

**CONFLICTING POLICIES: INSTITUTIONAL APPROACHES TOWARDS
DECENTRALIZATION AND GOVERNANCE OF COMMON POOL
RESOURCES IN KENYA**

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Abstract

Decentralization refers to 'any act by which a central government cedes rights of decision making over resources to actors and institutions at lower levels in a politico-administrative and territorial hierarchy'. Kenya's history of a highly centralized forest governance regime has recently seen a shift in policy and legislation authorizing decentralization in the sector.

But what is it that gets decentralized in the forestry and natural resources sectors? And is decentralization effective in meeting the goals of equity, sustainability and poverty reduction in an environment characterized by conflicting policies? This paper attempts to answer these questions. To understand the resource management outcomes of decentralized programs, the rights and capacities that are transferred to actors at lower levels were examined. Using both primary and secondary data from Mau and Arabuko soko forests in Kenya, an analysis was done to find out key roles played by relevant institutions in understanding what is expected to be decentralized, and what policy environments are required to ensure effectiveness of a decentralized forest resource management system.

Results indicated that despite the similarities in ecology, prominence of both forests in local and national economies, and conservation of biological diversity, there are some sharp differences in the institutional regimes for their management.

The study concludes that heterogeneity of stakeholders, which includes: Government institutions (Ministries), Parastatals (KWS & KFS), International organizations and NGOs have overlapping mandates and policies that affect the common pool resource management. The overlaps should be reduced to provide clear jurisdiction of governance and to enhance transparency in decision-making and equitable benefits distribution, which has for long been wanting.

Key words: Decentralization, common pool resources, conflicting policies and mandates

Introduction

Institutions are structures and mechanisms of social order and cooperation governing the behavior of a set of individuals within a given human collectivity (Durkheim, 1895). Institutions are identified with a social purpose and permanence, transcending individual human lives and intentions, and with the making and enforcing of rules governing cooperative human behavior (Durkheim, 1895). Institutions are therefore central concern for law, the formal mechanism for political rule-making and enforcement (Durkheim, 1895). Traditional forestry institutions emphasized sustainable forest management as an overall approach, balancing the social and environmental benefits of forestry with economic values for society.

Environmental benefits provided by forests such as carbon sequestration, biodiversity and landscape protection are frequently addressed by other policy areas such as agriculture, environment and energy. There are significant reasons for a cross-sectoral approach to be emphasized. Some of the main instruments in this regard are the national forest programmes (NFP), which aim for a comprehensive approach towards

forestry land use and a participatory approach, involving the various stakeholders. The national forest programmes limit themselves to national level initiatives.

Decentralization refers to 'any act by which a central government cedes rights of decision making over resources to actors and institutions at lower levels in a politico-administrative and territorial hierarchy' (Blaser et al, 2005; Meinzen-Dick and Knox, 2001). Kenya's history of a highly centralized forest governance regime has recently seen a shift in policy and legislation authorizing decentralization in the sector (Forests Act 2005).

Forest conservation and management in Kenya's history was guided by the forest policy of 1957, which was revised in 1968, and then again in 1994. This later draft formed the basis for policy and legislative reform a decade later. The main legislation is the Forest Act Cap 385 of 1962 that has been revised thrice in 1982, 1992 and 2005. It was drafted in support of the 1957 policy and covers a broad range of activities from the gazettement/degazettement of forests and Nature Reserves, licensing of use, prohibitions of certain activities and imposition of penalties, etc. Subsidiary regulations cover the rights of forest adjacent communities to utilize specified resources in specific ways. This Act had several crucial shortcomings. It covered only gazetted forest reserves, did not provide sufficient safeguards against forest excisions, provided only user rights to a narrow set of resources for communities, and did not recognize the importance of forests for environmental conservation.

