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The Informal Sector in Jinja, Uganda: Implications of Formalization and Regulation

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Abstract: This article examines two policies targeting the informal open-air market and fishing sectors in Jinja, Uganda. The informal sector has grown to become a significant source of livelihood for people in growing cities such as Jinja. At the same time, development policies have become increasingly concerned with encouraging formalization as well as the participation of local stakeholders in governance and decision-making. While there has been much debate about the potential impacts of formalizing previously informal, unregulated, unpermitted activities, the implications of these policies for informal vendors and fishers have received less attention. Despite their promises of addressing previous marginalization, the patterns of participation and formalization enforced by these two policies in Uganda have reduced the control of these individuals over their own livelihoods, as well as intensifying contestations of local authority and jurisdiction over resources.

Résumé: Cet essai examine deux mesures ciblant le marché ouvert informel et les secteurs de la pêche à Jinja, en Ouganda. Le secteur informel est devenu une source importante de revenus pour les gens dans les villes en croissance comme Jinja. Simultanément, les efforts de régulation ainsi que la participation d'actionnaires locaux sont devenus une priorité de développement et de planification politique. Bien qu'il y ait eu beaucoup de débats concernant les conséquences potentielles sur le marché de la régulation d'activités au préalable non régulées ou autorisées, les implications pour les commerçants et les pêcheurs non régulés n'ont pas été considérées avec autant d'intérêt. En dépit des promesses de prise en compte des problèmes antérieurs de la marginalisation, les modes de formalisation et de participation régulés par ces mesures ont réduit le contrôle que ces individus peuvent avoir sur leurs moyens d'existence et leur futur. Ces mesures ont aussi fait augmenter les contestations de l'autorité locale et de la juridiction des ressources.

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Informal sector activity has consistently accelerated in Uganda since the era of colonial rule, and now accounts for 90 percent of nonagricultural labor (World Bank 2009). Over the last hundred years unregulated, unpermitted open-air market vending and small-scale fishing activities have been important to Jinja's economic life, but they also have been consistently criminalized, therefore marginalizing vendors and fishers and excluding them from formal governance processes. More recently, "participatory" policies such as the open-air market formalization scheme and the 2004 National Fisheries Policy in Uganda have been aimed at increasing formal inclusion and political participation of open-air market vendors and fishers engaged in the informal sector. Despite promises of addressing previous marginalization, these two policies targeting informal sectors in Jinja have contributed to undesirable outcomes for vendors and fishers such as reduced control of their own livelihoods, and they have also intensified conflict over local authority and jurisdiction over resources.

Located on the northern shore of Lake Victoria, Jinja has become the second largest urban area in Uganda and a major hub for agriculture and fish trade. The city's streets, marketplaces, and small harbors are filled with people earning a livelihood from self-initiated, unregulated, often illegal strategies. They have been drawn to the informal sector because it often offers economic flexibility in the context of volatile agrifood markets, direct bargaining power, less vulnerability in the global commodity chains, and better returns from their investments in productive resources such as fishing gear and market stalls as well as personal investments of time and labor.

The open-air markets formalization scheme and the 2004 National Fisheries Policy (NFP) were promoted as ventures that would contribute to the prosperity and well-being of vendors and fishers by increasing their participation in the formal economy and giving them increased representation in local governance. However, an examination of the impacts of these policies shows that they have not been a panacea for the problems of poverty and underdevelopment, and that they have had unintended consequences for vendors and fishers operating in the informal sector. These policies provide new forms of democratic representation, but they offer this representation only as part of a formalization process that requires vendors and fishers to give up direct control over their own livelihoods, their bargaining and earning power, and informal strategies for maintaining financial stability and security. The formal representation offered by these policies is also relatively weak and does not provide the kinds of protections and risk mitigation that vendors and fishers require. As a result, vendors and fishers have expressed their dissatisfaction and preference for the self-governing strategies that are available through the informal sector. William Maloney asserts that greater access to "protection or services" is an important factor drawing people into the informal sector (2004:1160). As long as the informal sector in Jinja provides greater security, bargaining power, and control over productive resources for vendors and fishers, formalization and participation in formal decision-making will hold less value.

