an alternative to attempts by the state to declare a national formalization campaign only to struggle to implement it systematically, a process that often takes several decades to complete (Bruce 2003, Antwi 2006, Bugri 2009, Ubink et al. 2009, Deininger et al. 2008, Pedersen 2010, Alden Wily 2011, Tanner 2005).

USER-GROUPS: ACCESSING PUBLICLY-OWNED NATURAL RESOURCES

Another type of institution that plays a role in local land and natural resource governance is the user group, which may derive membership from the sub-community level, or even have members recruited without reference to community membership. Such user groups are most often seen in cases where the state asserts title to and control over the natural resource concerned, and only offers limited access to local residents through agreements

with user groups. The most common case concerns forest resources, and usually involves reluctance on the part of the state to recognize the customary claims, or even to entrust full management to the communities concerned. Agents of government agencies develop management plans with local communities, provide technical assistance, and police compliance with the agreement.

Box 5 provides two examples of user groups: a shellfish harvesting group in Nicaragua and a community forestry program in Nepal. In both of these cases, access is not based on a property right, and because such access can be relatively easily revoked by the state, tenure is insecure. Such arrangements represent an important opportunity for the members of the user groups, and have been successful in increasing the incomes of those in the groups, and sometimes in improving resource condition. However, the user groups are creatures of the programs that created them, which provide little opportunity for initiative or for the communities in which members reside to build stronger local land governance institutions. Exceptions exist, notably the community forestry groups recently legislated in Liberia, which are given property rights over the forest land that they use (Knight 2010, Smyle 2012).

Box 5. Two User Groups

Nicaragua's Aserradores Estuary Cockle Harvesters' User Group: In 2006, a coalition of scientists and NGOs working on shellfish production in Nicaragua's Aserradores Estuary obtained from the national government a policy exception that allowed them to work with the local mayor to develop and implement a co-management regime for black cockles gleaned by marginalized local women. These women were organized into a cockle harvesters' user group with a five-member management committee. The mayor's office entered into an agreement with the group empowering it to establish and manage an improved system of cockle production involving interspersed no-take zones, the enforcement of which was based on customary mechanisms. Commercial permits were issued by the mayor's office exclusively to the user group for sales of their harvests in excess of subsistence needs. The group decides on the location and number of reserves, and manages them, maintaining boundary markers, monitoring compliance, sanctioning local violators, and keeping data on harvests and incomes. Overexploitation is gone and yields have increased. The model is now being tested in two other Nicaraguan communities as a possible alternative to the current, unsuccessful centralized approach of nationwide seasonal conservation bans (Crawford et al. 2010, Haws et al. 2010).

Nepal's Community Forestry User Groups: User groups have played a major role in community forestry efforts. In Nepal, community forestry user groups were legally authorized in the early 1990s. Today, about one-fourth of the national forest is managed under community forestry, involving more than 35 percent of the total population, and community forestry is the nation's second-largest forest governance regime, after government-managed forests. Formation and membership in the user groups is voluntary. The groups are actively promoted by forest agency staff, who help the groups to organize, prepare applications, and demarcate their forest land, and forest agency staff must approve the groups' forest-use plans. Some user groups are heterogeneous, not related to community membership, while others are more homogenous in nature and may use customary institutions in decision making. These groups are responsible for: protecting the forest (either directly or by appointing a guard), allocating benefits, improving vegetative cover, and sanctioning rule breakers. In return, the groups are granted full use-rights to forest products, including the right to keep revenue, with the caveat that 25 percent of those revenues must be spent by the group on collective development activities. The groups' rights to land are, however, fragile, in the nature of permits, and easily revocable by the forestry agency. A nationwide federation of community forestry user groups has been established to disseminate information and lobby the government on behalf of its members (Agrawal and Ostrom 2001, Nielsen 2008).

SUCCESS FACTORS

The local land governance institutions reviewed here were selected because of their relative success. What are the factors that underlie this success? Two factors frequently noted in the literature on community management of resources are clearly at play in these cases: the existence and robustness of rights to the land or natural resources concerned, and the organizational capacity and inter-institutional linkages of the local institutions concerned (Ostrom 1999). Two other factors, less often noted, appear to have been important as well: the

enabling roles played by external actors, governmental and non-governmental, and the incentives for communities and their members to improve land governance. These factors are presented in turn below.

