



Property, however small, gives security and insurance against misfortune and liberty for new adventure, thus cultivating a sense of proprietorship in a civilisation, of independence of status, which makes governments appear as servants, not as masters, and institutions as the means to freedom, not to servitude.

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Responsible localism, reactionary localism: Lessons on land use controls and sustainability from the Global South for the Global North

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Abstract

This article engages the debate about whether localism – here defined as neighborly concern over land use – is favorable or unfavorable for environmental sustainability. Many scholars in the Global North criticize localism for its misguided incentive structure favoring local advantage and amenities over regional coordination and more environmentally sensible land uses like denser housing. In the Global South, on the other hand, many scholars and advocates argue for localism as a democratic right and a key to greater participation in natural resource management (leading to more sustainable land use). Looking at the dynamic of advancing central-formal control and retreating local control, this article argues that there are broad similarities between the Global North and South and that there are broad dangers of a “reactionary localism” – disorganized and defensive assertions of local interests that may have negative consequences for the environment. The article develops a case study of the national-local dynamic of land use control in Igembe, Meru County, Kenya and then considers how lessons from Kenya might be useful in the context of U.S. land use. Particularly, it is argued that local institutional breakdown in Kenya and the U.S. makes it harder to generate meaning around land use decisions and, hence, harder to enforce environmentally-oriented land use rules.

1. The debate about local control and sustainability

Localism is not just a concern about one’s own property but also a concern about the neighborhood. The great localists are those who maintain their own suburban lawns and put peer pressure on others to do the same. Or, if offered a more formal venue, they might meet on a beautification committee or organize to advocate for restrictive local zoning (Fischel 2001). These might seem like unlikely environmentalists but, it is suggested here, they might have more to offer in support of the existence value of land than at first it seems (Rome 2001).

Environmentalists in the Global North often view protective homeowners (or groups of homeowners) as too parochial in outlook (see for example the overview discussion in Jacobs 1989). Such people are concerned with their local environment but are unable to make sacrifices – particularly denser housing – that would benefit society and the environment as a whole. Local homeowners do not mind destroying the environment of others, so long as it is “not-in-my-back-yard.” Individuals and small groups are also thought to be terribly inefficient at managing “sheds” – watersheds, eco-sheds,

wildlife sheds, etc. – because of collective action problems and the high costs of coming to agreement on a course of action (Olson 1965; Hardin 1968). A locality on its own can not easily coordinate with ten other localities to protect a forested water catchment and wetlands that help provide water to all ten localities. Competition among local governments to attract jobs and people, at least in the U.S. context, is seen to contribute to local deregulation and environmentally inappropriate land uses (Molotch 1976).

Those who dislike localism find support from both government professionals and market enthusiasts. Many planners want to manage land and natural resources at regional and national levels to deal with the broad inter-connectedness of natural resource systems and the high potential for negative external consequences of local decisions (see e.g. Beatley 2000; Lane & McDonald 2005; Orr 2008). Economically-oriented scholars often view local control over land use as a kind of protectionism that interferes with (global) price signals and that prevents land from going to its highest value use (Fischel 2001, 2015). New environmental rights like carbon credits work only with many participants in a national or global marketplace and with broad standardization of rights and so also push against local control (Wissel & Wätzold 2010). Those arguing in favor of local control, as for example food

systems scholars, argue first for a localized rural economy within which local control would make sense or alternatively argue for a highly circumscribed form of localism (see e.g. DuPuis & Goodman 2005; Krueger 2015; Lane & McDonald 2005). Even then, this variant of local control has met with a great deal of criticism on sustainability concerns as well as on concerns about protecting minorities (Born & Purcell 2006; Komesar 2001; Parvin 2009).

The environmental movement in the Global South, on the other hand, has a more favorable view of localism. Local control is seen as empowering for indigenous groups, as a needed offset to powerful elites in government and private corporations, and as a necessary component for collective action for the environment (Alden Wily 2003, 2008; Larson 2008; Nelson 2010; Ribot 2003, 2004). In places where the law does not work well or lacks legitimacy, local social attachments seem to offer a next-best alternative for enforcing property rights and land use rules (Joireman 2011). Indigenous societies are found to have intensive daily interactions with local ecologies and environmentally-friendly values and beliefs (Cox et al. 2014; Peacock & Turner 2000; Whiteman & Cooper 2000).