“Good Governance,” Localized “Participation,” and the Question of Formalization

Because they offer new forms of political representation, Uganda’s market formalization scheme and the 2004 NFP can be considered expressions of the “good governance” discourse. This approach to development has gained popularity in recent decades in response to previous problems with so-called top-down development. Donor support and aid are increasingly linked to demands for “good governance” and the promotion of “democratic” participation (see Kosack 2003; Farrington 2009). Rita Abrahamsen points out that the good governance discourse links the neoliberal capitalist model with democracy, which is considered by donors as “the necessary political framework for successful economic development” (2000:51). The “good governance” discourse also focuses particular attention on “local” communities as the place where increased access to democracy should be implemented and solutions to poverty should be managed (see Brett 2008). Local decision-making is also associated with ensuring “economic empowerment” through enforcement of efficient aid delivery (Mohan & Stokke 2000:247). Focusing attention at the local level is imagined to facilitate “structural transformation” that will wrest control from dominating centralized development agencies and empower marginalized groups (Mohan & Stokke 2000:248–49). Local participation is believed to have the power to break through so-called top-down development difficulties arising from power differentials between development practitioners and politicians and less powerful poor populations—although such an accomplishment assumes a high level of “local” capacity and usually implies some romantic notions of monochromatic local level cooperation and consensus.

In addition, directing so much concern toward the local level isolates issues of local inequalities or poverty from global or larger-scale problems. In diverting attention from the role of the global or transnational political economy and the role of powerful donors, the local focus recasts problems as uniquely local development issues. In this way, altruistic tropes of “democracy” and “the local” have become seamlessly enfolded into development discourse and practice. The significance of this move becomes apparent when one examines how “good governance” policies invite participation of local groups that have been historically marginalized. The local representation offered by the open-air markets formalization scheme and the NFP has relatively weak political leverage, and it is also unable to provide protections against the volatility of the globally integrated markets in which vendors and fishers are engaged. At the same time, requiring formalization has undermined the flexible strategies devised by vendors and fishers in the informal sector that are designed to mitigate against their vulnerable economic position.

Despite the pervasive rhetoric of “participation,” development scholars and practitioners do not agree about how the formal sector should engage with the informal sector. The Organization for Economic Co-operation

and Development argues that increased formalization provides greater protection, legal security, and equity to people engaging in the informal sector (see Jutting & de Laiglesia 2009). Mendoza and Thelen (2008) say that formalization facilitates access to formal banking systems needed for market-led economic empowerment. Judith Tandler (2002) suggests that the regulation and formalization of small firms can improve economic growth, although special attention is needed to mitigate the risks to which these small businesses are particularly susceptible. Iida Lindell (2008) asserts that informality is a consequence of state collapse or curtailing of state services under Structural Adjustment and other neoliberal development approaches and therefore must be considered a political as well as economic strategy. Scholars such as Nakanyike Musisi (1995) and Siri Lange (2003) oppose formalization, arguing that it destroys crucial social networks and access to social capital and internally organized productive relations provided through dynamics specific to the informal sector. While Jutting and de Laiglesia argue that formalization mitigates the exploitation of informal workers, Lange argues that formalization increases the potential for exploitation. It is important to note that the vendors and fishers targeted by Uganda's market formalization scheme and the NFP are mostly self-employed, making their exploitation or vulnerability a matter of market dynamics rather than labor regulations. I would add that formalization itself does not automatically address underlying structural inequalities inherent in global market regulation and resource flows leading to lack of agency, unpredictable political and economic contexts, and/or structural vulnerabilities experienced by many people engaged in the informal sector at local levels.

