The imperative of good local governance: Challenges for the next decade of decentralization

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Representation, citizenship and the public domain: Choice and recognition in democratic decentralization

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4.1 Introduction

Elected local governments have been legislated in many countries. In some countries, higher-scale intervening agents – central governments, international development agencies, large non-governmental organizations (NGOs) – chose to foster these elected local governments. In others they avoided them in favour of a plethora of parallel institutions. The result is a multiplication of local institutions and the cultivation of identity- and interest-based forms of inclusion over residency-based citizenship. Often the result is that local people cannot demand that their needs and aspirations be served by government. This choice of local institutions appears to be fragmenting the local arena into competing and conflicting identity and interest groups. Through many of these choices, the public domain – the material resources and decisions under public control – is being enclosed and de-secularized.[1] Citizenship – the right and ability of people to shape the polities that govern them – is then being narrowed.

Substantively, democracy is the accountability of leaders to the people (see Moore, 1997). This requires having leaders with some discretionary powers that make holding them accountable worthwhile and citizens equipped with the means to hold them to account (Agrawal and Ribot, 1999). One of the great challenges ahead for the building of effective local or decentralized democracy is to furnish elected local authorities with sufficient and meaningful discretionary powers to enable them to be responsive to their populations. Meaningful discretion in the hands of

leaders will provide local populations with the motive to engage as citizens. This chapter provides some theoretical background along with case examples aimed at the eventual development of institutional choice guidelines to ensure government, development agency and large-NGO policy and project interventions support rather than hinder fledgling local democratic government (see Ribot, 2004, 2008).

The choice by higher-scale intervening agents of local institutions to partner with or to empower shapes three dimensions of local democracy: representation, citizenship and the public domain. This chapter explores the origins of the power transfers to an emerging mix of local institutions and their effects on local democracy. In particular, it focuses on transfers and non-transfers by sectoral bodies and the instrumental programmes of states and other intervening organizations. The cases cited in this chapter draw mostly on decentralization activities in the natural resource sectors. I argue that (i) these sectoral powers are more important than the fiscal transfers on which analysts of decentralization tend to focus, (ii) the transfers being made rarely create discretionary spaces under representative authorities, and (iii) without discretionary power in the hands of representative local authorities there is no representation or citizenship, there is no local democracy, there is no reason for local people to engage as citizens.

The vast majority of studies of democratic decentralization focus on why it is promoted and legislated, or on its effects on service delivery efficiency or equity (Bardhan and Mookherjee, 2006; Crook and Manor, 1998; Larson and Ribot, 2004; Oxhorn et al., 2004; Tulchin and Selee, 2004). Some scholars are beginning to focus on democracy outcomes of democratic decentralization. Yet there are still "few critical analyses of whether this localization actually generates the expected outcomes, especially in terms of democratization" (Harriss et al., 2004: 4). Nonetheless there is an emerging literature with observations on the effects of "democratic decentralization" on local democracy (Grindle, 2007; Harriss et al., 2004: 4; Ribot, 1999, 2003, 2004; Ribot et al., 2008) and some observations on its role in higher-scale democracy (Chhatre, 2008; Grindle, 2007).

Decentralization reforms have legislated the creation of elected local governments across the developing world. But these democratic decentralizations are rarely implemented in the manner that is expected to add up to local democracy. "Hence, the benefits predicted by economists, political scientists, and management specialists as consequences of decentralization provide a palette of possibilities, not of realities" (Grindle, 2007: 178). There are, of course, good reasons why it is difficult to establish local democratic authorities (Agrawal and Ribot, 1999; Grindle, 2007; Ribot et al., 2006). Although there are now many elected local govern-

ments in place, they rarely hold the powers that would enable them to respond to local needs and aspirations, that would link local demand for infrastructure and services into a relationship that could be called democratic.

Harriss et al. (2004: 6) observe that "the test for democracy is not about the existence of formal democratic rights and institutions, but whether they have real meaning for people". Such meaning in local democracy is contingent on whether democratic local institutions have anything to offer to local people. They usually do not, I argue. Mkandawire (1999, cited by Törnquist, 2004: 205) describes some African countries as "choiceless democracies", owing to the ways in which their discretion is constrained in the global political economy. Local or sub-national democracies are all too often like these choiceless national democracies. Their meaningful discretion barely exists.

It is around meaningful discretionary powers that local democracy can crystallize or take form. For example, Grindle (2007: 17) found that, although constrained, local arena political competition in Mexico was growing and significant and that political competition grew around the new resources provided under decentralization. In her Mexico study, civil society was able to organize, make demands for investments and receive responses from local government (2007: 125–127). In general, however, local democracy is limited by the lack of resources and poor downward accountability. In natural resource sector decentralizations, Ribot (2004) found in a 15-country comparative study that either local actors hold significant powers but are not democratic or they are accountable to their population but hold no significant powers. Neither power without downward accountability nor accountability without powers can be labelled democratic.

Many battles take place over whether to decentralize, how to structure new decentralized local governments and what powers to transfer to them. A lot of attention is focused on fiscal transfers from central government – how much and with what stipulations. However, new fledgling local elected governments are imbued with or starved of powers through decisions made elsewhere. The allocation of significant powers is often exercised by sectoral ministries, donors and large international and national NGOs. These institutions allocate or withhold important powers, such as the power to decide who has access to resources and markets, who has labour opportunities, who receives training and who gets construction contracts. Transfers made by line ministries and other higher-level intervening institutions are extremely important and largely ignored by analysts of decentralization owing to their focus on fiscal transfers. Often they withhold powers from elected local governments, often they work with or allocate to parallel institutions.