Communities in the Global South appear to overcome collective action problems in part by virtue of their exclusivity. As Ostrom (1990) notes, one of the first steps for successful commons management is to carve out the local area, controlling its borders and membership so that the group will reap the benefits of group discipline. In this context, the bad of parochialism becomes the good of community concern, commitment, and participation. This line of argument dovetails with human rights assertions about self-determination and about the right (of groups) to property (de Schutter 2010; Murray & Wheatley 2003).

It might be argued that the context in the Global South is different from the Global North. Local control makes sense for places where formal law lacks legitimacy, where government lacks funding, where people access resources like land through local social networks, and where there are high levels of official corruption. In Western countries, law pervades everyday life and informal social control is often perceived to be less functional. People are so mobile, and populations so urbanized, that exclusivity of local communities seems to lose much of its meaning.

The argument here, however, is that contexts are not so different from South to North and that problems – previously perceived to be developing country problems – are also incipient in the Global North. Across contexts, an uncomfortable dynamic over property has developed with the advance of formal land use law and the defensive posture of localized control. This dynamic produces a reactionary localism, one of property rights fundamentalism (i.e. this is my property and I can do what I want with it), racist-ethnic protectionism (let's keep those "other" people out of our neighborhood and away from our resources), and social compartmentalization (those types of environmental problems are not happening in our group so they must be other people's behavioral problems).

This article traces reactionary localism across contexts. It starts by exploring the dynamic of advancing formal land use law and defensive local control in Kenya. The article then

considers the lessons from Kenya in the context of land use in the United States. It is argued that, while the U.S. context is significantly different, a degree of local autonomy similar to what is demanded by indigenous institutions in Kenya may be useful in the U.S., if the U.S. is to achieve a healthy dynamic between law and local control going forward.

2. Local control and land use decision-making in Igembe, Meru County, Kenya¹

Presently there is a great deal of *de facto* local control over land use in Igembe, a sub-region located in Meru County, Kenya. The main driver of the Igembe economy is *khat*, a small tree that, when its twigs and leaves are consumed, produces a mild stimulating effect. Outside of Igembe, *khat* is considered by many Kenyans to be a drug crop and, in practice, has been ignored entirely by an embarrassed agricultural extension service. That means that most farmers (particularly in the middle elevation "homestead" zone between 1200 and 1800 meters) carry out their farming using traditional methods without much government planning or oversight. In the past government-appointed chiefs and agricultural officers attempted to enforce certain land use rules via the criminal law, for example forbidding cultivation of steep slopes and tree cutting in water catchments on pain of fine or imprisonment. For the most part, these formal rules now exist in the background, rarely enforced. Chiefs have come to take a more collaborative approach. During fieldwork in 2014 one chief explained that his job was not to enforce land use law but rather to create awareness and bring in experts so that people would learn to use land wisely. In fact, many chiefs in Igembe do not know the formal rules of land use. Informal local authorities like clans and *Njuri Ncheke* council of elders (and indeed elders at the household level) continue to exercise some control over land use, mostly by reproducing traditions and thus indirectly influencing private landowners (e.g. to plant more indigenous trees on their property). These informal authorities are supported by the *khat* economy, which puts money and influence into the hands of some traditionalists (who stand apart from the educated elite and the civil service).

Despite its seeming weakness on the ground, government has greatly influenced the trajectory of local control over land use over time. On arrival in Igembe, the British found clans that were deeply involved in land governance² (Goldsmith 1994, 64-66, 70-75; Lambert 1947). "Clan" (or *mwiriga*) is used here to mean a neighborhood organization (sometimes of mixed blood relations) whose members are initiated together into age sets and who form the basic governing units of the Meru tribe. Ruling clan elders imposed livestock fines for violations of clan land use rules, as for example cultivating in areas designated as fallows, or cutting down trees without permis-

1 Research for the Kenyan case study was undertaken in Kenya from 2014-2015 with generous support for the senior author from a grant from the U.S. Department of Education Fulbright-Hays Doctoral Dissertation Research Abroad Program.