Historical Context and the Logic of Informal Sector Strategies

The historical context in which the informal sector developed in Uganda's agrifood markets is significant to the current open-air market formalization scheme and the 2004 National Fisheries Policy. Almost as soon as new forms of livelihoods emerged in the changing contexts of the early colonial cities, new policies to control such activities were enforced. Lakeshore and fishing communities, particularly near Jinja, for example, were consistently described by British and postindependence officials as "wild" and "untamed" and therefore blamed for the Sleeping Sickness epidemic that lasted from 1902 to the 1960s. Sleeping sickness control policies between 1907 and 1962 consistently outlawed small-scale fishers' activities and access to the lake (see Hoppe 1997). Similarly, a 1914 law designed to discourage women selling on the streets of Kampala was fueled by a moral imperative that conflated vending and prostitution, and it foreshadowed the paternalistic imposition of management structure in current open-air market formalization projects. Despite being framed as a "participatory" policy, the 2004 NFP continues to target and criminalize small-scale fishers and blames

them for overfishing on the lake. The illegal and clandestine fishing strategies devised in the early twentieth century under sleeping sickness controls have continued to be used as the 2004 NFP subjects small-scale fishers to increasing police surveillance and harassment. Similarly, informal strategies such as price cooperation and mutual protection adopted by open-air market vendors are associated with weathering not only the uncertainties of the market but also the vicissitudes of police harassment.

Over the last hundred years informal sector strategies devised by vendors and fishers in Jinja have also developed in the context of contested notions of authority, jurisdiction, progress, and success. The story of informal sectors in Jinja exemplified by open-air market vendors and clandestine fishers shows that self-organized (but often criminalized) strategies have been important tools for resisting the subjugation or governmentality implicit in colonial as well as current development discourses and actions. Kate Meagher (2003) makes the crucial point, however, that the widespread use of informal sector strategies should not necessarily be conflated with overt political struggles for liberation or overt political resistance to formal market or state structures. Instead, informal sector strategies reveal the practical ways in which people have navigated viable livelihoods when faced with uncertain and fluctuating forms of governance, authority, and economic conditions. Examining the place where “participatory” policies intersect with self-determined livelihoods allows us to see people engaged with the informal sector in an active relationship to the development process, rather than as passive recipients, victims, or outlaws.

Since open-air market vendors and small-scale fishers have long been associated with chaotic or unruly behavior, the practical organization strategies of these individuals were not taken into account by the framers of the open-air markets formalization scheme or the 2004 NFP. Instead, both policies introduced a type of formalization in which vendors and fishers lose access to self-organized protection and risk mitigation strategies in order to gain access to relatively weak formal political representation. “Participation” has turned out to come at a steep price for vendors and fishers in Jinja’s informal sector, while increasing the outflow of resources from markets and fishing communities.

The Market Formalization Scheme

On a road north of Jinja I met a group of men selling fruit from self-made wooden stalls.¹ They told me that vendors have been selling on that road since it was built during the 1950s. Now these men want to organize a formal market where everyone can sell on a cleared area set back from the road. These vendors had already begun meeting to implement their plan and have the support of local government officials. I later walked down the road and met with a group of women also selling fruit at a self-made stall. When I asked them about the plans for a formal market, they told me they

did not attend the meetings—that the men did not listen to the opinions of women. They told me that they desired a separate market for women only where they could be assured of a system of market governance responsive to their needs.

The enthusiasm and aversion for market formalization expressed by these roadside vendors echoes the two poles of debate among scholars and development professionals over the implications of formalizing informal sectors. Advocating for formalization, the Ugandan government has recently adopted a plan to formalize and legalize open-air markets which has turned out to be unpopular with many vendors. Under this plan, municipal governments award private contracts for the management of the markets. Open-air markets that had previously been managed informally by vendors are now run like private businesses by contract holders. At the same time, the market formalization scheme offers vendors legal status and democratic representation through the appointed market manager, who is intended to facilitate communication between vendors and the municipal government. This policy has been unpopular with vendors because it tends to give them less control over their own affairs compared to their self-initiated vendors' associations, which allowed them to develop their own market governance strategies in order to mitigate their vulnerable position in a globally linked market.