Transfers to non-government bodies, which often take place in the name of decentralization, are not decentralization. They should be labelled as privatization, participatory or empowerment approaches, NGO and civil society support, social funds or community-driven development (Pritchett and Woolcock, 2004; Ribot, 2003). Each approach empowers different kinds of local institutions or authorities, with potentially different democratic and distributional outcomes. Because of support for and proliferation of local institutional forms, fledgling democratic local governments often receive few public resources or powers and must compete with a plethora of new local institutions (Larson and Ribot, 2007; Manor, 2004; Namara and Nsabagasani, 2003; Poteete, 2007: 16; Ribot, 1999). Democratic local government is rarely given the means – discretionary authority, technical support, equipment or finances – to represent or to engage local people in public affairs (Crook and Manor, 1998; Ribot, 2003). Numerous cases illustrate how local government has been fettered in this manner (see Bandiaky, 2008; Hara, 2008; Ribot, 2003; Ribot and Oyono, 2006; Spierenburg et al., 2008; Toni, 2007; Xiaoyi, 2007),[2] whereas others show that central government or external actors have successfully – even if not wholeheartedly – promoted greater local representation (Chhatre, 2008; Grindle, 2007: 176; Ito, 2007; Lankina, 2008; Larson, 2008).

In this chapter I examine the logic behind local institutional choices and the effects on local democracy of choosing or "recognizing" different kinds of local authorities under what are called "decentralization reforms". "Institutional choice" refers to the choice of the locus of authority (actors or institutions). I use the term "choice" to attribute agency and therefore responsibility to government and international organizations for their actions. Governments and international organizations manifest their choice of local authorities by transferring powers to them, conducting joint activities or soliciting their input. Through their choices, they are transforming the local institutional landscape.

The term "recognition" (from Taylor, 1994) evokes the literature on identity politics and multiculturalism (also see Fraser, 2000; Kymlicka, 2002). I use the concept of "recognition" (applying it to authorities rather than to individuals or their cultures and identity groups) to better understand the effects of the chosen mix of local authorities on representation, citizenship and the public domain. Different forms of local authority imply different development and equity outcomes. Knowing why particular choices are being made helps to relate their outcomes back to – to interrogate and influence – the project and policy design process. Understanding their effects helps to identify approaches most likely to strengthen local democracy while serving the needs of local people and broader developmental objectives.

The "choice and recognition framework" (Ribot, 2006, 2007; Ribot et al., 2008) is outlined in this chapter. The next section explains the focus on recognition of authority. The following section develops the basic concepts of choice and recognition and criteria for examining their effects.

4.2 Recognizing authority

Individuals and groups seek recognition (in the sense of acknowledgement); similarly, leaders and their institutions seek to be recognized in the numerous arenas in which they operate.[3] Hagberg (2004: 200) shows how development NGOs in Burkina Faso seek recognition in multiple arenas – local, state and international.[4] Sikor and Lund (2009: 1) show that "the process of recognition of claims as property simultaneously works to imbue the institution that provides such recognition with the recognition of its authority to do so" in what they call "the 'contract' that links property and authority". Acknowledgement by other actors is part of the process of gaining and maintaining authority. This acknowledgement is partly predicated on the ability to recognize and uphold property claims.

The holding of power – such as the ability to make and enforce decisions, rules or adjudications – shapes the ability of an authority to attract claimants and to help enforce their claims. There is a dyadic relationship between property claimants and authorizing actors. But there is also a dyadic relationship between local authorizing actors or authorities and the higher-level intervening agents who empower them. Their ability to authorize property claims is, at least partly, predicated on backing by the state or other institutions, having the financial or technical resources needed to mobilize people or pay for services, or having the ability to allocate access to resources or to other authorities. These are some of the material underpinnings of local authority.

The "politics of recognition" literature (starting with Taylor, 1994) provides means for exploring moments where one actor recognizes another as consummated through transfers of some form of power to that authority or individual. The relationship does not just affect the binary relationship between the higher-level actors and sub-national authorities. The state, donors or international NGOs recognize and are recognized by the local actors they seek to partner with or empower – in a kind of "contract" that links authority and authority (Sikor and Lund, 2009: 1). That act of mutual recognition and the sharing or transfer of power – or even the harnessing of these actors as extensions of the state, donors or international agencies – subsequently reshapes the relationship between the empowered actors and the populations they interact with or whom they

dominate and rule (for example, the "dual mandate" of Lugard, 1926; Chanock, 1991). There is a cascading recognition effect when higher-level institutions recognize more local bodies, transforming their relations with local actors. This is partly why I have called the structures being established in the name of decentralization in the natural resources sectors in Africa a "modern reproduction of indirect rule" (Ribot, 1999).

States and national and international institutions are constantly engaged in recognizing new and existing authorities around the world – creating, strengthening and weakening them. In the process, they are producing and destroying different forms of authority and those authorities' reign over their constituent populations. Such recognition is at the heart of reforms called "decentralization". The recognition literature provides some insights into the effects of choices on the authorities they recognize. To leverage these insights, in this chapter I shift the focus of the recognition debates in two ways: (i) from the recognition of *culture* and *identities* to the recognition of *authority*, and (ii) from Taylor's view of recognition as enfranchisement to a more ambiguous view of recognition having positive and negative consequences for democracy.[5] I find that critiques of Taylor's concept of recognition by Fraser (2000), Markell (2000), Povinelli (2002) and Tully (2000) shed light on the enfranchising and disenfranchising effects of recognizing different kinds of authorities. As shown below, the recognition literature provides conceptual tools for analysing the production of democratic local authority under democracy "decentralization" reforms. Ultimately, in the vein of "design and demand", the theme of this volume, choosing an authority that is able to respond and that can be held accountable to the population is a design choice that enables demand by local people – transforming them from subjects who are managed into citizens who make demands.

4.3 The politics of choice and recognition

This section outlines an analytical framework for evaluating the enfranchising potential of forms of local authority, broken into discussions of the politics of choice and the effects of recognition.

