

LEGISLATURES, CIVIL SOCIETY AND THE ENVIRONMENT

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For the people of Africa, the need for effective and equitable systems of natural resources and environmental management has an urgency it possesses in few other parts of the world. The livelihood of the rural majority is threatened by the degradation of natural ecosystems and the dispossession of customary lands and natural resources; the health of those living in industrialized and urban areas is jeopardized by air and water pollution; while the vital contribution that nature-based tourism, agriculture, forestry, and mining can make to national economies is undermined by mismanagement and corruption. For the region's policymakers, the need to find effective responses to these and other environmental challenges is likely only to intensify as population grows, consumption increases and national economies open to private sector enterprise and foreign investment.

Recent legislative and institutional reforms in many African countries indicate that the importance of environmental issues is receiving increasing recognition from the region's policymakers. Most constitutions enacted in the last decade contain clauses guaranteeing citizens' environmental wellbeing and placing duties on them and the government to effectively manage the environment. Many countries have also passed framework environmental laws and established or strengthened coordinating environmental agencies within the public sector.

This upsurge in environmental awareness has coincided with the broad trend within the region toward democratization that has been underway since the late 1980s. While the process of establishing democracies from the centralized governance systems that dominated the continent since independence is a long and continuous process, many countries have seen a loosening of the monopoly on public decisionmaking maintained by the executive arm of government. In terms of potential impact on environmental management and policy two aspects of the democratization process are particularly noteworthy: first the legislative and judiciary branches of central government as well as various levels of local governments have been strengthened vis-à-vis the executive; and second, the room for policy advocacy by citizens and non-governmental organizations (NGOs) has expanded, as some restrictions on civil society activity has been eased and governments have become more receptive to outside expertise and independent information.

These three trends are beginning to coalesce into opportunities for stronger state-society relations in support of sound environmental management, social equity and justice. Here we highlight a number of cases of parliamentary intervention in environmental affairs which point, in particular, to broader possibilities for collaboration between legislatures, citizens and civil society groups.

In many African nations legislatures have been strengthened as representative assemblies have been established or revived through contested multi-party elections

and revised constitutions. The functions assigned to and in practice performed by Africa's parliaments vary widely depending on national constitutional arrangements and political circumstances. Three major roles can be generally distinguished, however: oversight of the executive; representation of electors' interests; and initiation or amendment of laws.

In each of these areas of activity legislatures can often serve the environmental interests of their constituents and the nation better through collaboration with civil society groups. NGOs can help Africa's parliamentarians overcome the limitations that their often weak administrative and research facilities impose on their ability to deal on equal terms with the executive and to communicate with their constituents. Working with NGOs allows legislators to multiply their effectiveness by tapping their expertise, resources and commitment. Grassroots groups can help familiarize MPs with the concerns of local electors; NGOs specialized in ecological and natural resource issues may have knowledge of complex environmental matters useful for lawmaking; environmental law organizations may have the capacity to draft environmental and sectoral bills which MPs can introduce into parliament, or propose amendments to executive-inspired legislative initiatives; while NGOs focused on promoting good governance can help gather information and provide testimony in parliamentary investigations of corruption and mismanagement of natural resources by the executive.

A striking example of a legislature working with civil society to exercise its oversight powers in the sphere of natural resource management is offered by the recently concluded investigation of a select committee of the Ugandan parliament into the activities of the Forest Department. Following concerns raised by affected communities and the popular media over the irregular degazettment of Forest Reserves and allocation of timber concessions in the protected estate, the Inspector General of Government undertook investigations into the matters. With the release of the Inspector General's report, several legislators called for a parliamentary probe into the affairs of the Forest Department. The committee's final report found, among other matters, that the Minister for Water, Lands and Environment had issued an illegal order removing protected status from a forest reserve. In the event, the Minister narrowly avoided being subjected to a censure motion, after evidence emerged that he was acting under direct instructions from the Office of the President. Despite legal justification, the parliament chose to not pursue the matter further, however, because parliament's investigation was closely reported by the Ugandan press, it has significantly raised the political costs of favoritism and abuses of power.