The protection and self-governing strategies developed by open-air market vendors were created over a long period during which they experienced political and legal exclusion. Since the early twentieth century, women in particular have found independent livelihoods in Ugandan cities through the sale of prepared foods from unpermitted roadside businesses. Currently 92 percent of people operating in Uganda's informal sector are women (World Bank 2009). Women have often pursued such "invisible" strategies in order to maintain control over their own productive resources within their own family (see Tripp 1998). For example, a 1992 study of women who sell surpluses from their urban agriculture plots in Kampala (Maxwell 1998) found that many women sold surpluses in small increments and informally in order to keep this income invisible to husbands and other male relatives in their households who might claim control of these earnings.

From their start such activities have been met with exclusionary government action. The 1914 Law to Prevent Prostitution and the 1918 Adultery and Fornication Law were enforced well beyond the 1950s largely in order to discourage women from moving to cities and becoming roadside vendors (see Ntege 1993; Obbo 1980). Yet as Christine Obbo (1980) points out, even as this outlaw status was conferred upon them, these businesswomen contributed significantly to urban labor reproduction "by feeding men . . . who could not afford restaurant prices" (1980:149).

Women selling food in unregulated open-air markets became even more essential to urban life in the context of the instabilities that came

with Idi Amin's regime during the 1970s. While Amin's forces controlled extensive illicit cross-border trade networks known as *magendo* (black market) (see Decker 2008; Musisi 1995), women vendors established their own thriving network of night markets, known as *toninyira mukange* ("don't step on mine"), selling prepared foods often without permits but at cooperatively determined prices that discouraged vendors from underselling each other. As *toninyira mukange* markets flourished, they came into direct competition with the Amin-controlled *magendo* economy and became the target of frequent police and military harassment. On April 27, 1974, one thousand open-air market vendors were arrested in Kampala on a police raid for selling without a legal permit.

In the 1980s the new decentralized democratic government of the National Resistance Movement (NRM) brought potential opportunities for informal market vendors who were not satisfied with illegitimate status or exclusionary treatment. However, the promise of formal inclusion was not easily realized. Aili Tripp (2000) has described the thwarted formalization aspirations of a women vendors' association in Kampala in the 1980s. The Kiyembe Women's Cooperative Savings and Credit Society struggled over several years to establish legitimate status and legal recognition of a women's market in Kampala, but they were unsuccessful because of strong opposition from the Kampala City Council.

Recently, the issue of inclusion and "visibility" has been leveraged by the national government to promote the open-air market formalization scheme. The plan has been advertised as an effort to "improve efficiency in service provision" and "create conditions for participatory and inclusive governance" (Lindell & Appelblad 2009:397) of open-air markets. The scheme is intended to bring vendors who had previously been working in unpermitted and unregulated sectors into a legitimate relationship with formal government, and therefore give them greater access to legal and political protection. The scheme, however, conflates formalization with inclusion and increased agency, and it ignores the logic and practical concerns motivating informal organizational strategies devised by vendors. Although it provides a regulated form of representation, examples from Kampala and Jinja show that the market formalization scheme has tended to undermine vendor agency and bargaining power and has raised uncertainty about market governance.

Under the formalization scheme the individual awarded a contract to manage an open-air market is explicitly responsible for delivering taxes and dues to municipal councils and higher levels of government. This move is subtle but important, since it changes the primary goals and functions of open-air markets. Markets managed by informal vendors' associations and cooperative strategies like those used in the *toninyira mukange* markets were geared toward hedging risks for vendors in an unpredictable market by means of controlled overpricing, shared profits, and collective reinvestment to facilitate individual gain through group stability. Under the new formalized system individual profit and the flow of resources away from the

market in the form of taxes and fees have become central organizing principles. This significantly alters the conditions under which vendors operate and has disrupted the political economy under which informal market vendors had developed workable livelihood strategies.

