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The Strengths and Weaknesses of Albania's Customary Rules in Natural Resource Management in the Light of Devolution Policies

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Abstract

The management of natural resources is a challenging task owing to the complexity of the resources and the benefits they provide. Nowadays there is trend to transfer some management power to local communities driven by equality and sustainability assumptions. We studied two cases of local management – forests and fisheries – in Albania, which resulted in contrasting outcomes. In the forestry case, the local community manages its resource in a sustainable way based on its customary rules supporting equal shares to members and encouraging participation in decision making procedures for common issues. In contrast, the fishery case represents an example of overexploitation and information asymmetries, where powerful actors benefit over others. We argue that disregarding the local context when implementing new sets of rules can both exacerbate the unsustainable use of natural resources and have an impact on the social power structures.

Keywords: Albania, devolution, *Kanun*, forestry, fishery

JEL: B 52, P 32, Q 01, Q 15, Q 23, Q 28

1 Introduction

Political and socio-economic transformations undertaken after the fall of Berlin Wall in Albania have had a huge impact on the lives of people and also on the way they utilize natural resources. Natural resource regimes have been drastically affected by the political insecurity and institutional vacuum to which Albania – like many other post-socialist countries – was exposed after 1990 (LAWSON and SALTMARSH, 2000; SCHLEYER, 2003; THEESFELD, 2008). Apart from land which was distributed to rural households on an egalitarian basis, most of the natural resources such as forest, fisheries and pastures officially remained under state control, although their de facto utilization was to a certain degree carried out based on local practices (STANFELD and KUKELI, 1995; DIDA, 2003; DE WAAL, 2004; STAHL, 2010a). In many regions of the country, especially in the north, local communities revived their customary rules and

rights, known as *Kanun*, as a means of organizing their daily life. This institutional set-up provided among others a regulatory framework for interactions in relation to ownership and use of natural resources (DE WAAL, 2004).

Recognising this situation, the customary rights were officially acknowledged on land, but only for specific areas,¹ while other natural resources such as forests and pastures remained, to a large extent, state property. However, the Albanian government, with the support of international donors, undertook further steps towards the community-based management of natural resources such as forests and pastures, fisheries, and irrigation networks. So far, the management of more than 30 per cent of the forest area has been transferred to local communities (MUHARREMAJ, 2008: 28). The same approach has been applied to other resources such as fisheries and irrigation networks (THEESFELD and SCHMIDT, 2011; SALLAKU et al., 2003). Devolution policies are often seen as leading to a more sustainable management of resources due to the increased efficiency, equity and inclusion deriving from the devolution of power and responsibilities to local resource user groups (LARSON and RIBOT, 2004). However, we argue that if the local socio-economic characteristics of the communities are not taken into account, the actual outcomes vary – and in some instances do not yield the expected results.

The aim of this study is to explain what happens if new formal rules of access to and withdrawal of natural resources are established that do not consider the rights-in-practice of the local communities. We show how such overlying systems of rules lead to various reference systems for actions and run the risk of triggering and encouraging unsustainable resource use, as well as to other negative impacts such as the marginalization of weaker actors and the deepening of the social inequalities in the community.

This research draws on case studies on forests and fisheries carried out in Albania. The empirical material is derived from semi-structured interviews, direct observations, and numerous informal conversations with involved actors.

The paper begins with an overview on devolution theory and on the role of customary rules for natural resource management in general, and in Albania in particular. The subsequent section will illustrate how these rules influence forest management in northern Albania. The outcomes of this case will be confronted with a case from fishery management which went through devolution policy reform. This section will

¹ Albania opted for a distribution approach, dividing the land of cooperatives and state farms among members on an egalitarian basis, i.e., every member received the same quantity and quality of land, without regard for the ancestral ownership of the land (STANFIELD and KUKELI, 1995; SWINNEN, 1999). However, this legal stipulation was disregarded in some remote and mountainous areas, especially in the north, and people there occupied their ancestral property (SWINNEN, 1999; DE WAAL, 2004).

be followed by a discussion of the major findings and will be concluded with their implications for natural resource management.