2 V.M. McKeag, "Native Land Tenure," 26 November 1938, DC/MRU/2/4/9; V. M. McKeag, "Collective Farming in Meru," 2 August 1944, DC/MRU/2/4/9.

sion. Such rules were enforceable by religious-spiritual threat and (more directly) by Igembe warriors who lived together in each neighborhood unit in a community barracks and who served as a military and police force. The *Njuri Ncheke* council of elders is a Meru governing body that runs parallel to clan organization and convenes at various administrative levels (from local to pan-Meru) to deal with matters that go beyond the local neighborhood. The *Njuri* protected larger swaths of forest like Nyambene and Ngaya forests and lent strength to religious prohibitions against cutting trees from sacred groves and from riparian areas (Fadiman 1993, 344).

British rule in many ways upended community control over natural resources. In an effort to control cattle raiding and inter-communal warfare, the British forbade travel into larger forests and from one community to another and also dissolved Igembe warrior societies (Fadiman 1993, 144). This threw the youth into a state of crisis and left the elders without a police force. The British overrode clan unit organization with a colony-wide system of chiefs and subchiefs whose job was to enforce colonial administrative directives (including organizing work on roads and terraces for soil conservation). This was a strongly top-down system (Branch & Cheeseman 2006; Stamp 1986). Chiefs were chosen for military qualities like youth and vigor and obedience to orders, not for their authority within the community (Fadiman 1993, 142-43). By contrast, clans selected their leaders for their age, wisdom, reasoning ability, moral qualities, and oral eloquence, the better to mobilize consensus and steer the community. The British chiefs and the clan and *Njuri* elders co-existed in a state of uneasy tension. During the 1920s elders continued to govern, particularly in areas remote from colonial outposts, but often met in secret and used evasive tactics to avoid British dictates. British officials were paranoid about their chiefs and other executive officers being co-opted, or cowed, by clan and *Njuri* elders (Fadiman 1993, 308).

Colonial administrators became increasingly concerned about soil erosion in the 1930s and 1940s and, in a change of policy, attempted to enlist traditional organs of local government like clan elders and the *Njuri Ncheke* council in the new program of land use control (Mackenzie 1998, 155-167). British officials realized that chiefs alone were not very effective at reaching people in rural areas and at changing their day-to-day behaviors (Lambert 1947). Clan and *Njuri* elders entered a complex field of governance, concurrently occupied by the remnants of their tribal organization, the chiefs and their strongmen, other members of the Provincial Administration (like District Officers and Agricultural Officers), the Local Native Council (a local law-making body with some native Kenyan representatives), and Local Native Tribunals (for resolving disputes and prosecuting people for violations of custom and statutory law). These disparate institutions in some cases had overlapping staff, such that for example chiefs were appointed members of the Local Native Council and elders served on the Council and the Tribunals. Land use controls were initiated by the British Provincial Administration and then pursued simultaneously through all of these local institutions.

The British, with their pragmatic approach to land use law, saw the different local institutions in Igembe as a means to an end. Each institution was made to oversee the others; all were

dispensable. The problem with this system in regard to land use is well-captured in a 1947 Meru district report:

"It is... the responsibility of the 'Mwiriga' [clan] to decide, in consultation with Agricultural Department staff and the locational Agricultural Committee what areas should be closed, terraced or opened. The initiative should come from the 'Mwiriga' but if it does not then the Agricultural Department staff and Agricultural Committee must invoke the aid of the Government i.e. Chiefs, D.O.s [District Officers] or Agricultural officer."³

Clan elders were expected to take their own initiative but only in consultation with agricultural experts. Where elders failed to make the "right" decision (as determined by British expertise), the chiefs were brought in to enforce the better policy. By the 1940s, this kind of forced cooperation had penetrated quite deep into the structure of traditional Meru society. The colonial government "[...] set up committees in each mwiriga [clan] who meet the chief, District Officer and Agricultural Assistant and draw up plans for any work to be done in the location."⁴

Colonial officials in Kenya expected custom to evolve to fit new conditions (Shadle 1999, 414-415). Custom might evolve on its own, but the British also positioned themselves to be the paternalistic molders of custom. "It is the business of the [British] administrative officer carefully to initiate and guide such amendment [to native institutions] as may be desirable" (Lambert 1947, 15). Whatever appreciation the British had for traditional authorities, their policies were built on the conceptual architecture of progress: progress from less civilized to more civilized, and from informal customary relations to written rules, formalized procedures, and, eventually, private property (see Shipton 1988, 96). In the evolution of custom, European institutions implicitly stood as the ideal end of human social progress toward which custom was striving. Colonial support for traditional authority, while often seemingly sincere, also rested on some truly surprising justifications, bordering on the arbitrary. Meru District Commissioner Lambert, for example, strove to resuscitate traditional oaths among the Meru, along with rule by the *Njuri Ncheke* council of elders, because he believed that sacrificing livestock for such oaths, and paying fines in livestock, would help to reduce Meru herds and prevent overgrazing (Fadiman 1993, 335). In other words, environmental protection was given as the reason for shoring up a fundamental component of the indigenous legal system and a fundamental part of Meru religious beliefs.