4.3.1 The politics of choice

In practice, designers of democratic decentralization are choosing (i) powers to transfer, (ii) means by which to make those transfers and (iii) local institutions (ostensibly democratic local government) to receive powers. Each choice has an effect on the relationship between higher and

lower authorities and between those lower-scale recipient authorities and their constituents. It has an effect on whether needs and aspirations are heard and can be responded to. In very few reforms are appropriate and sufficient discretionary powers transferred to local institutions that are not private or dependent on and accountable to higher-scale authorities. In most transfers to elected bodies, few powers of significance are transferred other than mandates – which are often underfunded. Although the choice of powers to transfer and the means (the security of the instruments used) of transfer affect local empowerment, I focus on the choice of local institutional interlocutors. Power transfers and the inclusion of local institutions in power-sharing or significant decisions are viewed as the material means of institutional choice and recognition.

Under democratic decentralization reforms, the public justifications for the choices of local institutions vary widely. They include efficiency and equity arguments, democracy arguments, pro-poor agendas, the virtues of civil society, the superiority of community-based and/or indigenous systems and the advantages of direct participation. Lurking beside the public justifications are other interests such as donor pressure, fear of loss of power and authority, fiscal crises, political crises, maintaining privilege or cultivating political constituencies. Understanding the rationale behind institutional choices can shed light on ways to influence decentralization policy processes. Understanding the effects of recognition helps to identify approaches most likely to foster dynamic and articulated local democracy.

There are multiple ways to explain institutional choice. Ostrom (1990) makes a public choice argument that the mix of institutions reflects the aggregate aspirations of individuals maximizing their own good. Bates (1981) shows that political actors select authorities and institutions to meet their own narrow economic and political interests (also see Frye, 1997). Törnquist (2004: 211) notes that local institutional arrangements can be chosen to circumvent party and political clientelism. Some authors show that local institutions have a role in choosing themselves and imposing themselves on emerging opportunities and decision-making processes (Benda-Beckmann and Benda-Beckmann, 2006; Boone, 2003; Eckert, 2006; Gaventa, 2002). Clearly, all of these processes are in play. The "choices" made by these actors may be mere political calculation, as Bates would argue, but they reflect the relations in which they are embedded that generate the motives and intentions of actors.

Chhatre (2008), Hara (2008), Toni (2007) and Ito (2007) describe how, in India, Malawi, Brazil and Indonesia, the policies and decisions of higher-level authorities, with or without the influence of local citizens, result in the creation, selection or appointment of specific authorities

and/or enable local actors to engage or capture new opportunities. In Himachal Pradesh, India, legislators chose to work with *panchayat*s because local people had opted to use the *panchayat*s as a channel to influence the state's environment minister. Local people chose *panchayat*s for their political connections and their emerging powers under decentralization reforms. Chhatre describes this political "virtuous circle" linking people to *panchayat*s and *panchayat*s to legislators as "political articulation" (Chhatre, 2008).

In Mangochi District, Malawi, headmen in the villages traditionally played a mediating role in fisheries decisions. The Fisheries Department, however, with donor support, created elected committees to represent the whole population of each fishing village in order to balance the interests of fishers. Subsequent to the creation of beach village committees (BVCs), Malawi's decentralization laws created elected district assemblies with the power to manage fisheries. The new laws would require the transfer of supervision over BVCs from the Fisheries Department to the district assemblies. However, this transfer was prevented by opposition from members of parliament who were threatened by the creation of district assemblies. Further, the Fisheries Department did not trust the BVCs enough to give them significant powers – starving them of authority. Central government had no interest in empowering the district assemblies enough to allow sectoral committees – fisheries in this case – to be transferred out of the centrally controlled fisheries line ministry. Parliament had no interest in allowing district assemblies even to come into being. Donors did not trust district authorities enough to allow elected district representatives to control the BVCs. The result was a weak BVC functioning outside of the legal framework of decentralized but powerless democratic district institutions (Hara, 2008).

In Para, Brazil, donors and central government avoided local governments, arguing that they were dominated by elite interests (such as ranchers and loggers) and were not worth working with. Toni (2007) describes how mayors and councillors were sidelined by donors even in the exceptional localities where candidates from the pro-poor ruling party were elected. Donors' mistrust of local authorities precludes their working through these bodies; NGOs were given preferential treatment and resources. Although FVPP (Fundação Viver, Produzir e Preservar), an NGO representing some 100 grassroots movements, cared about the interests of the poor, Toni questions the degree to which FVPP is a "grassroots" body. He points out that FVPP, which is allied to the ruling party, is used by the government as a "paid service sector" provider and is accountable primarily to bodies within the government (also see Resosudarmo, 2005). Donors choose NGOs, arguing that they want to cultivate civil society and social capital. Toni also shows that the view of the Minis-

try of the Environment and donors that local governments lack capacity is not reflected in practice in agriculture and forest management.

In the Bandung district of Java, Indonesia, powers and resources were successfully transferred to popularly elected district governments, opening new opportunities to influence policy and its implementation at the district level (headed by the elected *bupati*). There has been a clear opening of space for political competition in which village heads have gained a significant influence in district electoral politics. Despite advances resulting from this decentralization, Ito (2007) shows that the civil society approach to local democracy chosen by the district heads is excluding poor and marginal populations from democratic decision-making (see also Chapter 11 by Antlov and Wetterberg in this volume). The result is investments that serve elites while ignoring the demands of the poor. The *bupati* and district bureaucrats justify working with elites on grounds of efficiency – getting the work done. Rather than a broad cross-section of civil society working with local government in a voluntaristic and broad-based manner, aligned participants are selected and cultivated. The chosen civil society organizations do not represent a broad cross-section of local society. The alignment of district government with elites reduced public participation, hemming in the public domain by reserving public decisions for a narrow elite. Ito (2007) argues that the stratifying effects of the choices of the *bupati* were obscured by the positive civil society discourse of international development institutions.