2 Devolution Policies and their Effects on Natural Resource Management

Forests, fisheries, groundwater, pastures, irrigation systems (among other natural and man-made resources systems) hold particular attributes which make their governance comprehensively challenging. One attribute relates to the difficulty of exclusion in the sense that it is costly, or even impossible, to prevent anyone from enjoying the benefits of the resource once it is available (YOUNG, 2002). The costs of exclusion can be affected by the biophysical characteristics of the resource, such as its type and size, as well as by socio-economic factors such as relative prices, social institutions that constrain actors, and the technology available to enclose the resource (OSTROM, 1990, 2007; EGGERTSSON, 1990). For forests, the complexity of the system in both biophysical and socio-economic aspects affects the costs of exclusion. Forests provide multiple benefits, such as firewood, timber, non-timber products, and recreational services, increasing the demand from users which may result in pressure over the resource (AGRAWAL, 2001a). In addition, the larger the forest the more difficult and costly it is to control and monitor access to the resource. Fisheries, wildlife and irrigation systems show additional exclusion difficulties due to the migratory nature of their resource units, such as fish (OSTROM, 1990).

A second attribute refers to the subtractability of the resource unit or rivalry in consumption, that is, each user is capable of subtracting from the welfare of other users. A tree which is logged today will not be there for others. OAKERSON (1992) concludes that the growing use of the resource by many individuals will eventually reduce the total yield over time. Bearing in mind the attributes low excludability and rivalry in consumption, actors will be very likely to engage in competition over the resource which, in the least tragic scenario, will increase the appropriation costs (or reduce their benefits). In the worst case scenario the resource may be destroyed if prolonged and excessive use is carried out (OSTROM, 1990: 38-39). Nevertheless, such problems have not proven to be insurmountable if effective institutional arrangements are put in place, though their design and implementation are a problem of its own. These arrangements should attempt to regulate extraction patterns as well as access conditions in order to avoid overexploitation. In addition, they need to be matched by suitable governance structures, which will make the implementation of the institutional arrangements possible and effective (GATZWEILER and HAGEDORN, 2002).

International policy and the research agenda on natural resource management have experienced a paradigm shift from a top-down approach to community-based strategies

(DASGUPTA, 1982; RUNGE, 1986; OSTROM, 1990; BERKES and POMEROY, 1997; AGRAWAL and GIBSON, 1999; ANDERSSON and OSTROM, 2008). This shift is driven by the theoretical assumption that devolution leads to the equitable and efficient management of natural resources, because people are more likely to respect and follow rules when they have been involved in designing them (LARSON and RIBOT, 2004). Local knowledge derived from continuous interaction with the natural system and the involvement of local people in the rule making process, are important ingredients for making the rules not only functional but also for vesting them with legitimacy (ANDERSSON and OSTROM, 2008; JENTOFT, 1989). The costs of enforcement will thus be lower than for rules imposed by external forces, because enforcement and the legitimacy of rules develop trust among resource users that other users are complying with agreed rules and that no individual is benefiting over others (GIBSON et al., 2000). CHHATRE and AGRAWAL (2008), for instance, find that the probability of forest degradation declines with increases in the levels of local enforcement and local collective action, even in the presence of other factors such as the forest size and levels of dependence. Local enforcement is also influenced by their autonomy in decision-making, as well as by effective leadership for conflict resolution (OSTROM, 2002). In that sense, the applications of the customary rules to the management of natural resources have shown significant positive impacts.

Yet, not to be overlooked, imposed approaches to devolving the management of resources have often shown mixed results. Such moves bear potential disadvantages that could be caused by conflicting interests in the local communities, the likelihood of capture by local elites, and the abuse of power (AGRAWAL and GIBSON, 1999; THEESFELD, 2008, 2009; SIKOR et al., 2009; THEESFELD and SCHMIDT, 2011). It is, therefore, particularly risky not to take the socio-economic characteristics of the resource users as well as the attributes of the resource itself into account when implementing new formal rules of devolution policies. In addition, the enforcement of new institutional arrangements, despite their aim of facilitating local management, which disregard the customary rights and practices already in place are very likely to have detrimental effects on the livelihoods of the people who rely on the resource (HUNDIE, 2008).