It is important to understand the difference between colonial and clan regulation of land use as it has great implications for the present day. Colonial law was pragmatic and positivistic, designed to achieve specific policy goals. Positive law works by *threat of punishment*, not by generating meaning among the people being governed. *Njuri* and clan prohibitions, in contrast, had internal meanings, achieved through ritual and deliberation at the local level. A violation of rules brought a person into a state of ritual impurity, characterized

3 Meru Soil Conservation Report, January-June 1947, DC/MRU/2/2/16.

4 Letter from Meru District Commissioner to the Provincial Commissioner of the Central Province, 9 April 1946, DC/MRU/2/4/9.

by contagious bad luck (Fadiman 1977, 91). Violations of clan rules no doubt happened regularly (as the Meru worldview anticipated) but brought with them great internal distress for the wrongdoer. The wrongdoer began to expect calamities at every turn, for him or herself and for loved ones, varying in degree with the severity of the offense. Friends and family, who often knew that some wrong had been committed, shunned the person, fearing that the bad luck would infect them too. People are said to go insane from a curse if they do not address it, for example if they divulge the secrets of *Njuri* or cut down trees from a sacred woods (see e.g. Bernardi 1959, 201-203). The Meru regulatory system generates intense psychological pressure. In a sense, though, the actual rule violation was (and still now is) tolerated over the short-term. This is frustrating from a positivist perspective that seeks immediate results, individual accountability, and immediate cessation of illegal logging and soil disturbance. Unlike colonial officials, elders preferred to wait, to draw meaning out of the seeming chaos of natural events that followed a wrongful act, all the while apportioning blame (and inviting real revenge) on the known culprits via the culprits' family and clan.

With Kenyan independence in 1963 came a rejection of the colonial program of cooperating with Meru elders. The new Kenyan government sought to centralize land use control and other aspects of local government (Stamp 1986). National land use rules, enacted in 1965, remain in effect to this day (although they will soon be replaced or augmented by county-level legislation). The rules set penalties for cultivating on steep slopes and cultivating near watercourses and authorized agricultural officers to prohibit tree cutting (and removal of vegetation) and to force owners to implement soil erosion control measures.⁵ The Agriculture Act allowed local districts to pass their own rules to supplement the national rules, but, notably, the power to enact rules shifted from the semi-democratic District Councils (formerly the Local Native Councils) to the District Agricultural Committee (which was under the control of the Ministry of Agriculture and the provincial administration). Local democratic government ("democratic" in the sense that it was partly participatory), which previously in Meru had a traditionalist element, was greatly marginalized under the independence government (Oyugi 1983). Surprisingly, independent Kenya kept the much despised system of provincial administration, including government chiefs. Of the multiple local institutions authorized to administer land use under the British, only the chiefs and agricultural officers remained. Chiefs at various times have been instructed to issue orders requiring people to plant trees, to stop cultivating on steep slopes, and to construct terraces. Other bodies, such as clans and *Njuri Ncheke*, shifted to the informal social sphere.

In practice the independence government began a program of cooperative land management that was intended to displace the command and control mechanisms of the British (Ondiege 1996, 132-134). The Ministry of Agriculture noted in a 1978 memorandum: "As opposed to colonial times the soil conservation work is not based on force but on education, advice, incentives, and agreements."⁶ This cooperative

program would be familiar to citizens of Western countries, and indeed was initiated through a partnership with Sweden following the influential 1972 United Nations Conference on the Human Environment. In practice, incentives and punishments for land use practices have been pursued very erratically, depending very much on the personality of particular chiefs, the availability of funds, and the interests of politicians. Östberg (1987, 68) observed in the 1980s both the positive response of Kenyan farmers to education and incentives and also the occasional assistant chief "who ordered people to do soil conservation, and who punished those who failed." The local nodes for cooperative land management – those places receiving and distributing funds and education – include chiefs, community groups organized under the chiefs, agricultural extension and, more recently, community forest associations and water resource user associations.