Involvement of forest adjacent communities and other stakeholders in forest management and conservation in Kenya is emphasized in the Forests Act, 2005. The main objective of wider stakeholder participation in forest management as captured in the draft Forest Policy (Session Paper No. 7 of 2007) is "*to promote the participation of the private sector, communities and other stakeholders in forest management to conserve water catchments areas, create employment, reduce poverty and ensure the sustainability of the forest sector.*" For effective participation of communities in forest management, it became imperative that capacity building is done among the forest adjacent communities, key stakeholders, as well as forest authority staff. There are other national laws and regulations that impact on the forestry sector. These includes: the Environmental Management and Co-ordination Act (EMCA) of 1999, Water Act, 2002, Wildlife Conservation and Management Act, Cap 376, Agriculture Act, Cap 318, Antiques and Monuments Act, Cap 215, Local Government Act, Cap 265, and Fisheries Act, Cap 378.

A large number of reasons have been given for shifting the locus of decision-making and resource management away from central states to local governments or communities. State control was found largely unsuccessful, costly and financially unsustainable (Meinzen-Dick-Knox, 2001; Shackleton, 1999). Local communities, on the other hand have been shown to be effective managers of local resources (Arnold, 1990; Ostrom, 1990; Bromley et al, 1992; Berkes, 1989). Local communities not only have greater knowledge of local resources, but also are better able to monitor resource use and rule compliance (Meinzen-Dick and Knox, 2001; Gibson, 2001; Peters, 1994; McKean, 1992). Local communities are often directly dependent on the resource and assumed to have the greatest incentives to maintain the resource base over time. The policy move towards greater local control is reflected in a wide range of community-

based arrangements in the natural resources sector over the past decade (Barrow and Murphree, 2001; Barrow et al, 2000; Hulme and Murphree, 2001; Shackleton, 1999).

Due to the pervasiveness of NRM policy conflict and its severe impacts, there has been an increased call to address it constructively. While NRM policies conflict generates many destructive overtones, Castro and Nielson (2003) maintain that such consequences can be minimized and avoided. This view is based on an argument that NRM policy conflict has a positive transformative power that can trigger learning and improvement in terms of resource governance (Ayling and Kelly, 1997; Walker and Daniels, 1997; Doornbos et al., 2000). Additionally, NRM policy conflict stimulates stakeholders to continuously find better options for resource management. In that sense, NRM conflict has both negative and positive potentials. The biggest challenge is how constructive aspects of conflict are fostered and how destructive ones are prevented or limited. The present paper reviews the relevant elements of decentralization and interrogates the role of institutions decentralization in meeting the needs of local communities and conflict resolution in resource management and use.

Study Objectives

1. To investigate what is it that gets decentralized in the forestry and natural resources sectors management.
2. To find out if decentralization is effective in meeting the goals of equity, natural resource management sustainability, poverty reduction in an environment characterized by conflicting policies.

Rationale

It is assumed that all lead institutions have a common goal in the management of common pool resources based on different policies and mandates aimed at both protection and conservation of the resources. However, this is not usually the case. In Kenya for example, the holistic approaches of management have no clear jurisdiction of governance and transparency in decision-making and lack equitable benefits distribution from natural resources. Forestry, which is one of the major land use practices in Kenya, has a key influence on environmental quality, not only through the well known functions of climate regulation, catchment protection and safeguard against erosion, but also by its contribution to the protection of nature and the conservation of biodiversity. Such gaps are worth rationalizing to facilitate formulating the proper interventions

Study Approach / Method

The study was conducted in two Kenyan forests (Mau complex - highlands and Arabuko Sokoke - coastal). It was clear that there is little contextual basis of institutional policy approaches to decentralization that could be used as a starting point for this study. Therefore, for this particular study, a combination of several approaches was used to

systematically elaborate on the ways where different institutional policies are involved in common pool resources management. The first approach taken for this study was to explore the potential institutions and their roles, mandates and missions in the forestry and natural resources sectors. This involved semi-structured interviews and historical institutional profile analysis.