In the course of Albania's agrarian change and its path towards the target of accession to the European Union (EU), several reforms in its agricultural and environmental policies have already taken place with devolution as the focus. Thus, since the late 1990s Albania has been in line with the international policy trend of transferring management power to local communities; e.g., it is one of at least 60 countries that claim to have reformed their natural resource management (AGRAWAL, 2001b: 208-211). For instance, there is an ongoing trend of transferring the management and use of forests and pastures to local governments and communities. Over 30 per cent of the

total forest area has already been transferred to 138 communes (NACFP, 2007; WORLD BANK, 2004; MUHARREMAJ, 2008). This move was initiated in 1996 with the support of the World Bank, and aims at improving the state of forests as well as increasing the participation of local stakeholders in the management process. This aim was to be achieved through the establishment of different formalised entities, such as forest user associations or village associations. Nevertheless, although communities were formally assigned some rights and duties over the management of the resource, yet most of the core activities such as the drawing up of management plans, definitions of use and access patterns, and the distribution of benefits were still performed by the central authorities. Furthermore, MUHARREMAJ (2008) notes that the existing laws on forests and pastures stipulate that local users would even need to pay for the goods they withdraw from these resources, although historically they have not done so. Such disregard of traditional practices has an effect on the rule following behaviour and thus the effectiveness of the new formal system of rules. Given the exclusion of local actors from the decision making process, the legitimacy of the rules could constantly be questioned, unless – as MEINZEN-DICK and PRADHAN (2002) argue – rights and claims are accepted and recognised by the majority of actors. In areas where external actors interfere, such as in the southeast of Albania, the exclusion of local actors from forest resources can emerge as a result of rent-seeking. STAHL (2010b) finds that forest use practices are shaped by rival conceptions of property rights over forest resources by various groups. Apart from the resulting severe forest degradation, local residents who had traditional claims were the most disadvantaged. They could withdraw less resources from what they considered to be their common forest (STAHL, 2010b).

2.1 The Role of Customary Rules on Resource Management

Customary uses of natural resources are regulated through a complex web of customary institutions and traditional practices which tend to ensure social equity, enforce social norms through social pressure and shared value systems, and define notions of property and territories (COLCHESTER, 2006).

The concept of customary rules used here refers to the informal institutions that encompass both the socially accepted norms and practices that shape people's collective and individual behaviour and organizational structures such as associations and village councils. Since local rules guide the daily consumption of natural resources, it is appropriate to keep them at the centre of analyses concerning the use and management of natural resources (GIBSON et al., 2000). The success of common management should not however be attributed only to the power of institutional arrangements but also to some more internalised, less visible factors that shape the interaction among resource users (CLEAVER, 2002; UPTON, 2009). Yet, local management may also need facilitation and guidance from respected authorities.

Customary rules can also be considered to be a form of social capital for that particular society, since they regulate actors' interactions through specified rules which derive from the embedded social norms. Therefore, they appear to be a powerful means of reducing the transaction costs of reaching an agreement. An important instrument for facilitating agreements is the information exchanged through social relationships. These relationships provide individuals with low cost information about existing opportunities and potential choices, which can also help individuals in more efficient decision-making. In addition, guided by the accepted social norms, they can be effective sanction measures by lowering monitoring and sanctioning costs (OSTROM, 1990; CLEAVER, 2002). Considering these elements, this form of social capital becomes an important medium for collective action (GRANOVETTER, 1985).

2.2 Customary Rules on Natural Resource Management in Albania

In Albania, many communities regulate their social life based on some traditional rules and norms, known as *Kanun*. These practices are especially common in the rural mountainous areas of the country, where the power of the traditional norms had always been powerful (VOELL, 2004). According to the Dictionary of the Modern Albanian Language of the ALBANIAN ACADEMY OF SCIENCES (2002: 548), "*Kanun* is a set of norms and unwritten laws passed on from generation to generation since medieval times, whose influence is strong even nowadays, regulating the social and juridical life of remote communities in High Albania".

The *Kanun* emerged to guarantee to everyone, regardless of individual endowments, a fair distribution of the best pastures, fertile lands, forests and water for irrigation (HASLUCK, 1954), and more generally, to regulate social life of communities (DE WAAL, 2004). In fact, this equal distribution can be challenged by the way how men still occupy a dominant position in the social life of most rural communities as opposed to women, yet such issues are beyond the scope of this study.