Implications of the Market Formalization Scheme: Amber Court Market

The Amber Court Market began during the 1950s as an informal open-air market near a busy intersection in Jinja. In 2005 the Jinja Municipal Council (JMC) privatized management and moved the market to a new location. The market is now managed by an individual businessman who had not previously been a vendor in the market. Vendors who have been selling at Amber Court since its informal beginnings told me that prior to formalization the market had grown from a small group of women selling food and basic necessities by the roadside to a busy market governed by an unregistered but highly organized vendors' association. The association, led by an elected chairperson and committees and run according to formal rules of governance, managed vendors' collective investment in market improvements as well as safety and sanitation. Vendor fees and retail prices were set by the association in a flexible manner, taking into account seasonal fluctuations in the availability of agricultural goods as well as global and regional changes. For example, during crisis moments spurred by either local or global fluctuations, vendor fees could be quickly lowered in order to account for loss of income.

Protection against market fluctuations had been key aspects to the organization of the vendors' association at the original informal Amber Court Market. Vendors are very aware that their livelihoods are precarious, affected by the tumbles and unexpected turns of both local and global dynamics such as fluctuating agricultural production, military actions, global food crises, changes to political regimes, and transnational trade and financial crises. The conflict in Sudan, for example, is expressed in the rising wholesale price of *posho* (maize flour). A young man standing over a pile of green cabbages told me his price rises and falls with the price of oil because of correlated transport costs for his bulky product. "It's hard to know how it will be tomorrow" he said. Vendors do not need to be "integrated" into transnational markets; the nature of their business means that they already are intricately connected to global trade dynamics. Formalization has not offered vendors at Amber Court the protections or flexibility needed to withstand the volatilities and vulnerabilities they experience in their trade.

In 2005 the Jinja Municipal Council awarded the first contract for management of the Amber Court Market to a small group selected from the vendors' association because there had been little competition for the contract. After two years, however, the JMC awarded the contract to a private businessman with no previous connection to the market. A member of the local government involved in awarding contracts for the Amber Court

Market management told me that vendors no longer bid for these contracts because they do not meet criteria for contract awards. In an effort to secure regular payments from market managers, municipal governments are required by law to award contracts only to bidders who have business education and access to collateral and credit, as well as the initial capital to register formally as a private company eligible for tax collection (see Lindell & Appelblad 2009). Most vendors cannot meet these requirements.

The change in market management at Amber Court has resulted in disputes regarding authority over the market. The JMC contract for market management stipulates only how much money the manager is to pay the municipal council; it does not specify how responsibility for representing or including vendors is to be undertaken—or indeed, what the responsibilities of the manager are to the vendors. It is unclear now who is accountable for such matters as market improvement, service delivery, and attention to vendors' needs. This ambiguity has created a situation in which vendors have supposedly been integrated into the formal market but have not been given adequate representation or risk-mitigating protection. This has ultimately alienated them from the formal management system and the private manager. Many vendors at Amber Court Market complained that dues and fees paid to the private manager have consistently increased, but the manager has made little effort to maintain sanitation or invest in the market's infrastructure. Although the vendors' association has continued to exist despite the privatization, it has little influence over market management and has been reduced to carrying out services for the manager such as collection of dues. Several vendors commented that because the new manager was not chosen by them, he did not see himself as accountable to their needs. A woman who sells chapatis from a small wooden stall told me that she thought the old vendors' association had been "hijacked" by the government-contracted manager. In effect, the change to formal private management has turned self-employed vendors into employeelike workers with little bargaining power.

Under these new conditions, vendors have resorted to informal strategies to create a kind of shadow or invisible management of the market, albeit on a much more limited scale. Savings clubs provide small revolving loans to individual vendors to improve their businesses and survive market irregularity. Groups have also organized to manage projects such as cleaning and removing garbage from common areas. Thus, within a limited range this "invisible" management system has arisen in answer to the problem of ambiguous authority. This trend toward re-informalization demonstrates the individual agency of the market vendors as well as their ability to organize for their collective interests; the formalization process, by contrast, has tended to disenfranchise the vendors and divert resources to private management and the municipal government. The efforts of vendors to maintain some small control of their marketing businesses through "invisible" management strategies give vendors some ways to cope with the new market conditions, but they have also allowed contracted management

of Amber Court market to ignore vendors' needs or fail to communicate them to the municipal council.