The process of land privatization, which began in Igembe in the late 1960s, usurped clan elders' control over land and, at the same time, gave elders a new formal governing role. Clan and *Njuri* leadership were so closely tied to communal ownership of land and resources that the prospect of privatization led several British observers to predict that privatization would completely overthrow traditional government.⁷ The *Njuri Ncheke* council of elders in Meru at first resisted the privatization program, asking instead that title be issued to each clan which would hold the title to clan land as a neighborhood collective.⁸ When the *Njuri* finally gave in under pressure from the British government, their express reasoning for allowing privatization was that they wanted to prevent Meru land from being taken by outsiders. Across Kenya, local support for privatization initially was motivated by people's fear of dispossession (Lawrance et al. 1966, 24-25). In fact, the process of privatization in Meru relied entirely on clans and *Njuri* to substantiate existing claims to land. In this way, Meru customary institutions have had some small opportunity to pursue their own agenda through the privatization process which, in most places in Meru, has been on-going from the late 1960s to the present day.

The present situation in Igembe is reminiscent of the 1940s and 1950s in that national land use rules, chiefs, elders, and elected local government (Meru County) all overlap on the ground and influence land use. Unlike the situation under the British, however, these different institutions are not being used as tools of one dominant policy. There is rather a kind of bottom-up opportunism, such that these institutions can be used as the tools of this or that private interest. New and often ephemeral stakeholder forums have sprung up, for example the District Development Committee or the environmental impact assessment process. Stakeholder forums bring institutions together in a moment in time. The forums invite input on the distribution of benefits from a development project and consider what different institutions need in order to create the incentives to protect a particular resource. In this way, land use becomes transactional in nature; people offer to protect a resource in exchange for economic benefits

Memorandum, 25 January 1978, DC/MRU/2/2/16.

7 See e.g. H. E. Lambert, "Memorandum on Policy in Regard to Land Tenure in the Native Lands of Kenya," 19 March 1945, DC/MRU/2/4/9; W. E. Taylor, "Meru Land Tenure," 19 January 1955, DC/MRU/7/1.

8 Meru District Annual Report, 1957, DC/MRU/1/13.

5 The Agriculture (Basic Land Usage) Rules, 1965, Art. 4, 5, and 6; Agriculture Act Chapter 318, 1955, Art. 48, 50, and 51.

6 Ministry of Agriculture, Land and Farm Management Division,

for individuals or groups. In addition, legal complexity also creates openings for opportunists. The amount and complexity of Kenyan law touching on natural resources and land use has led to a situation where even officials (let alone average farmers) often do not know who is responsible for what management or enforcement activity (see e.g. Okoth-Ogendo 2008, 227-228).

Social control at the local level in Igembe has taken new forms. The *Njuri Ncheke* council has seen a recent revival. The 2010 Constitution recognizes the role of elders in resolving conflicts particularly over land.⁹ The Chief Justice of the Kenyan Supreme Court has promoted traditional dispute resolution as a means to achieve access to justice for the nation's poor. Several informal *Njuri* courts continue to hold sessions and occasionally hear land use cases (for example involving soil erosion, indiscriminate tree cutting, or pesticide use). Some *Njuri* members hold out hope that, with the new constitution and the new democratic county governments, there will be more involvement of *Njuri* members in environmental decision-making and even a resuscitation of clan leadership. At the same time, chiefs have seen their authority retreat somewhat; they no longer compel people to attend chiefs' *barazas* (public meetings) and rarely use their authority to force compliance with land use rules.

Oddly, the primary way that local social traditions now impact land use is through private property owners. The advent of private land ownership has not "commercialized" life in Igembe in a straight-forward way. Certainly, land privatization greatly weakens clan influence over land and resources. Moreover people involved in the modern economy in Igembe are often too busy to participate in social forums like clan meetings that give rules a dynamic life. Yet informal social rules continue to influence private property owners even as the local decision-making bodies that made the rules weaken and atrophy. Such social rules pervade householder decisions about how to use land and also shape market demand (e.g. creating a demand for *khat* grown in a traditional way). Unfortunately, without local decision-makers, the social rules cannot be adjusted or reinvented for new circumstances. As happens with custom in many places, the rules become rigid and reactionary.