Albanians have four distinct sets of these customary laws: *Kanun* of Leke Dukagjini², *Kanun* of Skanderbeg, *Kanun* of Mountains and *Kanun* of Labëria. These four codes stem from different regions in Albania though they do not differ much in essence (QERIMI, 2010; GJURAJ, 2000: 25). The differences relate mainly to the detailed regulations, rather than the general principles. Therefore, in this paper we do not refer to a particular *Kanun*. Rather we attempt to point out the general stipulations, paying particular attention to their implications for the management of local natural resources. All unwritten laws are continuously reformulated, extended and adapted to historical

² The *Kanun* of Leke Dukagjini is the most well-known, named after the medieval Albanian Prince of XV century, Leke Dukagjini, and compiled and codified by the Albanian Franciscan priest Shtjefen Gjecov in 1933.

circumstances across the centuries. In order that these rules could outlast the socialist and post-socialist period, a collective memory had to be formed which can only be done, if people regularly communicate about the rules (THEESFELD and BOEVSKY, 2005: 182). Dwellers in the Albanian mountains were conscious that without solid rules and unity, the social entity would not be able to survive (HASLUCK, 1954). Therefore, *Kanun* appeared to be the basis for “all social interactions, covering every area of life, from dispute settlement and inheritance to rules for marriages and life crisis rituals” (DE WAAL, 2004: 24). Property relations occupy an important role in the *Kanun*, describing the procedures for border division, access and utilization patterns (HASLUCK, 1954; GJEÇOV, 1993 [1933]; DE WAAL, 2004). The right to own property belonged to every family in the community. In *Kanun* it is stipulated that “each house billowing chimney-smoke, shall have its own property” (GJEÇOV, 1993 [1933]: 34). In addition to private property, the existence of common property was set out.

Common property is known as *kujrie* and was used jointly by the community for firewood, pasture, hunting, the production of tools for agriculture, and other purposes. The common property *kujrie* cannot be divided among members, but all houses in the village have rights to it (GJEÇOV, 1993 [1933]: 36). All damages and benefits belong to the whole community (ibid). No one is allowed to open new land, vineyards or gardens in the *kujrie* without the consent and approval of the community members (ibid). Each agricultural land, pasture, garden, vineyard, meadow, shrub as well as villages with one another were divided by borders. Some of the borders are century-old and can only be changed by a solemn ceremony. This ceremony implies, e.g., that the one who was to set new borders, or reset the old ones would have to carry upon his shoulders a big stone and guide to the place as many old men and young children as possible so that they can memorise the border spot and later on, when necessary, they will also be called up as witnesses (GJEÇOV, 1993: 37).

This spirit of *Kanun* was also noted in our case study area in northern Albania. Actions that individuals take in relation to common resources and issues of common interest are affected by the shared traditional customary norms and rules. Most interviewees attribute their interaction patterns to *Kanun*.

“That’s what Kanun stipulates!” they say.

However, there were interviewees who attributed the persistence of the *Kanun* to the lack of an influential and effective authority. For them, these rules will be influential until there is another institutional framework that proves to be more effective than *Kanun*. The headmen of Tejs village clearly pointed this out:

“What is Kanun?!! It is laws just like state laws. They were put in place centuries ago when the notion of state did not exist. It was a necessity to regulate people’s

life. We did not need the Kanun much during communism because there was order and strict rules. Look today! There is no state! If something happens where to go! The police rarely come up here and even if they come they cannot do much. Therefore, we use our own rules: The rules of Kanun”.

During the 1990's, the government authority continuously weakened, culminating in 1997 with the collapse of policing structures. A wide range of vandalism followed, leading the country to the brink of a civil war, where almost all the population got armed and violently opposed the state authority. The government's presence vanished for several months, which temporarily lead the country to a total anarchy, to be managed only by the intervention of an international military force³. So, in this regard, customary rules have been recalled as a necessity to fill the institutional vacuum in times of rapid and radical institutional changes and provided to be an indispensable institutional framework for introducing a functional authority. DE WAAL (2005: 85) writes:

“...the implementation of those parts of Kanun which deal with dispute settlement, property division and rights of way, was an important practical means of dealing with the existing legal hiatus. ...Disputes arising from contingencies unprovided for by either system stood the chance of being resolved in a face-to-face context by village elders applying the spirit of the Kanun to current situations.”