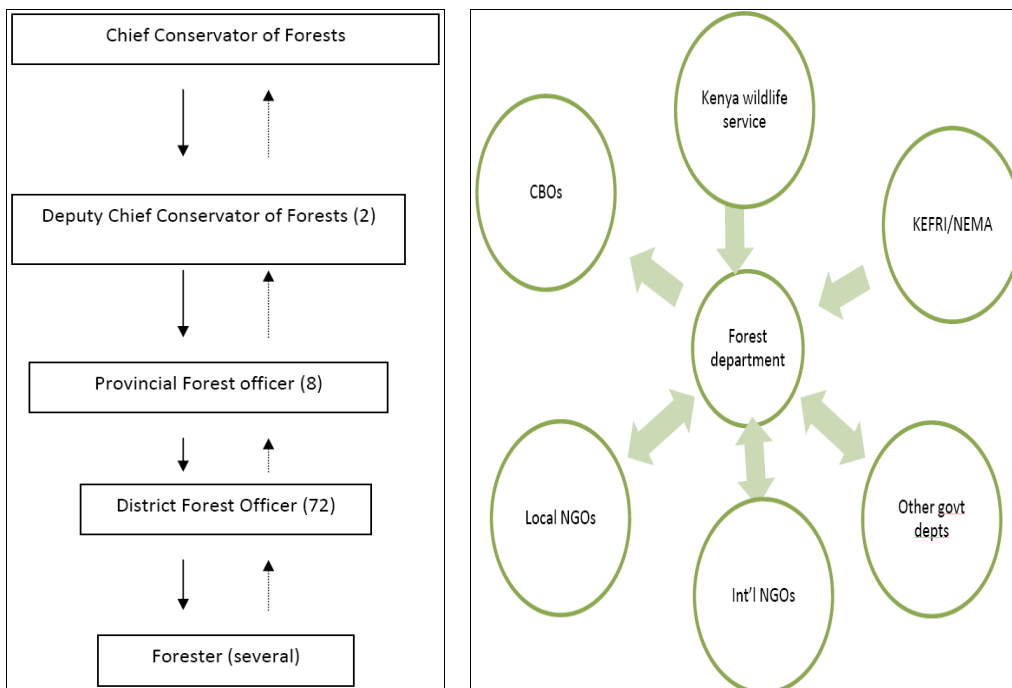
The second approach taken for this study was use of International Forest Resources and Institutions (IFRI) research protocol, to collect data from the forest sites, from settlements around each forest (Community Forest Associations - CFAs) and local organizations involved in forest management. In total, 30 plots were randomly distributed, with the larger part of Mau complex - highlands and Arabuko Sokoke - coastal. The position of each plot was generated using random numbers and using the last digits of the UTM Co-ordinates to locate the plots on the map. The plots were then located on the ground using a compass and pacing the distances between the plots. The position of each plot on the ground was recorded using a GPS. Participatory Rural Appraisal (PRA) tools and mapping were also used in the study.

RESULTS

Forest management shift

From the late 1970s to early 1980s there was unprecedented accelerated destruction of forests in Kenya, which to a large extent was blamed on lack of appropriate and all-inclusive forest policy and legislation. The policy and legislation used to manage forest resources were developed in 1957 by the colonial government, and changed only slightly in 1968 after independence. Even though it was expected that the new policy and law would be implemented then and followed quickly in order to halt forest degradation, it took another 10 years before a new policy was put in place and a further three years before the Forests Act came into being in 2005. Article II Section 4 of the new Forests Act requires the Kenya Forest Service (KFS), the new parastatal that has replaced the Forest Department, to enter into agreement with CFAs to manage natural forests. The service, contrary to expectations from civil society organizations, is involved in the formation of the CFAs. It is from these changes after involving other stakeholders in forest conservation that, in particular, necessitated the study.

Figure 1 and 2 below shows the structure of Kenya's Forest Department and Kenya Forest Service before and after Decentralization Reforms respectively.



Government only forest management structure (left – before 2005) and decentralized forest management (right – after 2005) in Kenya

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Decentralization of forestry and natural resources management in Kenya

Arabuko sokoke and Mau case studies illustrates the conceptualization process of a devolved system in the management of forests in Kenya. The two cases provide a general discussion and lessons in Kenyan context highlighting what has been achieved by the Kenya Forest Service (Institution) and the policy shifts to local community involvement (Associations) in resource management. A clear understanding of the local community awareness on stakeholder's policies in forest management was done. Table 1, 2 and 3 below shows the level of awareness by institutions or local communities on various policies, how they have been implemented and their impacts in forest management.