3. Lessons from Kenya for the U.S.

There are a number of elements from the Kenyan story of local land use control that may be useful for the U.S. context. First, Kenyan land use follows a general dynamic of national action and local reaction-subversion. Policy elites at the national and international level first articulated environmental concerns about irresponsible land uses. The first erosion control measures in colonial Kenya came from the national government, as for example the establishment of a soil conservation branch of the Department of Agriculture in 1938 and the passing of the Land and Water Preservation Ordinance and Rules in 1940 (Okoth-Ogendo 1991, 125-126).

9 The Constitution of Kenya, 2010, Art. 11(2), 67(2)(f), and 159(2)(c).

Continued local control over land use in Kenya – even when motivated by concerns about environmentally irresponsible land uses – has always been somewhat subversive of national land use policy. The *Njuri Ncheke* council of elders adopted a very clever stance in this regard, promoting peace with the colonial and independence governments on the one hand and operating in secret on the other to further its traditions and its own (local) environmental agenda. It is arguably only because of the *Njuri's* secrecy and religious-spiritual values that it has been able to survive the steady expansion of the organs of modern government into rural areas. In other words, in those areas of effective local control, the *Njuri* has worked effectively *despite* national land use policy, not because of national land use policy.

Various social rules, such as those encouraging traditional *khat* agroforestry, also remain, even as decision-making bodies (like clans) associated with such rules wither away. Again, it is by subverting national land policy that the traditions continue. They enter the thinking of private property owners by the back door. Privatization was intended to modernize smallholders, allowing them to obtain larger parcels of land and loans for modern agricultural inputs like chemical fertilizer and pesticide (Swynnerton 1954). Private owners in Igembe, newly empowered by privatization to make their own land use decisions, often chose to continue the tradition of *khat* agroforestry and intensive intercropping instead of modernizing with input-driven mechanized farming techniques. These traditions of artisanal *khat* production have proven to be both profitable and adaptable to the burgeoning international trade in *khat*, leading to a situation where "modern" farmers of coffee, tea, and other cash crops have converted farms over to more traditional *khat* production.

The problem of the national-local dynamic in land use has been mistakenly attributed to foreign law when in fact it is a problem of positivist law. Positivism in this context is the idea that good land use rules can be imposed by threat of punishment (or promise of reward) *without regard to semi-independent local decision-making and meanings*. Kenyan independence did not render land use rules more enforceable, even though it removed the element of foreign domination. Independence may have exacerbated the problem, in fact, as incoming officials had greater enthusiasm and higher expectations for what they could achieve through positivist law. Exhausted British administrators were losing faith in the positivist system of land use rules that they themselves had set up. The colonial governor confessed in 1945 that "you cannot make good farmers by the criminal law."¹⁰ Complaints about land use rules and the colonial soil conservation program were ubiquitous in Meru in the 1940s and 1950s and were said to contribute to the Mau-Mau anti-colonial uprising.¹¹ Interestingly, the white settler community in Kenya also resisted the imposition of positive land use law. When the colonial government proposed the 1940 Land and Water Preservation Ordinance, the settlers insisted that all land use rules go first

10 P. E. Mitchell, confidential memorandum, 27 November 1945, DC/MRU/2/4/9.

11 W. A. Burgwin, Meru District Agricultural Officer, letter to the Assistant Director of Agriculture, Central Province, 18 January 1962, DC/MRU/2/2/16; letter to Meru Senior Agricultural Officer, 1 August 1951, DC/MRU/2/2/16; Soil Conservation Report July-December 1947, DC/MRU/2/2/16.

to the local authority for its approval before being enacted, since it was the local community that was best positioned to make decisions about land use (Okoth-Ogendo 1991, 126).

The Kenyan example of national action and local reaction also highlights what it is about local control that matters. Localism is defined here as neighborly concern. Local governing institutions are places where the localism of neighborly concern meets professional advice from planners, lawyers, and scientists. In terms of the national-local dynamic, the local component is significant for its ability to generate meaning with regard to actions on a particular landscape within a smaller size (and somewhat rooted) group. The *Njuri Ncheke* speaks of environmental degradation as an offense to the Meru spiritual world, as an immoral act. It is an offense that people commit with respect to other people living in Meru that, in response, brings natural calamity like reduced rains, drying up of springs, and loss of earth's fertility. (In Igembe, it is even said that generations unborn can place a curse on the living for destroying the environment.) This meaning is enacted through participation in local forums and rituals. It can be part of both formal local government and informal social forums.