According to *Kanun*, to facilitate decision making processes, communities elect a governing body, known as the “pleqesi” (council of the elderly), which is entitled to administer, enforce or amend community rules⁴. As HASLUCK (1954: 162) noted⁵ long ago:

“They (the council) regulated wood-cutting and irrigation rights, for example. They fixed the date and the number of livestock per family that might be taken up to their summer pastures on the high mountains. They took steps to see that no one appropriated more than his fair share of forest, irrigation water or grazing. In so doing they made a valuable contribution to the public peace. Some aspects of murder also engaged their attention”.

The council of elderly consist of heads of clans of the community/village, who in turn would choose one of them to be the headman (DE WAAL, 2004; VOELL, 2004). The

³ For a detailed account, see PETTIFER and VICKERS (2007).

⁴ BEYENE (2008) points out that traditional authority and leadership, which enjoys prestige in the community, can be an advantage for collective action as the leaders' actions and initiatives can be vested with legitimacy and credibility.

⁵ See also DE WAAL, 2004; 2005.

size of the council varies from three to five members depending on the size of the community, i.e. the number of major clans⁶.

For serious issues, decision making involved a higher authority, “*Kuvendi*” (the assembly), which usually consisted of all males in the community. When there was something of common interest, the elderly would call a meeting to discuss the issue of concern. The meetings were chaired and moderated by the elderly. They conveyed the people's general feeling about the issue, but could not dictate it. All decisions pertaining to important communal issues, as well as every change in existing customary rules, needed to be approved by the community's assembly (HASLUCK, 1954). In cases of conflicts, rule violations, or other incidents, the council of elderly called in possible witnesses – who were under oath – to give their version. The oath gave legitimacy to evidences and avoided ex-post disputes, thereby reducing ex-post transaction costs. Both the sued and the suer presented their evidence to the assembly, which would then have to agree upon and give the verdict⁷ (HASLUCK, 1954; GJEÇOV, 1993 [1933]).

The application of such customary rules will be illustrated in the following section by means of a case study on forest resources in northern Albania. We then confront this form of local management with a case of devolved management of fisheries in southeast Albania.

3 The Forestry Case

In this section we show how traditional practices and customary rules in accordance with the *Kanun* have provided grounds that would allow for a functioning and effective self-governed management.

This analysis is based on data obtained during two months of field work through an in-depth single case study carried out in 2009. The data were collected in north-eastern Albania, in the village of Tejs-Radomire in the Kalaja e Dodes Commune. A total of 19 semi-structured interviews were conducted. Interviewees were community members (12 interviews) and key informants from local and central forest administration. Additional data were collected through informal conversations. Secondary data were collected from World Bank reports concerning the Forestry Project initiated in 1996 and completed in 2004, as well as from reports issued by the National Association of Communal Forests and Pastures (NACFP), which promotes the transfer of forests and

⁶ Personal interview with the village headman.

⁷ Issues of blood feud and other complex conflicts require a different resolution approach. See CELIK and SHKRELI (2010) and MUSTAFA and YOUNG (2008) for a detailed account on mediation and reconciliation in northern Albania.

pastures to local communities. These data were important to understand the official perspective on the forest management in Albania.

The village of Tejs-Radomire, is situated in the foothills of the highest mountain of the country, Mount Korab. Radomire is made up of five villages, with Tejs being one of them. Each of the villages has its own village forest, consisting mainly of fir, pine and black pine. In addition, all five villages of Radomire share a common forest. According to villagers, until 1991, the common forest has been heavily degraded due to intensive extraction from the communist regime, while with the fall of communism, no extraction has taken place. The current recovery is attributed by villagers to local arrangements, which regulate access conditions, exploitation patterns as well as sanctioning measures when rule infringements are noticed.