Table 1. Level of awareness on various policies

Awareness on Institutional Policies	Arabuko Sokoke		Mau	
	Aware	Not aware	Aware	Not aware
Forestry	72%	28%	57%	43%
Fishery	89%	11%	23%	77%
Land use	46%	54%	59%	41%

Various institutions have set a number of guiding principles that are used to govern and control resources use. Table 1 shows how the community (end user) is aware of the major areas of daily interaction. It is evident that awareness is equally proportional to the benefits the locals accrue from the largest resource. Effects on the environment has raised the awareness in forestry issues in both cases. Fishery issues are well renowned by the locals at the Arabuko Sokoke forest (coast) since majority of the people largely depend on the Indian Ocean. Land issues have alarmingly become a problem due to the pressure on the growing population. The problem is more pronounced around the Mau forests. This has led to high dependency on forest resource and consequently encroaching on forest land for agricultural activities.

Table 2. Implementation levels

Levels of implementation	Arabuko Sokoke	Mau
Registration of CFAs	Yes	Yes
CBOs	Yes	Yes
Management Plans	No	No
Management agreements	No	No

A number of scholars and researchers have argued that societies change faster than institutions. With the coming of the forest Act in 2005 and the Wildlife Act in 2008, the communities are putting much effort to move with the pace of these two important Acts. Formation of CFAs and their registration was in a way uploaded in the two study sites. However, development of management plans has been delayed by factors such as finance and lack of expertise from the association members. With only two forest associations signing a management agreement with KFS, this again has been halted by the coming of a new constitution. Chapter 8 part 92 of the new constitution requires the formation of National Environment Commission (NEC) that will be responsible for the overall, sustainable utilization and protection of the forest. There will be devolvement of forest management to counties where revenues will be shared within this county. This is seen as a hinderance to benefit and equity participation by the CFAs in Kenya.

Table 3. Impacts on Forest Management and Revenue Generation Activities

Activities	Arabuko Sokoke	Mau
Bee keeping	Excellent	Good
Mushroom harvesting	Very good	Fair
Fuel wood collection	Good	Good
Herbal Medicines	Excellent	Very Good
Ecotourism	Very good	Fair
Basketry	Good	Fair
Butterfly Farming	Excellent	Poor

Table 3 shows that more of the community associations in both forests are perfectly implementing bee keeping with sound harvesting schedules. It is worth noting that most

of the technologies used even in mushroom harvesting, butterfly farming and basketry production from Arabuko Sokoke are relevant to the current sustainable methods of conservation. The ecotourism facility at the coast has not only benefited the Kenya Wildlife Service but also the locals through an organization known as ASSETS (Arabuko-Sokoke Schools and Ecotourism Scheme). Herbal medicine practice has been another way through which the locals have fully utilized in both forests. There are about more than eight herbalist groups who are relying heavily but sustainably on indigenous trees for medicinal purposes. Several line ministries departments are involved in the development of these local community-based enterprises. Less revenue generation activities have taken root in Mau forest, which is more degraded through illegal extraction of timber and settlement for subsistence agriculture. There are fewer CBOs per unit area in Mau forest than in Arabuko Sokoke forest and hence less management devolvement.

Results in Fig 3 show that the use value of a forest influences interest and knowledge of such forest and commodities therein, for a community. In Arabuko sokoke, 69 % of the respondents showed interest in the forest largely because there are several activities benefiting their lives. This includes: butterfly farming, mushroom harvesting, bee keeping, basketry, herbal medicines and ecotourism. The rest, 31 % has concerns in opening farmland for planting palm and cashew nut trees and cultivation for subsistence crop production. Mau complex has 77 % concentrating more on farmland. This is largely attributed by a long-term government initiative on plantation establishment for livelihood improvement scheme (PELIS). Although few people are involved in forest management, majorities are doing potato, maize and beans farming. The rest, 23 % mainly rely on the forest when collecting firewood, herbal medicine, honey harvesting, grazing and charcoal burning.