In these cases, local institutions, and the forms of representation, belonging and public space they produce, emerge through policy choices. The dilemmas and choices faced by policy elites (decision-makers, policy-makers, policy planners and other political and administrative officials with policy responsibilities) are critical to understanding policy change (Grindle, 2007: 3). Bates' (1981) notion of "institutional choice" is useful for bringing attention to the motives and actions of the central authorities crafting decentralizations and, in the process, shaping the local institutional landscape. Bates (1981) argues that governments *choose* among policy options based on political utility. For example, they choose to create allocative and rent-seeking opportunities that will help them to consolidate their own political and economic power. Although motives and intentions are driven by relationships, researchers can still follow Bates' approach. Researchers can unpack the explicitly expressed and implicit logics that actors within governments and international organizations use to "choose" their local interlocutors. Understanding the politics of choice – why decision-makers choose the institutions they choose – requires an understanding of both stated and unstated objectives, understanding the logic and beliefs informing decision-makers' choices, and their awareness of the effects of these choices. Applying Bates' analysis of policy logic

with Taylor's "politics of recognition" enables a thorough analysis of the motives (however generated) behind acts of recognition from above and their effects.

4.3.2 The effects of recognition

Governments and international organizations usually emphasize development outcomes when promoting decentralization, and many also give high billing to participation and democracy outcomes. In addition, they often evoke improved environmental management or other sectoral efficiency. But the results of their institutional choices on development, the environment or the emergence and consolidation of local democracy usually differ from the stated objectives or expected outcomes.[6] How can we analyse whether the mix of recognized institutions is helping to establish, strengthen or consolidate local democracy?

The "politics of choice and recognition" framework extends the discussion of recognition to institutions. Like the recognition of culture or individuals, the recognition of local institutions or authorities confers power and legitimacy and cultivates identities by providing forms of belonging. The choice of local authorities or organizations by government or international agencies is a form of recognition. Following Markell (2000: 496), "recognition" is used to refer not to the successful cognition of an already existing thing but to the constructive act through which recognition's very object is shaped or brought into being (also see Fabian, 1999). This recognition takes place through the transfer of powers, partnering in projects, engagement through contracts or participation in dialogue and decision-making. Recognition strengthens the chosen authorities and organizations with resources and backing, reinforcing the forms of belonging these local institutions engender and the identities of their members. In doing so, recognition shapes three key aspects of democracy discussed below: representation, citizenship and public domain.

Representation

In recent decades, many institutions have been created or cultivated with the purpose of increasing popular participation and empowerment in planning and decision-making (Fung and Wright, 2003; Fung, 2003).[7] While increased participation may have democratic characteristics by bringing a broader cross-section of the population into decision-making, participatory processes are often neither representative nor binding (Mosse, 2001). Following Manin et al. (1999), democratic representation occurs when leaders are both responsive and accountable to the people. Accountability is achieved through positive and negative *sanctions*, and is a defining characteristic of democracy. Responsiveness requires leaders

with *powers* – the discretionary power to translate needs and aspirations into policy and policy into practice (Pritchett and Woolcock, 2004; Ribot, 2003). So, to be democratic, institutions must be representative: accountable to the people and empowered to respond.

In decentralization and other local development interventions, outside authorities choose to work with, and therefore recognize, local authorities. In doing so, they cultivate these authorities, strengthening and legitimating them. But, how representative are the chosen institutions? In current decentralizations – even those called "democratic" – governments and international donors are largely choosing to avoid elected local government in favour of other institutions (see Agrawal and Ribot, 1999; Bandiaky, 2008; Hara, 2008; Manor, 2004; Romeo, 1996; Toni, 2007; and, for exceptions, see Lankina, 2008; Lankina and Getachew, 2006). This choice is critical in that it deprives local elected authorities of the powers transferred to the local arena while empowering alternative or so-called "parallel" authorities. Empowering local line ministry offices, NGOs, customary chiefs and private corporations can de-legitimate elected local authorities while legitimating parallel bodies. Elected local government is forced to compete and struggle with other local institutions for the legitimacy that follows from control of public decisions and service delivery.

Representative local authorities can be strengthened through recognition (Lankina, 2008). They may be weakened, however, if (i) they receive too little power to be effective (Bandiaky, 2008; Hara, 2008; Larson, 2008; Spierenburg et al., 2008; Toni, 2007) or (ii) parallel institutions overshadow or pre-empt their ability to serve the public interest (Bandiaky, 2008; Hara, 2008; Toni, 2007). Manor (2004) describes the democracy effects of underfunded local governments with a mandate to manage natural resources operating in an arena with overfunded environment committees. Transferring public powers to parallel authorities in the local arena can take powers away from, and produce competition with, democratic local government. That competition can be divisive (Toni, 2007) or it may lead to more efficiency and better representation all around (Chhatre, 2008; Ito, 2007). It can undermine the legitimacy of local democratic authorities while producing conditions for elite capture, or it may produce a pluralism of competition and cooperation that helps establish and thicken civil society and articulation between society and government (Chhatre, 2008; Lankina, 2008).[8]

For an example where institutions are strengthened, Chhatre (2008) details the process of democratic consolidation in Himachal Pradesh, India. Here legislators chose *panchayat*s as local interlocutors because local people opted to use them as a channel of influence. Local people chose *panchayat*s owing to their political connections and their emerging

powers under decentralization reforms. The key to Himachal Pradesh's local government success was the "space and opportunity for community engagement" generated by the accountability of empowered leaders. In Chhatre's dynamic multi-layered analysis of emerging local democracy, power and accountability are relational and not located in a single authority. Here higher-level competition explains how the choices by higher-level political authorities helped make lower-level authorities locally accountable (for example, Schumpeter, 1943). Recognition of the *panchayat* by political parties and via decentralization explains their consolidation as a local political force and locus of engagement.