It is important to note here that the outcomes of formalization at Amber Court Market in Jinja are not very different from those observed by Lindell and Appelblad (2009) after the formalization of the Parkyard Market in Kampala. In 2000 the Kampala City Council awarded private management of Parkyard to a firm called Equator Touring that had no previous ties to the market. Here vendors reported that Equator Touring had not only increased fees and taxes without providing the needed services, but it had also used violence to discourage vendors from meeting or organizing. Despite vendors' efforts to actively seek help from several levels of city government, no support was offered.

Legalization, therefore, does not necessarily provide the kinds of protections afforded by invisibility or informal strategies. Enforced formal market integration or greater "visibility" does not automatically serve to increase political participation, bargaining power, or the economic opportunities of vendors. Instead of encouraging greater participation in formal decision-making, market formalization has produced greater confusion about jurisdiction and authority over markets and who is responsible for protecting vendors' interests. This illuminates the power of donor agencies to shape undesirable outcomes for informal sector vendors at the local level. The conflation of "legal" status or legitimized integration into formal markets with access to political inclusion and agency has presented a hard bargain for vendors at Amber Court and Parkyard. Vendors have been asked to trade self-determination and control over their own productive resources for access to representation in the formal decision-making system. The outcomes at the Amber Court and Parkyard markets warn us to consider carefully the potential impacts of implementing policies designed to increase local "participation" and/or "good governance," especially where the informal sector is concerned.

The National Fisheries Policy

Fishing is big business in Uganda. Second only to coffee, fish exports are the country's largest source of foreign currency. This booming business brings significant revenue to the Ugandan government through taxes and levies. Eleven fish processing companies located on the shores of Lake Victoria control the export of up to thirty thousand metric tons of fish every year, and total exports across Lake Victoria can measure up to six hundred thousand metric tons annually. Fish exports from Uganda earned \$117 million in 2009.² These earnings (and/or associated export taxes collected by the government) have not been distributed equally to fishing communities along the lake surrounding Jinja. The National Fisheries Resources Research Institute identified fishing families as consistently "among the poorest sections of communities, threatened by malnutrition, disease and

enduring low standards of living” (Odongkara 2001:2). Another study by Gaheb et al. (2008) found that 40 percent of children in fishing communities near Jinja showed stunted growth related to chronic malnutrition.

The 2004 National Fisheries Policy (NFP) was created in response to renewed concerns about overfishing and loss of fish stocks in Lake Victoria. Loss of fish stocks in the lake has been a recurring concern in Uganda since the 1930s (see Asowa-Okwe 1996), and small-scale fishers have consistently been blamed for this problem. The NFP also is aimed at increasing routes for small-scale fishers to participate in fish resources management as well as particular forms of formalized fishing.

In addition, just as control of female food vendors was associated historically with control of prostitution, small-scale fishers have been implicated in other social problems. For example, the sleeping sickness regulation implemented by the colonial government between 1907 and 1962 first outlawed and then severely restricted the fishing practices of small-scale fishers. The 1907 Uganda Fishing Ordinance and 1908 Sleeping Sickness Rules were the first of many successive policies that have criminalized fishing or the sale of fish without a permit, and permits have been financially unattainable and for most small scale fishers. Kirk Hoppe (1997) points out that the imagined connection between unauthorized fishing and the disease of trypanosomiasis was the supposedly unhygienic and disorderly conditions of the lakeshore communities. The criminalizing of small-scale fishing, as well as large-scale population removals and controlled resettlements along the lake, were all part of the British colonial government’s attempts to transform Africans from a population “responsible for the disorder of their environment that allowed [tsetse] fly infestation” (1997:89) into an orderly, “hygienic” population of cash crop farmers—thus producing, not coincidentally, a disciplined labor force for cotton and coffee exporting interests.