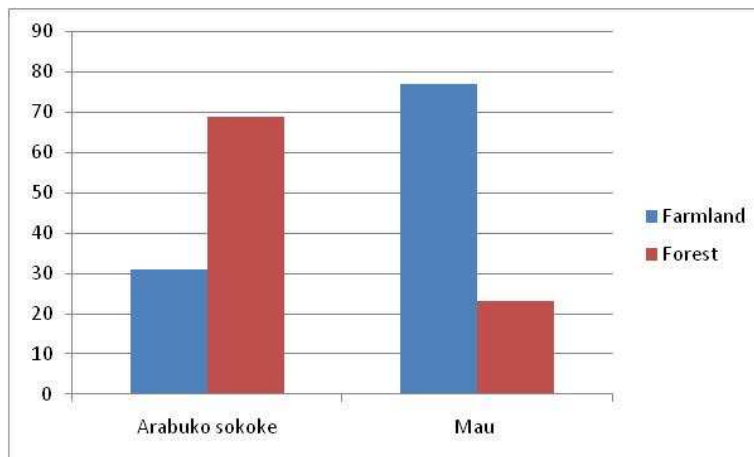


Fig 3. Influence of use value of a forest in livelihood activities for Arabuko and Mau forests

Equity, sustainability, poverty reduction

Forests make considerable contribution to the national economy because they have great socio-cultural and ecological importance. The exploitation of Kenya's forests did not begin until the late 1960s when it became the means of boosting economic development. There are various sectoral programmes that support sustainable livelihoods, local food security and health care, especially for poor people. These include promotion of indigenous food crops and traditional herbal medicine and these are largely found and harvested in natural forests.

In the forestry sector, women face similar challenges. Despite the African women's role in the management of natural resources, the limited access to and lack of property rights has continued to escalate the cycle of poverty in which they are trapped. In both Arabuko sokoke and Mau Complex forests this is not an exception. Women's contributions are essential to the management of natural resources. However, because women's contributions are not valued in the same way as men's, women consistently find themselves at a lower economic status than men. Women are largely excluded from economic decision-making, face low wages, have poor working conditions, limited employment and professional opportunities. Their unpaid work is also not measured and not valued in national accounts. Women often face inequality due to the fact that they earn less income and face unequal distribution of resources. The situation is further aggravated by lack of access to education and job segregation.

The traditional division of labour has also meant that women are almost solely the food providers for their families. Table 4 shows the relationship of women and the attachment to the forest. In Mau for example, this has forced women to depend more on the natural resources and being the main gender that produces food crops, they have a profound knowledge of plants, animals and other ecological processes. The residents of Mau derive most of their basic income from subsistence farming. They depend almost entirely on the forest for grazing their livestock and for other products and services. All of the residents rent forestland, for non-residential cultivation, which greatly improves their food security.

Women Activities	Arabuko Sokoke		Mau	
	Male	Female	Male	Female
Forest conservation	26%	74%	37%	63%
Animal husbandry	43%	57%	48%	52%
Crop farming	31%	69%	27%	73%

Table 4 shows the relationship of women and the attachment to the forest

In Mau, 67% of the community members engage themselves in burning charcoal; cutting poles and posts as well as harvesting *Cartha edulis* (khat; miraa) for sale. The residents plant crops such as maize, beans and potatoes for domestic consumption, and for sale. Most individuals unlike in the Arabuko Sokoke settlement live on an average of 2 hectares of land from which they gain their livelihood through subsistence farming, livestock keeping and/or small businesses. Some residents cut and sell poles and posts from the forest, and sometimes burn charcoal. The khat trade is a major business because it brings in easy money and the trees are "free" i.e. they are illegally cut down for their shoots. Most people combine subsistence farming/livestock keeping and or small businesses with charcoal burning as well as poles & posts cutting. The khat or miraa trade is done exclusively by the youth who also burn charcoal for sale.

Forest product extraction intensity differs between the two forests largely because of the underlying cultures of the forest adjacent communities. Arabuko Sokoke has multiple ethnicities but largely dominated by the Mijikenda community. The association has put efforts in conservation of species, specific targets and programmes have been established regarding, among others, mangroves, coral reefs, turtles, and black rhinos. There are closed fishing seasons for some fish taxa to avoid overexploitation of certain species.