Effectiveness of these arrangements comes from the fact that the community has not undergone profound changes in terms of social and demographic composition⁸. In this sense, we have a defined user group, which makes rule compliance and information sharing easier, due to shared traditional values and norms. In addition, the hilly geography with natural streams help to reduce ambiguities over ownership claims. According to a village member, natural boundaries are the best because you cannot change them: *“Can you move a mountain? Can you stop a stream?”* said one of the community members.

As OSTROM (1990) suggests, matching use rules of the community with local conditions will increase the likelihood of a long-lasting management of common pool resources. This may require good and reliable information about stocks, flows, and processes within the resource system under use, as well as about the human-environment interactions affecting the system. In a boundary-defined forest, for instance, it becomes easier to estimate the forest stock and its condition, and it consequently becomes easier to calculate how much resource unit, let's say timber, each household or appropriator shall withdraw. In our case, we noticed that each household is entitled to extract only two big trees from the common forest every year, with exceptions in case of emergencies.⁹ In order to avoid unnecessary disputes, resource users should transport the haul along the main path across the centre of the village, so that it can be seen by the community. In cases where someone does not make use of his share of trees and decides to give it to someone else, the village council must be informed and the haul should be taken along the same path. Apart from the fact that by doing so they add

⁸ With social and demographic composition, we mean the number of clans and the traditional social arrangements. Although some families have moved out of the village, they have retained their rights on common resources, and the number of families moving in is insignificant.

⁹ Emergencies could be unexpected household fatalities, such as funerals or fire incidents in valuable assets like houses or livestock stables.

legitimacy and transparency to their actions in relation to communal behaviour, this step is also a mechanism for monitoring compliance with the rules. As GIBSON et al. (2000) argue, the regular monitoring of rules is a necessary condition for successful resource management. To perform monitoring, the community of Tejs village has employed a forest guard who is a member of the community and is paid with the community's money to watch for both internal and external intruders. Each household contributes around 3,000 Lek¹⁰ per year for monitoring activities. For every situation, the guard should report to the village council, which then decides which actions to be taken. This enables the village council and the community members to create a history of past commitment to communal rules. In this way, they will be equipped with information that will help them to make strategic decisions regarding future design of rules and sanctions to be taken. Many studies suggest that successful monitoring longevity of rules is also related to the conditions of the resource and reliance of communities on them (GIBSON et al., 2000; OSTROM, 2002). In our case study, we noticed that community's reliance on the forest stems from the natural and climatic conditions rather than economic necessities. One of the community members pointed out:

"Listen, if we did not have the forest here, our houses will be taken by avalanches and land slides. Can you imagine how it does look like here in winter?!!"

Another one said:

"This is our forest. We have guarded and protected this forest even during communism when it was dangerous to oppose the state".

So, there is empirical evidence that it is very likely for community members to invest in the protection of the common good. Nevertheless, the picture provided above should not imply that there have never occurred violations and rule breakings. There have been several cases of incompliance and the community has reacted by taking actions against violators. In one instance, one of the community members who had logged trees without informing the council was fined around 10,000 Lek. The monetary fines go to the village's budget, which is managed by the council. If a violator does not have the financial means to pay the fine, an alternative sanction is imposed, such as confiscating livestock. The livestock is automatically classified as a common good and, after slaughtering, parts of it are distributed to all community members, including the violator, in equal shares.

These customary rules were challenged after in 1993 the new forest law came into operation. In the frame of the devolution process, also new private licences were given to private people. DE WAAL (2004: 38) noticed in the region of Mirdita in northern

¹⁰ Lek is the official Albanian currency: one Euro corresponds to around 130 Lek.

Albania that areas traditionally denoted as common property (kujrie) became legitimate felling ground for license-holders to fell in the lower forests. Villagers (including council elders) protested to these licensed operators (who were locals):

"You can't use our common land to fell and sell trees for your individual gain."