In much the same way, the 2004 NFP blames overfishing problems on small-scale informal fishers, who have been characterized as unruly, drunken outlaws who exploit the lake’s resources for personal gain. A *New York Times* article portrayed fishers on Migongo Island in Lake Victoria as drunken “glassy-eyed fishermen” playing dice and surrounded by “squads of prostitutes” (Gettleman 2009). *Africa News* (2009) attributed “fish scarcities” in Lake Victoria to “illegal trade.” This longstanding negative characterization of fishers influenced the framework of the NFP, which has affected the informal fishing sector near Jinja in two different ways: through intensified criminalization of small-scale, informal fishing practices and through inclusion of only legally sanctioned fishers in decision-making about lake resources. Like the open-air market formalization scheme, however, the NFP presents a hard bargain to people who rely on informal fishing practices for their livelihoods. The NFP criminalizes many of the informal, small-scale fishing practices that were developed by fishers near Jinja over the last fifty to one hundred years. For example, under the NFP the use of certain fishing nets and gear as well as the catching of juvenile-sized Nile perch is punishable by

fine or jail time. Ultimately, the enforced system of formalization overlooks the needs of small-scale fishers in favor of routing profits to (nonlocal) fish exporting businesses. Fishers are being asked to give up self-control over their livelihoods in exchange for a formal system predicated on debt-obligation schemes that put small-scale fishers in a more risky position within the globally integrated fish exporting commodity chain. With its new regulations the NFP has succeeded mostly in introducing new confusion about jurisdiction and who holds authority over resources and lakeshore communities rather than in providing a viable alternative to these informal fishing strategies.

The 2004 NFP has been shaped not only by the Ugandan government's concerns about overfishing, but also by foreign donor pressure to introduce "good governance" through "democratic" reforms. The European Union (EU) is one of the major suppliers of aid and export markets for the Ugandan fishing industry. The EU has funded researchers such as Paul Namisi (2000), who suggests that overfishing on Lake Victoria would be mitigated by the introduction of "co-management" systems to incorporate fishers and other stakeholders into the management of lake resources. Policymakers have described the NFP as a participatory policy aimed at undertaking such a "co-management" approach. The Fisheries Management Plan for Lake Victoria 2009–2014, published by the Lake Victoria Fisheries Organization, states that "in earlier years, a centralized, top-down approach had . . . failed to protect fish resources and the many livelihoods dependent on these resources." Therefore, the member states (Uganda, Kenya, and Tanzania) "decided to employ a more participatory approach. In a co-management arrangement, stakeholders outside of government, including fisheries communities and the private fish industry, are given rights and responsibilities, power and a real say in management decision-making" (LVFO 2008:26). However, rather than formalizing and *legalizing* informal fishing activity, as with the open-air market policy, the 2004 National Fisheries Policy *criminalizes* informal fishing activities, with the offer of greater access to democratic decision-making supposedly making up for the increased police surveillance that the fishers now have to endure. Nevertheless, even with the increased threat of police harassment, fishers have continued to pursue informal, illegal fishing livelihood strategies because conforming to the NFP formalization scheme is considered to involve even greater risks and loss of bargaining power. While many fishers are interested in participating more actively in government efforts to manage lake resources, the cost of formalization through the NFP has turned out to be too high.

Implications of the NFP Near Jinja

On a wide flat beach along the lakeshore on the outskirts of Jinja there is a legal, officially regulated landing site busy with fishers laying out nets to dry on a wide beach and cleaning a row of large flat-bottomed boats

outfitted with motors that sit at the water's edge. Women work on flat lakeshore rocks preparing dried fish. Walking west along the lakeshore on a small footpath beyond the sounds of the busy landing site, passing plots of maize, yams and beans, one comes upon a small, hidden landing site that offers seclusion and privacy. On the first morning that I visited this site, a few fishers in small narrow canoes had just brought in their catch of small Nile perch and tilapia. These canoes were smaller than the boats at the formal landing site, holding only a two- or three-man crew each. The fishers were met by several local traders ready with sacks and bicycles to transport the fish to local markets. The negotiations, bargaining, and deal-making between fishers and traders were drawn out in a series of careful calculations. Eventually a price was agreed upon and cash was exchanged for fish.