Analyses of the recognition of cultural authorities (those authorities based on cultural identities, such as customary chiefs, ethnic or religious leaders, etc.) provide insights for analysis of democracy outcomes. Fraser (2000) argues that Taylor's recognition of specific "misrecognized" groups, "insofar as it reifies group identities, ... risks sanctioning violations of human rights and freezing the very antagonisms it purports to mediate". By reifying culture, Fraser (2000: 112) suggests, the politics of recognition places "moral pressure on individual members to conform to a given group culture. Cultural dissonance and experimentation are accordingly discouraged, when they are not simply equated with disloyalty. So too is cultural criticism, including efforts to explore intragroup divisions, such as those of gender, sexuality and class". Fraser (2000: 108–111) argues that privileging culture and identity diverts attention from material and social bases of distribution, potentially reinforcing material injustices. Recognizing identity- and interest-based authorities imposes their notions of culture and their interest on those under their rule – similarly suppressing intra-group difference (also see Mamdani, 1996). Indeed, by reifying group identity, recognition obscures internal cultural differences and subordinates the "struggles within the group for the authority – and the power – to represent it" (Fraser, 2000: 112; also see Povinelli, 2002: 6–13).

These critiques are not limited to instances where culture-based injustices are redressed through the strengthening of cultural identities or the privileging of one cultural form over another. These critiques apply to any reforms where powers are transferred to local authorities – identity based, interest based or residency based. Recognition is not merely an act of acknowledging an existing identity or authority; recognition creates or enforces that authority (Markell, 2000: 496–497) and therefore must be analysed as a political act with profound consequences for democracy. The transfer of material powers or backing to an authority is based on some "recognition" of the recipient authority – its consistency with or mutual visions of the giving authority's world view or objectives. The transfer then reinforces or transforms that authority, enabling that

authority to define the breadth of belonging and the forms of rule to which its constituents are subjected.

The empowering of customary or indigenous authorities illustrates these points. The desire to privilege "misrecognized" cultures often drives international development interventions. Across sub-Saharan Africa, Southeast Asia and Latin America, for example, "indigenous", "customary" and "traditional" authorities are making a political comeback (Benda-Beckmann et al., 2003; Geschiere and Boone, 2003; Larson, 2008). This re-emergence is at least partly cultivated from above – a result of government, donors and international NGOs recognizing the authority of chiefs and headmen. The re-emergence of customary authority is so widespread and takes so many forms that it must also be attributed to particular local histories reshaped by global changes that give new life to traditional forms of belonging and identity (Engelbert, 2002). Important blind spots, however, are evident in development approaches that favour indigenousness. First, political analysis and judgement of indigenous governance systems are rarely featured in the new approaches (a new kind of "anti-politics", outlined by Ferguson, 1994). Second, custom and customary authority are conflated, such that customary authorities are favoured rather than custom itself (also see Chanock, 1991; Moore, 1986).

Of course, not everything indigenous is "good". Many of the indigenous governance systems, when analysed as political systems rather than being viewed as cultural forms, would be labelled autocratic, despotic, oppressive, patriarchal, gender biased or gerontocratic. Some indigenous cultures condone and continue forms of servitude and slavery. But, when we call them "indigenous", it is as if suddenly the nature of authority and governance is obscured behind a fog of cultural relativism. Those who favour cultural groups or indigenous people are unwilling to judge them. The confusion is deepened since many cultural or indigenous authorities are substantively democratic and do indeed work on behalf of their people (Larson, 2008; Olowu et al., 2004; Spierenburg, 1995; Spierenburg et al., 2008), whereas elected local governments often marginalize the poor, women, indigenous peoples and lower castes (Agrawal and Gupta, 2005; Crook and Manor, 1998; Crook and Sverrisson, 2001). Where communities are already highly stratified along the lines of power, income, wealth and social status, recognizing local governments can have the effect of "obscuring internal differences" within the village, thereby further marginalizing lower castes (Agrawal and Gupta, 2005).

Clearly, authority should not be legitimized just because it is labelled "democratic", "customary" or "indigenous", nor should power over the public domain be transferred uncritically to NGOs or private bodies. Whereas elected local governments are often scrutinized, the terms

"culture", "private" or "NGO" should not provide protection from political analysis – even if these authorities are locally "legitimate" or considered "authentic" (see Ntsebeza, 2005). To avoid double standards, cultural and political authorities as well as civil society, community and private leaders should be viewed in the same critical light. This critical equity provides a starting point for a dialogue among cultural and political stances. All local authorities need to be evaluated for how they represent people, encourage citizenship and produce an engaging public domain.

Citizenship

Citizenship is the ability to make demands on government. Recognition of different kinds of authorities and organizations entails different forms of belonging (Bandiaky, 2008; Lankina, 2008; Larson, 2008; Toni, 2007). Under democratic authorities, belonging is inclusive of those who reside in a jurisdiction – residency-based citizenship. In liberal democracies, citizenship is usually associated with entitlement to certain civil, social and political rights irrespective of one's identity and interests (Sparke, 2004). But, "rather than merely focusing on citizenship as legal rights", Isin and Turner (2002: 4) argue that "there is now agreement that citizenship must also be defined as a social process through which individuals and social groups engage in claiming, expanding or losing rights". Citizenship has come to be a process of being politically engaged and shaping the fate of the polity in which one is involved (Isin and Turner, 2002).

Sikor and Lund (2009: 8) bring together property rights and citizen rights (as two aspects – *avoir* and *être* – of social life) that exist "only to the extent that they are produced, endorsed and sanctioned by some form of legitimate authority". Sikor and Lund argue that, "[a]s authority grants or denies legitimacy to property claims, such claims are intimately bound up with the scope and constitution of authority. The two form a contract of mutual recognition" (2009: 9). Authority is legitimized and sanctioned at least partly insofar as it can support such claims. Hagberg (2004: 205) describes how "[t]he president of a given association must ground his legitimacy not only in his leadership skills and access to funding but also in other powerful registers linked to origin, ethnicity and family. The success of the leader will depend upon the aptitude to combine such different registers of power and legitimacy." The choice of local interlocutors is partly a choice of actors who appeal to these forms of legitimacy and therefore these forms of belonging.