A similar ignorance of already existing local rules, yet of another kind, shall be presented from a fishery case in Albania in the following. THEESFELD and SCHMIDT (2011) noticed in the Lake Ohrid fishery that the top-down implementation of devolution policies and collective action management failed, owing to ignorance of the local rules and power relationships that already existed. The Lake Ohrid fishery has gone through different periods of institutional change. Until 1991, fishery, just like anything under communism, was exclusively controlled and managed by the central authorities. Fishing plans, harvest rates and all other activities concerning the sector were drawn and determined at the central level. With the breakdown of the communist regime, open-access became the reigning governance structure, though officially the state retained its powers over the resource. Raising income opportunities and rivalry in harvesting fishing stocks lead to an intensification of fishing patterns and harvest rates (THEESFELD and SCHMIDT, 2011). During the post-communist era, Albanians filled the institutional vacuum that existed in relation to resource utilization from Lake Ohrid with informal rules and illegal fishing practices which were based on the power of individual actors and kin-based relationships. The powerful actors do not only represent the socialist party followers – thus the nomenclatura – also economic power (being able to invest in fishing boats) was important to belong to the powerful "fishing elite". In order to achieve higher revenues, fishermen started to adjust their fishing gear and to increase the number of workdays (ibid.). This critical situation culminated during 1997 turmoils, causing a sharp decline of fish stocks (WATZIN, 2006).

In the early 2000s, the Albanian government introduced a new governance system for fishing resources – a common property resource regime – to involve locals in fishery management.

A Fishery Management Organization (FMO), which would be in charge of various management aspects from routine organizational activities to decision-making and conflict resolution, regulated through rules stipulated in the organization's statute, was established. However, this imposed governance structure remains what THEESFELD (2008), while studying the irrigation sector in Bulgaria, described as a "pseudo-association", which exists only as an imposed formal creation. The formal attempt to establish a FMO, while ignoring the existing appropriation rules, led to what is described as elite capture – allowing a powerful few even greater possibilities to enrich themselves.

For instance, the FMO's statute describes the FMO's organisational structure by defining: membership rules, positions, and responsibilities; decision-making and conflict resolution procedures; and contribution and pay-off distribution (WORLD BANK, 2000). The design of the statute was carried out by an external consultant; hence with no participation by the local stakeholders, thus disregarding local knowledge and needs (THEESFELD and SCHMIDT, 2011).

The research shows that those who were disadvantaged within the existing system were not only excluded from the additional benefits of elite capture of avoiding sanctions; in fact, a considerable number of benefits were captured at the expense of the disadvantaged actors' property rights (THEESFELD and SCHMIDT, 2011). Additionally, there was also exclusion from the decision making and information flows. In short, elite actors misused their authority and illegally supported their kin and distorted the legal framework. The system of capture permits some to be beneficiaries while others suffer a considerable loss of utility and an interference with their rights (THEESFELD and SCHMIDT, 2011). In the case study the following comments describe very well the prevailing access rights:

- FMO members who are not affiliated to the leader's network frequently gave statements such as, "I don't trust the FMO" and "The big guys occupy all the good fishing spots and I am left with nothing" (THEESFELD and SCHMIDT, 2011).

We also found the following monitoring and sanctioning rules:

- Instead of regular monitoring, monitoring was irregular, due to limited financial and technical capacities.
- The FMO leaders received advance notice of inspections, with the purpose of supporting the regional divisions of the Directorate of Fishing Policy. Instead the FMO leaders used this information advantage to notify their kin whenever monitoring was going to happen. Fishermen who did not belong to this network did not receive advance notification and risked getting caught.

The consequence is not only a negative impact on the fish stocks but also a further marginalization of the less powerful actors. The determination of beneficiaries and losers is by social affiliation rather than legal entitlement given that patronage allowed some actors, members of a particular kin, to be counted as beneficiaries as well. In addition, ordinary members were kept in the dark regarding the use of the organisation's budget and other important organisational issues (THEESFELD and SCHMIDT, 2011). This is in obvious contradiction with the case of the forest management in the northern Albania where issues pertaining to the common interest of the local community were public and largely transparent.

However, some degree of elite domination may be inevitable in a community participation project, particularly in rural areas where the elites are often leaders who embody moral and political authority. Nevertheless, owing to the elite's ability to communicate with outsiders, read project documents, keep account records, and write proposals, they are often the ones crafting the rules and policy measures that are biased towards them. Therefore, the process of rule making, which was earlier characterised as an opportunity to create appropriate and legitimate management schemes, has the potential to be abused and meet the preferences of the powerful few (THEESFELD, 2008). This in turn may discourage other community actors from participating. Thus, it can be inherent in a devolution process that some kind of social exclusion is also involved.