The impact of environmental degradation and disputes over natural resources is often felt most directly by communities far removed from the centers of power. Legislatures whose members are elected by local constituencies (which include most of those of Southern and Eastern Africa) are uniquely situated, compared to the other branches of central government, to bring the concerns of these communities to the attention of state officials and the national media. Again a number of the most prominent instances of African legislators exercising their representative responsibilities in the environmental field have been characterized by collaboration between MPs and civil society. In

Kenya, for instance, MPs and NGO representatives stood side-by-side in the 1999 protests against the irregular alienation of the protected Karura Forest Reserve. An investigative journalist looking into the issue of forest reserve degazettment discovered in the Registry of Titles that the government had allocated several plots of land to developers in the Karura Forest Reserve. Following press coverage, members of communities surrounding the Reserve, NGO leaders and several MPs marched in protest in Nairobi and the Reserve, situated on the outskirts of the capital. The police were called in to break up the demonstrations and in the process several people were injured, some seriously. At the same time the associated files in the Land Registry disappeared, although the titles held by the developers remain valid and can be invoked at any time. Although this issue has not yet been resolved, the MPs and NGO coalition has managed to temporarily halt the decimation of the Reserve.

The third key function of parliaments is the approval and amendment of laws. Although even in some established democracies it is the executive that often takes the lead in introducing and formulating major legislation, elected assemblies possess constitutional powers to draft, debate and reject proposed bills and to amend, enact and repeal existing legislation. While in practice, lawmaking remains the executive's prerogative, primarily the Office of the Attorney General, some of Africa's newest legislatures have assumed an active role with remarkable rapidity. The processes by which the Electricity Act and the associated Bujagali Power Purchase Agreement were prepared in Uganda in 1999 demonstrate the positive role that civil society-legislature collaboration can play. First, the legislative research report requested by the parliament comparing proposals for the Bujagali and the Karuma Hydro-Electric Power projects made extensive use of information from citizens and NGOs, provided in NGO reports, interviews and testimony. Information was recognized from NGOs against the construction of the dam, such as the National Association of Professional Environmentalists, Save the Bujagali Crusade, and Basogo-Nseete University Students Association, and from groups in favor of the dam, such as the Uganda Manufacturing Association and the National Chamber of Commerce. Second, NGO-initiated activities on the proposed Bujagali dam orchestrated by GreenWatch, Uganda Wildlife Society and other public interest groups, including multiple public debates, litigation and related activities informed the subsequent debates in committee and the full House. Ultimately, input from NGOs had significant impact and led to a number of changes in the Electricity Act and the Bujagali Power Purchase Agreement, including a mandate in the Act that the government support development of alternative energy sources, particularly for rural electrification.

Given the contribution that NGOs can make to the work of environmentally committed legislators, MPs have a strong stake in defending the legal and political enabling conditions for civil society advocacy. These include fundamental civil liberties, such as the freedoms of association and expression, and the array of critical procedural rights, including access to information, access to justice in a court of law, and rights to participate in decisionmaking in environmental matters - agreed to by most African governments at the Rio Earth Summit of 1992 and in other international environmental and human rights agreements. So important are good governance systems to sound natural resource management that some environmentalists argue that promoting

democracy should be the primary focus of attention. But, as NGOs with environmental interests have expanded their policy and compliance roles, in a number of countries the executive has shown a marked tendency to seek to circumscribe their activities through a variety of measures, such as the establishment or reimposition of cumbersome and arbitrary NGO registration procedures or the threat of deregistration without adhering to the due process. Governments also withhold environmental information from NGOs by stamping it confidential or releasing it too late for them to make good use of.

Clearly, Africa's legislators face major obstacles in living up to their constitutional mandate to ensuring governmental accountability in environmental affairs. In many countries, the majority of MPs owe their seats more to ruling-party patronage than to popular support; in some, procedures that should theoretically offer legislators influence over the lawmaking process, such as amendment by committee and presentation of private bills, are - for various reasons - untried or underused. However, as the examples cited above indicate, legislators can have an impact on environmental decision-making even where the full panoply of institutions, procedures and capacities associated with established democracies is not in place. Indeed, so central are natural resources to the wellbeing of ordinary Africans and national economies that any actions elected representatives (and environmental NGOs) undertake to promote and defend sound environmental management and justice play a vital part in consolidating and legitimizing the institution of democracy itself.