Power transfers to local interlocutors both empower and legitimize them as authorities – providing a material basis for their ability to authorize. Hence there are also contracts between authorities of different scales such that one recognizes the other and, in the process, produces

the other's authority. In return there is some presumption that the acts of a lower-level authority will be recognized by the higher-scale authority and will promote its vision and agenda. Empowering a local authority gives it a role and resources, making it worth engaging, giving people a reason to belong and to exert influence – to act as citizens. Authorities that are open to influence foster citizenship, whereas those that impose their will and are less inviting of engagement may produce subjects.[9]

Different authorities authorize several different forms of belonging. Residency-based citizenship is an inclusive form of belonging associated with democratic authorities that are ostensibly open to influence by the resident population. In private groups and NGOs, belonging is narrower, based on interest – often class or objective driven. Membership in these organizations can also be based on identity, such as profession or any other entry criteria the leaders or members (in the case of democratically run private institutions) establish. In customary and religious institutions, membership is often based on identity – such as ethnicity, place of origin, language or religion. Self-appointed or hereditary, private and customary leaders may be less systematically accountable to their members.

Bandiaky (2008) shows how institutional choices by donors and the Forest Service deepen existing gender, class, political and ethnic hierarchies in the Malidino Biodiversity Community-based Reserve project in Senegal (funded by the World Bank), while weakening elected local authorities. Decentralization and forestry laws in Senegal give elected local governments (rural councils) the right to manage natural resources. The project, however, circumvented the rural councils, creating "village committees" led by village chiefs, imams and village elite "wise men" to manage the reserve. This marginalized and weakened the elected rural council. The project addressed gender by assigning elite women to administrative committee positions, such as treasurer, and by giving fictitious "paper" positions to elite family women. In turn, these elite women allocated project positions and resources to women in their families and ethnic groups. Male committee leaders, mostly from the ruling Socialist Party, also excluded opposition party members from reserve benefits. The Forest Service appointed an elected Socialist Party rural councillor as the reserve president, who allocated project food assistance to his extended kin and Socialist Party members. The reserve presidency allowed a private individual to use public powers to further his political agenda (as in Bates, 1981). The project enclosed the reserve in the service of one identity group, a political party and associated families, excluding the larger citizenry and reproducing gender inequalities in the process.

Different kinds of authorities confer diverse rights and recourse, being accountable to the population to varying degrees. Under some authorities, people are citizens, with rights and recourse; under others, they are

managed as subjects (Mamdani, 1996). Citizenship emerges where there are empowered and downwardly accountable authorities, which are worth engaging with and are open to engagement. Choosing the locus of authority establishes, strengthens or weakens citizenship. Where public resources are channelled into private bodies or autocratic authorities, the scope for citizen engagement is diminished. In short, the choice of authorities matters for the enabling or production of citizen demand.

The public domain

Without powers, no authorities are worth influencing – even if they are accountable. A "domain" is something that is dominated by an authority. The public domain consists of the powers (resources and decisions) held, or citizen rights defended by, a public authority. It is the set of political powers vis-à-vis which citizens are able and entitled to influence public authorities. Retaining powers in the public domain maintains and reinforces public belonging in, and citizen identification with, the public authorities and with other citizens in the polity. Conversely, privatizing public resources and powers to individuals, corporations, customary authorities or NGOs diminishes the public domain. Such enclosure shrinks the integrative space of democratic public interaction. Without public powers there is no space for democracy, there is no "public domain" for citizens to engage in.

In Senegal, for example, Hesseling (n.d.) observed in the 1970s that, although the local government was elected, the state had given it too little power to have a meaningful relationship with local populations, noting that they had nothing to offer. There was no public domain, no citizenship and no democracy. A 1996 decentralization law and 1998 forestry law gave elected rural councils considerable authority over forest exploitation and management. But, because the Forest Service never allowed the councils to exercise these powers, the elected authorities remain powerless and frustrated that they cannot respond to local needs. The foresters (supported by forest management projects of the United States Agency for International Development (USAID) and the World Bank) created committees – often headed by traditional authorities – to manage the forests rather than allowing the councils to exercise their legal rights (Bandiaky, 2008; Faye, 2006). There is still little they can offer their communities, and community members do not engage them on forestry matters (Larson and Ribot, 2007; Ribot, 2009).

In decentralizations, the choice to allocate public powers among multiple interest and identity groups may enclose the public domain and fragment society into interest- and identity-based forms of belonging by taking those powers from public authorities. The privatization of public

powers to NGOs and other private bodies is a form of enclosure. When actors receiving these powers are customary or religious authorities, this enclosure constitutes a de-secularization of powers. These acts diminish the domain of integrative public action, undermining residency-based belonging and citizenship. A public domain is a necessary part of representation and of the production of citizenship. It is the space of integrative collective action that constitutes democracy. For decentralization to produce benefits in terms of equity, efficiency and democratization, it is essential to retain substantial public powers in the public domain.

In Mexico, citizens were able to organize and demand benefits when local government had new resources with which to offer services – this created new spaces of citizen engagement (Grindle, 2007: 175). This is the kind of space – one of meaningful and sufficient discretionary powers – that intervening agents must create if local democracy (the responsiveness of local authorities to the people) is to take root. Fox (1996) too shows that the development of "virtuous" state–society relations, in which citizens are engaged, follows from the very existence of enabled government (also see Chhatre, 2008).

4.4 Discussion and conclusion

The institutional choice and recognition framework has been used for comparative multi-case research to interrogate the effects on democracy of the recognition of local institutions and authorities (elected local government, pluralism, privatization, NGOism, support for customary chiefs); the results are summarized in Ribot et al. (2008). By examining the effects of choosing these different institutions in decentralizations, researchers examined the propositions that (i) the support given to local authorities privileges and strengthens them – whether their constituencies are residency, identity or interest based, and (ii) when governments and international agencies empower local authorities, they are enforcing upon the members of the groups the particular forms of comportment, accountability relations, belonging and beliefs of the chosen authorities. The cases from this comparative study have been cited in the above discussion and provide some preliminary data on the ways institutional choices are made within decentralization reforms and how they shape representation, citizenship and the public domain.