Conflict and devolvement of power

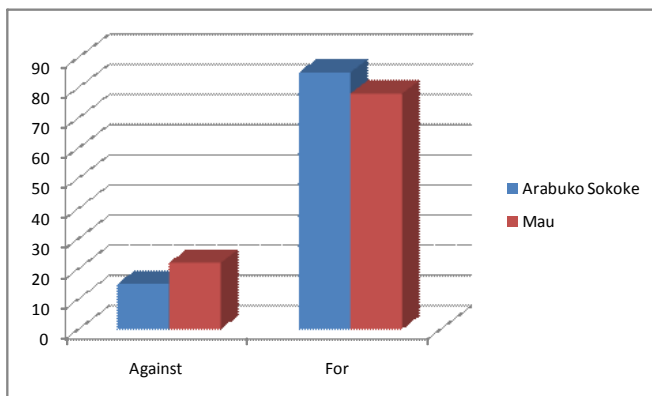
Institutions in Kenya have been operating on crossroads' in resources conservation that came with devolved power. For example, National Environment Management Authority (NEMA) a government parastatal is mandated with general supervision and Coordination over all matters relating to the environment. Evidently, in both forest sites, NEMA has done little in enforcement and compliance of forest use and educating the public on prevention of dangerous anthropogenic interference with the climate system.

Kenya Forestry Research Institute (KEFRI) mission is to contribute, together with its partners, agricultural innovations and knowledge towards improved livelihoods and commercialization of agriculture through increasing productivity and fostering value-chains while conserving the environment. KEFRI has established cross link with other partner and inform on the intervention for action on forests and allied resources. In both Mau an Arabuko Forests, the communities have felt the impact of the institute through information dissemination in various packages.

Community forests associations in Mau has benefited from the PELIS initiative that has seen other institutions coming in place. The Kenya Agricultural Research Institute (KARI) bringing together research programmes in food crops, horticultural and industrial crops, livestock and range management, land and water management, and socio-economics. KARI promotes sound agricultural research, technology generation and dissemination to ensure food security through improved productivity and environmental conservation. However, Arabuko Sokoke has not been a beneficiary of these institution since they are not much in agricultural farming.

Kenya Forest Working Group is a gathering of individuals and organizations (government and non-government, local, national and international) concerned with forests, their conservation and management. KFWG was formed in 1995 to provide a forum for exchanging and sharing information and experiences among members. Although it exists as a sub-committee of the East African Wild Life Society, it has done a commendable job by facilitating in the development of the Arabuko soko management plan and mapping of Mau forest on the severity of degradation through encroachment and excisions. This has been achieved through improving the status of Kenya's forest landscape.

Figure 4 shows the benefits local stakeholders have gained after the devolved system of governance. CFAs in both Arabuko and Mau forest appreciated the effects of the devolved system since they can enjoy various benefits accrued to the forest. However, the 37 % tally in both forests feels that the rules and confusion in the management plan are denying them more benefit that they used to get with the previous regime.



The various stakeholders involved in the management and protection of both Arabuko and Mau forests applauded the devolved structure of the forest sector. Power sharing opinion from the various stakeholders targeted for study shows that 94% of them like the current decentralized structure. The stakeholders include: KFWG, KARI, KEFRI and NEMA.

Conclusions and Policy Recommendations

The study has shown that the shift of forest management from centralized towards decentralized management has brought with it some economic benefits to local stakeholders such as Community Forest Associations (CFA's), Forest Conservation committees (FCC) and Devolved power in the service. For the first time local communities appreciated that they could receive direct benefits from the implementation of decentralized forest management. At the local level, some new economic activities also have grown as a consequence of new forestry-related activities in their area.

Although the indication of positive economic benefits at local level was applauded by many local stakeholders, decentralized forest management also has introduced several major problems. The problems included conflicts between stakeholders, communities and central government due to differences in their interpretation of decentralization regulations and the revocation by central government of the local governments' authority to issue logging permits; horizontal conflicts among stakeholders involved in forestry activities (e.g., among permit holders, between permit holders and existing recognition); and internal conflict among the members of a particular user group over the distribution of benefits from forest activities.