Professional environmental planning clearly offers a more pragmatic approach that targets specific environmental problems. In terms of the national-local dynamic, the professional approach is national. The methods of professional disciplines are standardized at the national (or even international) level, and the internal hierarchy of professional disciplines goes down from the national level (with the most influential people in each discipline concentrated in regional and national capitals). Arguably, localism is made defensive and reactionary when professionals treat neighborhood leaders as fools or competitors. As is seen in the history of Kenyan land use, the process of formalizing and centralizing land use law and standards has tended to marginalize the decision-making authority of local institutions and has greatly impeded their ability to generate meaning around land uses. In the case of Igembe, Kenya, it is clear that edging out the influence of clans and the *Njuri Ncheke* council of elders has not made government rules more meaningful. Rather, it leaves the meaning of land use more indeterminate and opens up land use both to reactionary sentiment and to economic opportunism.

4. U.S. land use policy and its discontents

As in Kenya, policy elites at national and state levels in the U.S. have developed legislation to respond to the environmental challenges of irresponsible land uses. Such legislation includes rules to protect environmentally sensitive areas like wetlands, riparian areas, and forests and offers incentives for various kinds of conservation agriculture (like retaining ground cover and not plowing up and down steep slopes). Land use law in the U.S. is detailed and complex, and the social response is often diffuse. This section begins by briefly recounting three examples of reactionary localism: the property rights movement, land use ballot initiatives, and Native American forestry.

The property rights movement is an extreme-right political movement in the U.S. that generally supports strong private property rights and a minimum of government regulation of private property (Jacobs 1998, 2010). Property rights advocates in the U.S. believe that property owners' control over land is threatened by national and state environmental laws and, more generally, by the class of urban professionals and planners who implement these laws. They tap into the cultural tradition in the U.S. that associates land ownership with individualism, self-sufficiency, and democracy. Although they typically organize at the national level, property rights advocates claim to give voice to frustrations felt at the grassroots. Property rights advocates have eroded popular support for planning and have successfully supported pro-property rights legislation at state and local levels across the U.S. that attempts to limit land use regulatory activity (Brick and Cawley 1996).

Another area where reactionary localism has coalesced is in ballot initiatives. A ballot initiative puts a proposed law or policy up for a vote on a local or state-wide ballot. A number of land use issues have come before the voting public this way, including zoning decisions (i.e. which land uses to allow in a particular area), compensation to private owners for land use regulation, measures to limit local growth and development (e.g. restrictions on big-box stores), and measures to protect open space (Burke 2009; Caves 1990). Ballot initiatives have been criticized for frustrating more in-depth deliberation and for impeding long-term planning (Burke 2009). They also might be viewed as inherently flawed attempts to express and generate meaning around land use concerns. The meaning of ballot initiatives is expressed through the medium of political advertising which is often paid for and controlled by wealthy donors and interest groups (Burke 2009, 1469; Callies & Curtin 1990). People use the ballot initiative to bypass the day-to-day processes of local government; it is therefore both a populist and an extremely ephemeral mode of expression. Local initiatives are often prejudicial to important interests outside the community (including environmental interests) and prejudicial to racial and ethnic minorities within the community.

A more effective and sympathetic act of rebellion from U.S. land use policy occurred on some Native American lands. Many Native American tribes have a strong conservation ethic, attributing spirit to natural things like forest and wild animals (Booth and Jacobs 1990). They also have a tradition of local tribal governance over collective resources. The U.S. government for a long time strongly encouraged land privatization (or "allotment") on tribal lands with the intention of turning Native Americans into self-sufficient farmers. The Menominee of Wisconsin successfully resisted allotment and managed, with the help of Wisconsin legislation, to establish a collective timber harvesting operation on tribal lands. This was not an easy struggle. The Menominee fought against professional advice that advocated private property and modern tree harvesting techniques like clear cutting. At various times, they also joined their land values to the alternative formal avenues of land use control that were offered to them, for example partnering with the Wisconsin legislature to establish a collective timber mill, suing the U.S. government over forest management, and establishing a for-profit timber

corporation (Peroff 2006; Trospen 2007). Thus, their success in maintaining a sustainable forestry operation is in part due to resistance to the breakup of local control and in part due to their willingness to join their values with the work of professionals (as for example in developing forest management plans).