1. **The Existence and Robustness of Property Rights:** Among the cases of successful local land governance institutions, many have relatively secure property rights over their land. Mexico's ejidos, Botswana's Land Boards, Tanzania's Village Land Councils have solid rights, and customary authorities in Ghana enjoy strong state recognition of customary rights. Indigenous communities in the Philippines hold title to their ancestral lands. In Brazil, the state remains the owner of the land of the indigenous reserve, but the indigenous community has strong legal protection of their land rights. In Mali, the institutions involved are engaged in decentralized land governance and there is a basic recognition of customary rights. Mozambique's rural communities' customary rights are recognized by the state, and the communities have the opportunity to have those rights formalized.

User groups such as those in Nicaragua and Nepal which access state-owned resources through management agreements have a much lower degree of security of tenure of rights to the resources that they manage. Although it seems that these user groups are successful in terms of achieving project goals, they do little to create the capacity within local communities to build governance institutions, and a recent review of devolution of forestry governance concludes that user groups should be empowered with property rights (Lawry et al. 2012). Weak tenure is unlikely to generate the level of local initiative and investment that characterized, for example, the dramatic afforestation of community-owned mountain land during the late 1980 and 1990s by China's rural collectives (Bruce et al. 1995).

2. **The Organizational Capacity of the Local Institution:** While the successful local land governance institutions examined here are diverse in nature, they tend to have in common relatively high degrees of both internal organizational capacity and supportive inter-institutional linkage. For some, organizational capacity has been developed incrementally over decades; such is the case with Mexico's ejidos, Botswana's Land Boards, and Tanzania's Village Land Councils. For others, organizational capacity was explicitly built, through a variety of strategies. In the case of Ghana's customary land governance institutions, the Ghanaian government has used the Customary Land Secretariat as a mechanism to upgrade the performance of existing roles, and also to lay a foundation for new roles. In some cases, organizational capacity development included human capacity development in terms of basic and legal literacy, technical expertise, and skill development, which was true in the case study institutions in Mali, Brazil, the Philippines, and Nicaragua.

Horizontal linkage was instrumental in the cases from Brazil, the Philippines and Mali, where customary institutions have been enabled by linking them through umbrella organizations which provide them with technical and other support. In Namibia, the statutory conservancy institution provided an organizational vehicle for several communities to come together to manage the wildlife-rich areas of each community. Vertical inter-institutional linkages have also been important in institutional success, whether they are linkages with local government, line ministries, donors, or the private sector. In the case of the Nicaraguan cockle-harvesters' user group, obtaining from the local government the co-management agreement and exclusive permits for the cockle sales was essential for success.

Without such organizational capacity and supportive inter-institutional linkages, success in land governance is less assured. In Mozambique, even once the self-selected rural community has had its landholding demarcated and its right certified, local land governance is left largely to customary institutions. Government policy remains unclear as to the strengthening of these institutions or the six-member committees mandated to deal with outsiders, or even the appropriate linkage of either of these institutions to local government. This raises questions about the ability of these communities to realize the potential benefits of their newly recognized land rights. In Nepal, the forest user groups have been subject to such close government support and control that they have little institutional existence independent of the government program concerned. It is questionable whether formation of such user groups does much to strengthen local land governance institutions.

3. **The Enabling Roles of Other Actors:** The successful local land governance institutions discussed here often required substantial assistance from actors in other institutions. In some cases support was provided by

the agents of local government or national ministries, while in others it was provided by NGOs. Ghana's Customary Land Secretariats model government sponsorship of enhanced organizational capacity of customary land governance institutions. The Nepal community forestry user groups have strong support from local forestry agents. In Mali, a commune-level technical support institution, itself initially supported by a donor project, is playing a major role in assisting village-level institutions. In Nicaragua, a donor project facilitated the co-management negotiations between the national and local government and the cockle-harvesters' user group; this user group also received substantial assistance from local NGOs. NGOs have provided extensive assistance to rural communities in Mozambique in getting their land delimited and certified, and NGOs have also played major roles in supporting the indigenous communities in the reserves in Brazil and the Philippines.

In many of the cases consulted here, there was some degree of external donor involvement, suggesting the value of donor-funded pilots of approaches for working with local communities to create land governance institutions. However, those designing and implementing projects should be aware of the risk of creating new community organizations that may not survive the end of the project or program concerned. The international donor community has been less directly involved in the conceptualization and design of strong national systems of local land governance institutions, but it has supported implementation of key land policies by those institutions, as in the case of Tanzania's Village Land Councils and Mexico's ejidos.