It is understandable that institutions have different strengths and capacities and this calls for networking. Although multi – faceted strategies should be pursued to ensure collaborative interventions by the various institutions, there should also be efforts put by the government and other concerned institutions at strengthening linkages and networks to improve resilience. More resources and actual budgets for disaster management have to be put in place, which necessitates policy support. The other challenge is for Kenya to develop strategies, which would promote sustainable development, without compromising increased pressure on natural resources. It is necessary therefore to develop appropriate policies and response strategies to manage collectively forest and allied resources such as land and rivers (water). Policies and strategies must be based on reliable inventory of ecosystem services while addressing gender equity.

The most important next step for addressing policy conflicts in decentralized forest management in Kenya is to develop mechanisms and capabilities to address conflict at different levels (village, district and national) in order to implement desirable changes. An initiative to establish good two-way communication between stakeholders, communities and central government over the implementation of decentralized forest management is needed. This communication should form the foundation for a shared understanding of the different regulations and how those regulations should be implemented. Most importantly, this communication should find options for stakeholders, communities and central governments to carry out forest management jointly and describe their respective roles and responsibilities in such a participatory forest management arrangement. In decentralized forest management clear understanding of the roles and responsibilities of the different actor levels is essential. Castro and Neilson (2001) have indicated that participatory forest management initiatives between different levels of government organizations and among various stakeholders often result from bitter conflicts.

References

- Arnold, J. E. M. 1990. *Social Forestry and Communal Management in India*: ODI: Rural Development Forestry Network (RDFN).
- Barrow, E. and M. Murphree eds 2001. *Community Conservation from Concept to Practice*. James Currey: Oxford. Berkes, Fikret, ed. 1989. *Common Property Resources: Ecology and Community-Based Sustainable Development*. London:
- Barrow, E. J. C. Isla G. Kamugisha-Ruhombe J. and Y. Tesse 2002. *Analysis of Stakeholder Power and Responsibilities in Community Involvement in Forest Management in Eastern and Southern Africa*. *Forest and Social Perspectives in Conservation* No. 9. IUCN Eastern Africa Program.
- Bromley, D. W. David F. Margaret M. Pauline P. Jere G. Ronald O. C. Ford Runge, and James T. eds. 1992. *Making the Commons Work: Theory, Practice, and Policy*. San Francisco, CA: ICS Press.
- Buckles D. 1999. *Cultivating Peace: Conflict and collaboration in natural resource management*. IDRC/World Bank, Ottawa.
- Castro A.P. and Nielson E. 2002. *Indigenous people and co-management: Implications for conflict management*. *Environmental Science and Policy* 4: 229-239.
- Castro A.P. and Nielson E. 2003. *Natural resource conflict management case studies: An analysis of power, participation and protected areas*. UN Food and Agriculture Organization, Rome. Dinas Kehutanan Kalimantan Barat. 2004. *Laporan Tahunan 2003*.
- Elinor Ostrom. 1990. *Governing the Commons: The Evolution of Institutions for Collective Action*. New York: Cambridge University Press. Ostrom, E., Schroeder, L., and Wynne, S. (1993). *Institutional Incentives and Sustainable Development, Infrastructure Policies in Perspectives*.
- Hulme, David, and Marshall Murphree, (eds.). 2001. *African Wildlife and Livelihoods: The Promise and Performance of Community Conservation*.
- Meinzen-Dick, Ruth and Anna Knox. 2001. "Collective Action, Property Rights, and Devolution of Natural Resource Management: A Conceptual Framework." In *Collective Action, Property Rights and Devolution of Natural Resource Management: Exchange of Knowledge and Implications for Policy*, Ruth Meinzen-Dick, Anna Knox, and Monica Di Gregorio (Editors),

Walker G.B. and Daniels S.E. 1997. Foundations of natural resource conflict. Pp. 13-36 in Solberg B. and Miina S. (eds). Conflict Management and Public Participation in Land Management. EFI Proceedings No. 14. European Forestry Institute, Joensuu, Finland.