The governments of India, Brazil, Indonesia, Russia, Guatemala, Benin, Senegal, Malawi and South Africa have launched processes ostensibly designed to enable local people to govern their own affairs (Ribot et al., 2008). In all of these cases, central government, donors or development professionals proclaimed a belief in democratic local government. This

belief seems to have at least partly driven choices in India, Indonesia, Russia and Guatemala. In Brazil, Guatemala and Malawi, however, mistrust of local government compelled politicians, government agencies and donors to choose alternative local authorities. Mobilization of a union social movement in Brazil and an indigenous social movement in Guatemala, instrumental management objectives in Malawi, Benin and Senegal, belief in civil society in Brazil, Indonesia and Senegal, and a line ministry's support for group rights in South Africa drove the choice towards parallel local authorities. The outcomes of these choices were mixed. Recognition of local government in India, Indonesia, Russia and Guatemala helped local governments to become relevant and more representative. In Brazil, Malawi, Benin and Senegal, the circumvention of elected local government channelled resources into deconcentrated project committees and other private civil society organizations. In South Africa, recognition of collective private rights produced a democratically chosen ethnic leader.[10]

The empowerment of local governments in India and Indonesia illustrates how democratic competition shapes the political articulation of citizens with the state (see Chhatre, 2008; Ito, 2007). Whereas in India citizen engagement is broad based, in Indonesia engagement is between the state and a narrow elite. This narrow engagement followed from a selective civil society approach to local democracy in which policy-makers choose or cultivate an elite state-allied civil society. Ito (2007) shows the limits of a civil society approach to local democracy and development in Indonesia; increasing competition to influence decentralized public office could, over time, generate incentives for the elite to expand social inclusion, providing opportunities to poor villagers to influence policy. As Chhatre (2008) argues, competitive elections at many levels over time and several electoral cycles are needed for articulation to trickle down to the most marginalized sections of society. Lankina (2008) also shows how the struggle for local power in Russia has engaged deputies with the population in a more articulated political struggle. The governor, aligned with the Kremlin, is at odds with municipal deputies, who are actively cultivating a local citizenry and appealing to European donors and governance standards as part of their struggle to consolidate their locality's political power and autonomy.

The selective civil society approach was also used in project implementation by the forestry and fisheries departments in Senegal, Malawi and Benin, where projects produced civil society committees composed of hand-picked local actors aligned with project objectives. In these cases and the Indonesia case, civil society approaches are used to selectively empower class, party, ethnic and gendered allies, reproducing and entrenching existing social stratification. This civil society approach is not

enabling all groups within society to influence governance on an equal basis. In Brazil, however, the state chose an arguably pro-poor local union movement as its institutional ally, and in Guatemala the self-selected indigenous leaders did effectively protect the interests of their marginalized population. Where civil society emerged from social movements, it appears that a civil society approach is effective at broad-based representation and serving interests of the poor. Similarly, in Chhatre's (2008) Indian case, a locally constituted social movement against a forestry project articulated broad-based representation through local government – the *panchayat*.

Democratic deepening is shaped by the way "unequal social relations and uneven institutional environments impinge upon the exercise of citizenship" (Heller et al., 2007: 627). In most of the case studies, transferred powers – whether discretionary or merely the implementation of mandates – follow the contours of the existing divisions and inequalities shaping national and local politics. In Himachal Pradesh, India, the powers took on the contours of balanced political competition (Chhatre, 2008). In Para, Brazil, they divided along party lines. In Bandung, Indonesia, they articulated via class divisions (Ito, 2007). In Guatemala, they fractured along indigenous and settler-integrationist lines (Larson, 2008). Where few discretionary powers are transferred, as in Benin and Senegal, project funds and interventions still flow along lines of traditional ethnic and gender hierarchies (Bandiaky, 2008; Mongbo, 2008). Agrawal and Gupta (2005) argue that decentralization can exacerbate existing socio-economic inequalities unless decentralization programmes are specifically biased towards disadvantaged groups, rather than being formally neutral in their design and implementation. Bandiaky (2008) also shows that gender biases are not addressed by gender-neutral projects and argues in favour of skewing recognition towards women and other marginalized groups.

The cases reviewed for this chapter show that the distributive aspects of recognition are not solely local. Mechanisms are needed to ensure that marginal populations can engage in their own governance. Local and central governments play roles in ensuring both the inclusion and the empowerment of marginal groups. In Indonesia, the choice of elite civil society is biasing distribution by channelling investments towards elite interests (Ito, 2007). In Guatemala and South Africa, however, it appears that marginal populations are being served by their own local institutions, and in South Africa that success came with the support of the central government's Commission on Restitution of Land Rights (Larson, 2008; Spierenburg et al., 2008). When does local authority or local democracy serve the poor? Are Crook and Sverrisson (2001) right that local democracy does not serve the poor unless there is a central mandate to do so?

How significant is Foster and Rosenzweig's (2004) research showing that democratic local governments in India are more pro-poor than autocratic local authorities, or Heller et al.'s (2007) findings that all categories of respondents – including farmers, unions, scheduled castes and women – found improved service delivery following democratic decentralization reforms? Clearly, democratic decentralization can serve the poor, but targeting women, low castes and underprivileged groups with focused attention on biased hierarchy is probably a necessary complement to any local authority if local democracy is to redress entrenched inequity (also see Crook and Sverrisson, 2001; Heller et al., 2007: 629; and Mansuri and Rao, 2003: 11–14).

Recognition of representative authorities can provide for representation of diverse interests. Recognition of non-representative authorities, in contrast, can subject individuals to the cultural or ideological vagaries of those authorities. Many struggles for recognition and many acts of acknowledgement uncritically recognize non-representative authorities. Tully (2000: 477) points out that struggles over recognition and distribution must be subject to "democratic disagreement, dispute, negotiation, amendment, implementation, review and further disagreement". To remain democratic, these struggles need to be subordinated to democratic authority. "A free and democratic society will be legitimate even though its rules of recognition harbour elements of injustice and non-consensus if the citizens are always free to enter into processes of contestation and negotiation of the rules of recognition" (Tully, 2000: 477). However, rules are not easily contestable when the chosen authorities are non-democratic and the choice of those authorities is imposed by inaccessible higher authorities. The central irony of the common practice of recognizing cultural authorities – chiefs, indigenous or ethnic leaders – in the name of freedom or democracy is that this recognition can constrain the very contestation that makes a society free and democratic.