- 4. The Incentives of Local Communities:** In reviewing the cases discussed here, it was clear that successful institutional innovation did not come out of nowhere, but was rather a response to opportunities and challenges, often externally-generated. The communities discussed had substantial incentives to support their local land governance institutions in performing the specific tasks involved. In most cases, the creation or strengthening of local land governance institutions gave local communities greater control over the resources on which their livelihoods depended. Even in the case of user groups, in Nicaragua and Nepal, households received new access and clear benefits. In the cases of Ghana and Tanzania, local institutions are seeking increased security of property rights, for both communities and households, through registration programs. These incentives clearly underlie the success of the cases reviewed here, and bode well for their sustainability.

It should be noted, however, that while the incentives of communities as a whole to support local land governance institutions is critical, the leaders of customary land governance institutions may have mixed feelings about change. Chiefs assisted by the CLSs in Ghana, for example, were receptive to the concept of better records of land rights, and yet did not all entirely welcome the greater transparency and accountability those records are intended to promote. They may also fear, as did the senior chiefs in Botswana, that they will be phased-out of formal land governance roles—as did in fact occur. The Botswana case illustrates an important potential of “hybrid” arrangements: to tap the legitimacy and knowledge of customary authorities initially, especially regarding local land rights and holdings, while at the same time initiating a process of transition to more democratic local land governance.

CONCLUSIONS AND RECOMMENDATIONS

This brief has sought to identify the factors that contributed to the success of the local land governance institutions discussed here. Paramount among these is long-term investment to build organizational capacity. Once strengthened, these institutions can then undertake new tasks as new challenges arise. In accomplishing land governance objectives, it is expedient to work with existing local institutions. In the exceptional cases in which strong, local, general purpose government institutions exist, it may be possible to work with these institutions to accomplish specific land governance tasks. Experience shows that non-governmental local institutions, including those based on custom, can rise to the occasion to take on new land governance tasks. Often, however, some degree of institutional strengthening or innovation may be needed to enable existing institutions, for example, to operate at a new scale, to reform processes that increase transparency and accountability, or to achieve greater gender inclusivity. A checklist of considerations to be taken into account in designing a strategy in this regard is summarized in Box 6.

Box 6. A Checklist: Working with Local Land Governance Institutions

In considering how to work with local institutions to enable them to perform specific land governance tasks, some matters to consider are:

- The nature of the task
- The match between the spatial scales of the task and that of the current operations of the institution
- The institution's relevant knowledge of local lands and rights in those lands
- The related land-governance tasks that the institution is currently performing
- The match between the capacities needed for the task and the current capacities of institution and its personnel
- The technical and infrastructural requirements of the task, and the feasibility of creating and maintaining these at local scale
- Possible complementarities and support roles for local government, NGOs, and other actors
- The existence of regional or ethnic differences in local institutional arrangements that might cause variation in the suitability of options across regions
- Local perceptions of the legitimacy of existing institutions to undertake the new land governance task
- Incentives for the local institution to undertake the task, which will affect sustainability and replicability

It is recommended that:

- Governments and the international development community should increase their investments in the creation of national systems of strong local land governance institutions—institutions that can undertake a wide variety of land governance tasks and have the capacity to take on new tasks as needed.
- Those designing projects and programs should seize opportunities to engage and support existing local land governance institutions, including customary institutions, and enable them to take on new land governance tasks.
- Efforts to support local land governance institutions should seek to ensure that the institutions are empowered through provision of property rights and/or other legal protections; without these, incentives for good land management will usually be insufficient.
- User groups, as discussed here, often lack such property rights; it is preferable when working with user groups to support community-based groups whose incentives can be reinforced through provision of secure rights of tenure.
- Efforts to support local land governance institutions should recognize the limitations of existing institutions, which may necessitate reforms in their structure or processes in order for them to address program or broader policy concerns and to meet constitutional standards. Opportunities should be sought to increase transparency, accountability, women's participation, and participatory decision-making in those institutions.
- It should be recognized that the process of enabling community-based land governance institutions will often require support and/or complementary activities from national or local government, NGOs, and other development actors. That assistance may focus on building organizational capacity or inter-institutional linkages, it may be technical in nature or it may extend to promoting reforms of the policy environment.
- Initiatives to work with local land governance institutions should be sensitive to, and seek to address, the need for durable incentives for local communities and their members to support the land governance task undertaken, rather than depending too heavily on ephemeral, project-generated incentives.

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