From these brief summaries of reactionary localism in the U.S., it is possible to make a few observations. First, the United States' local-level organizational capacity for generating meaning about land and its uses is weak, or at best underground. Even Native American tribes like the Menominee, which had a long history of tribal identity, religion, and local organization, could only maintain their cultural input into local government by herculean efforts, against a barrage of laws, policies, and economic factors that favored individual decision-making based on professional advice. The same trends which in Kenya are mixed up with colonialism can be seen in the U.S. as the advance of positivist notions of law and order: the individual rather than the community as the basic unit of governance, the threat of punishment to motivate compliance with rules, and the general hollowing out of local control in the interest of cultural progress, standardization, and a broader land market.

Yet the lack of organizational capacity does not remove the localist sentiment at all. Rather, fleeting political advertisements and slogans, for example supporting a particular ballot initiative or the property rights movement more broadly, become the favored vehicles for expressing localism. These expressions are often temporary, reactionary, and desperate-sounding. This is not to dismiss the many community meetings and forums for collecting public comments that take place as part of the planning process or part of environmental impact assessment in the U.S. Rather, it is to place such meetings within a broader national-local dynamic. One can imagine local land use decisions, for example to accommodate a big box retail store, that generate a lot of community interest around changing traffic patterns, changing downtowns, changing town aesthetics, and changing natural landscapes. Community members have the opportunity to express themselves about such changes, as individuals, in local forums. From a certain cynical viewpoint, however, local meetings seem to be intended to contain localist sentiment, to allow disgruntled citizens to shout and exhaust themselves on deaf ears, to cabin environmental concerns and repackage them as unreasonable and parochial, to break up local-level group coercion by approaching community members as self-interested individuals. Certainly, localist sentiment might be put to better use.

5. A global convergence on the issue of localism and land use regulation?

From Kenya to the U.S., neighborly concerns about land use are common. Anyone trying to site a garbage dump, or trying to clear cut trees across a landscape, will learn about neighborly concerns very quickly. Local land use concerns are not necessarily environmentalist concerns, but they are certainly

a force that environmentalists and land use professionals ignore at their peril. Arguably, if localism is not institutionalized in some way in the process of land use regulation, then there is the danger that it will become a reactionary localism that significantly impedes sustainable land use management. As the global movement towards formalizing and standardizing property ownership at the national level proceeds, it is all the more important to consider where local control fits in.

The differences in institutional context between the Global North and the Global South have been exaggerated. On the one hand, rural land use in Kenya, even in a region like Igembe with its traditional crop production, is strongly influenced by the national government. This is not to say that formal land use rules have been successfully enforced. Rather, government has achieved some formal organization of local government and property ownership, which has partly marginalized traditional authorities and opened up land use both to the new traditionalism (traditions without decision-making institutions) and to various opportunists. The picture of bureaucratic functionality in the U.S., on the other hand, masks a great deal of local discontent. Some of this discontent can be channeled into local meetings and diffused; some can be ameliorated by incentive payments to private owners or by promises of market benefits like rising property values. There are many indications, however, that localist sentiment in the U.S. is not going away. In both the U.S. and Kenya, the gap between the positivist law of land use and local cultural meanings of land uses seems to widen. This gap threatens to make positivist laws less enforceable and localist sentiment less constructive and useful.

Environmentalists in the Global North have similar hopes about what can be accomplished through dramatic law and policy changes as their developmentalist counterparts in the Global South. Environmentalists want farmers to protect sensitive lands and habitats and reduce negative impacts on soil and water. Developmentalists want farmers to intensify production and increase output. Both sets of reformers attempt to use law and policy to change individuals' fundamental behaviors on the land. In the process, they often marginalize local institutions. The idea of local semi-autonomy – of letting people at a small scale make and learn from their own mistakes – is anathema to many environmentalist and developmentalist aspirations. This article argues that the potentially progressive aspects of localism have been mistakenly overlooked. Expressions of discontent, of primordial attachments to neighborhood group and place, continually pop up, even as the web of positivist law expands and tightens. When it comes to making hard environmental choices, when people are asked to make sacrifices for long-term environmental health, professionals in the U.S. and Kenya may see the need to create a bigger institutional space for localist sentiment, to harness the power of neighborly concern.

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