More is required than Tully's (2000) "democratic disagreement, dispute, negotiation, amendment, implementation, review, and further disagreement" or the progressive targeting of the poor, of women and of marginalized castes and ethnicities. Criteria are needed to judge the likely human rights and material equity effects of choosing particular authorities. Fraser (2000: 115) proposes the ideal of "participatory parity", by which all citizens and citizen groups, regardless of identity, must have equal opportunities to participate in democratic institutions. In the institutions chosen by governments and international organizations, inclusive parity is not always evident. The chosen authorities are enabled to recognize other actors as authentic, or to discipline those they consider inauthentic. They are able to determine who belongs and who does not. In the cases explored in this chapter, the chosen actors are shaping who belongs

and benefits – they are choosing by gender, migrant status, indigenous-ness, ethnicity and interest. Recognition is enabling cultural and non-cultural authorities, which can in turn shape the boundaries of inclusion and determine which decisions are made by a broad public and which are to serve individual and collective private ends. To produce and maintain the "opportunity" for equal inclusion will require the production of a meaningful public domain with a built-in bias in favour of poor and marginal groups.

Neither accountable authorities without powers nor the devolution of power without popular accountability constitute local democracy. Without powers there is no reason for local people to engage as citizens – no reason for them to make demands on local government. Without accountability there is no means for people to engage as citizens – no channels through which to make those demands. The production of citizenship is predicated on a meaningful mix of both. Simple guidelines for policy and project design and implementation, as well as for monitoring and evaluation, are necessary to ensure that interventions support representation, citizenship and the development of a public domain.

The common framework for the design and evaluation of decentralization, which characterizes it as a combination of administrative, political and fiscal transfers, has little analytical purchase. Administrative and political decentralization are about *who* receives powers (appointed or elected bodies) whereas fiscal decentralization is about the kind of power received (finance). Indeed, fiscal power is only one kind of power among many, including executive, legislative and judicial powers. It is misleading insofar as fiscal power is only one executive resource and is relatively minor compared with other executive functions such as the allocation of jobs and access to resources. By focusing on the fiscal element alone, the framing occludes other powers that are much more important. Furthermore, these categories tell us nothing about the elements that constitute decentralization. No analytical causal relations are evoked by these three not even related categories.

Analytically, decentralization can be defined by local actors, the powers they hold and their accountability relations. It is the accountability relations that help us explain different outcomes of the exercise of powers.[11] Actors, their powers and their accountability relations are the basic analytical elements of all forms of decentralization. The core question of any decentralization analysis is whether the choices being made by legislators and other intervening agents are resulting in a configuration of actors and powers and accountability relations that can be expected to lead to improved outcomes.

Democratic decentralization is, in its most basic form, the process through which central actors choose to transfer meaningful discretionary

powers to local actors and are accountable to a broad cross-section of the local population (Agrawal and Ribot, 1999). Meaningful discretion in the hands of downwardly accountable local authorities creates a public domain, while making citizenship meaningful and possible. Training attention on the logic of institutional choice and its effects on the institutions that it recognizes can help us to understand why local democracy is created or hindered and how we can promote democracy outcomes – the creation of a public domain, representation and engaged citizens.

Acknowledgements

Notes

1. In contrast to Habermas's (1991) focus on the *discursive* domain of public interaction, I emphasize the *material basis* of authority, that is, the powers (resources and domains of decision-making) over which citizens can interact and attempt to influence public decisions. This is why I call this space of democracy the "public domain".
2. Cases discussed in this chapter are from Ribot et al. (2008).
3. I use the term "recognition" following Taylor (1994) and Fabian (1999). The term here is simplified to "acknowledgement"; however, I chose to use "recognition" owing to the useful critiques of Taylor to be addressed later in this chapter.
4. Hagberg (2004: 200), studying locally rooted voluntary development associations in Burkina Faso, observes that "[a]ssociations need to seek recognition in three different realms. First, they seek to be recognized in the home arena so as to enjoy legitimacy and grass roots support. Second, the associations need to be officially recognized by the Burkinabe state. Third, they must seek to be recognized internationally so as to obtain funding and support."
5. Including instances where the authorities being recognized are created by those recognizing them.
6. Despite the extreme difficulty in establishing links between institutional arrangements and development or ecological outcomes, a body of data is emerging (Conyers, 2002;

Foster and Rosenzweig, 2004; Heller et al., 2007; Mansuri and Rao, 2003; Phelps et al., 2010; Ribot et al., 2010; World Bank, 2009).

7. Fung (2003) writes on the participation of civil society and of people within civil society in processes of decision-making. He does not, however, seem to view representative forms of government as sufficient or even necessary to the democratic processes.

8. This is not to deny the importance of competition between public and private agencies or local governments for efficient provision of public services (see Lankina et al., 2008).

9. Engagement does not have to be invited. Resistance is also a form of engagement that is used to confront imposed authority. Resistance too is part of the production of citizenship – the ability to influence governing authorities.

10. In a conflict with central authorities over management of a wildlife reserve, the Makuleke used national laws to establish a Communal Property Association to manage their land collectively. The association included the entire Makuleke community and elected its leadership. They elected their traditional chief as chairperson (Spierenburg et al., 2008).

11. Indeed, all institutions are defined by the accountability relations in which they are embedded. I call an institution "democratic" if it is accountable to the population it serves. I call it "administrative" if it is accountable upwards to a higher authority. I call it "private" when an individual or institution is not accountable with respect to a certain domain of action.

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