4 Discussion and Conclusion

Approaches towards the devolution of resource management have been shown to have both positive and negative aspects. The case study on forests in north Albania showed that local traditional practices and customary rules – *Kanun* – have provided grounds for a functioning and effective self-governed management system through locally devised decision-making procedures. These procedures have created opportunities for community members to participate and have a say on the common issues in addition to vesting the process with legitimacy.

Regular meetings provided input for decision-making processes at low costs. Monitoring activities which were financed by contributions from the whole community not only had a direct impact on preserving the forest but also on enabling the village council and the community members to improve their knowledge of each other and create a history of past commitment to communal rules. In this way, they can make strategic decisions regarding the future design of rules and sanctions to be imposed. The combination of these activities with effective sanctions in cases of violations has made rule compliance in the community a “routine” phenomenon.

In addition, the success of the existing institutional arrangements in the case study village is enhanced by the shared norms, regarded as very influential in the rural communities. These rules and norms form an important aspect of the community's social capital, which has contributed both to maintaining the social cohesion in the community and to the effectiveness of institutional arrangements. These aspects have contributed to the inclusion of community members through active involvement in issues concerning the common interest of the whole community.

However, there are discussions over different issues with respect to practices of *Kanun*. A great deal of debate is rightfully focused on the treatment of women, who

hold a subordinate position in the society. This is reflected on their low direct participation in public life (VOELL, 2004), as well as on their exclusion from ownership and inheritance rights over natural capitals (WHEELER, 1998). The discussion extends also to the strict application of *Kanun* stipulations to daily life practices nowadays (MUSTAFA and YOUNG, 2008; VOELL, 2004; SCHWANDNER-SIEVERS, 2001). For instance, VOELL (2004) argues¹¹ that when *Kanun* is viewed as some 'objectified conceptions' derived from 'situation images', its relevance could be questioned, but when it is viewed as a distinct social field, where the law is conceived as a more general concept underlying a variety of actions in various situations, rather than just concrete written down rules, norms and processes, then it is a relevant phenomenon.

On the other hand, as noted in the fishery case, although a local governance regime may help manage natural resources in a sustainable way, there are potential drawbacks that can result from imposing institutional arrangements. These drawbacks are characterised by disproportionate appropriation of benefits and exclusion of weak actors. These negative outcomes are increased by the absence of law enforcement and efficient monitoring due to information asymmetries, where the powerful actors not only capture benefits at the expense of other members but also enhance their influence. As a consequence, social inequalities among resource users are deepened and environmental destruction is aggravated.

Each case teaches us to look carefully at the existing customary rules and the practices on the ground when thinking about devolution reforms in natural resource management. Each new rule which is going to be implemented has to take account of the local rules-in-use and actor structure. In the forestry case, the customary rules with the positive effect on local forestry management should be further supported and legally backed up. In the fishery case the prevailing power and resource overuse of a powerful view has to be taken into account. An attempt should be made to break up the existing elite capture structures.

We conclude from the case studies and the analysis of devolution processes in natural resource management of Albania, that participation of local actors is crucial in designing legitimate rules that they accept and follow. This allows for voluntary compliance, which also reduces the costs of monitoring and sanctioning. Moreover, due to the characteristics of the resource – particularly forests – a throughout monitoring of resource withdrawal is difficult and costly, and thus every new resource management regime has to count on voluntary compliance to some extent.

¹¹ VOELL (2004) uses these concepts to argue that while objectified conceptions i.e. explicit rules, norms and processes for dealing with, for instance, theft and land conflict, exist, they appear to have no direct social relevance – one rarely acts in accordance with these rules.

Further, we would like to emphasize that case-specific analysis of the local situation is always needed in order to support the strengths and reduce the weaknesses of existing rules with the goal of achieving a more sustainable resource management. As regards the attempt to build a natural resource management theory, OSTROM (2007) is right in calling for going beyond panaceas and not imposing blue-print management systems for similar resource regime or country cases. Moreover, we not only have to carefully look who the current actors are and how they distribute current cost and benefit streams. We need to analyse who will after the reform loose and who will win with the new arrangements; as those actors who foresee distributional losses will constantly oppose and ignore the new rule.

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