Godfrey, one of the buyers at this hidden landing site, explained to me in a low voice that I had just witnessed an illegal fish sale. "These fish" he said, patting the sack loaded on his bicycle, "are undersized fish, it is not permitted to sell juvenile fish, but we can make good money selling them in the local markets. So," he shrugged, "we do it." Godfrey had worked for three years as a fisher hauling illegal undersized fish to hidden landing sites around Jinja for quick and relatively lucrative profits. Soon he had saved enough money to start his own wholesale fish trading business. He said that he now trades in illegal sized fish, but also in legal fish at regulated landing sites, buying from fishers he has come to know in the trade. He said that while he had been a fisherman the competition was fierce; his competitors would often steal his gear, and the police would come after him on the lake in motorboats with guns looking to receive a bribe if they caught him with undersized fish. "It's very risky" he said. When I asked about the option of selling only legal sized fish at regulated landing sites, several of the fishers at the landing site joined Godfrey in explaining that formal, legalized wholesale traders contracted by exporter-processing firms control the sales at regulated landing sites and only offer prices that are below the cost of production. Selling at such low prices does not leave any profit for the work of fishing, cost of gear, and upkeep of the canoe. "But these traders from the factories control the price, we cannot bargain with them."

Most of the fish sold at regulated, sanctioned landing sites is headed for processing and export from Uganda to Asia, Europe, the Middle East, and North America (see Namisi 2000). The "illegal" fish traded at landing sites such as this one ends up in small local markets where demand for the protein-rich food is high and the prices are good. The fish sold at illegal landing sites passes through only one or two sets of hands before it reaches the market. This ensures that local fishers and vendors receive the greater portion of profits from the trade, keeping resources more or less within the lakeshore communities.

At Masese, a formal landing site on the outskirts of Jinja, there is a large tin-skinned fish processing plant humming along to an internal network of machinery, spilling fishy smells, surrounded by a high fence, and guarded

by armed security. The windowless building houses one of five fish export processing plants on the Lake Victoria shore near Jinja. At a dock at the back of the factory, jutting out into the lake, mountains of large Nile perch up to five feet long are transferred from motorized flat-bottomed boats brought by legally regulated wholesale traders. More than thirty thousand tons of fish are exported from Uganda through these fish processing firms each year. The NFP aims to curtail overfishing, but it does not limit the exportation of fish from these processing-exporting companies.

The business practices of fish processor-exporters tend to reinforce reliance on high-yield fishing, in other words, large catch sizes. Most fishing around Jinja is done by fishers who own one or two boats and hire five-man crews to do the fishing work in exchange for yield-based wages. At official, sanctioned landing sites, fishers sell legal, adult-sized fish to wholesale traders, who then sell the fish to the processor-exporters. The exporters control this multistep process through a debt-obligation system. A wholesale fish trader told me that processing companies “trap” wholesale traders by offering expensive gear and other necessities like ice on “credit”; in exchange, the company has “exclusive rights” to the wholesale stock and it is agreed that the eventual sale will take place without negotiation. Wholesale traders, in turn, make similar debt-obligation arrangements with fishers, providing nets and gear at a lower-than-retail price on “credit” in exchange for exclusive rights to the catch at a nonnegotiable price. This system of debt and obligation ensures that fish processor-exporters can acquire an abundant flow of fish at low prices, allowing for greatest profit when the fish is resold. Fishers receive the least amount of profit from this arrangement, having the least leverage to negotiate a price that reflects the cost of production. Therefore, participating in this formalized fishing scheme ultimately puts small-scale fishers in a vulnerable position in the globally integrated fishing economy, while illegal but self-controlled informal fishing activities offer greater bargaining power.

The debt-obligation system and reliance on high-yield catches to make up for low wholesale prices have been encouraged further by earlier changes to the lake ecology made by the colonial government. In 1951 the fish export business in Uganda was well established, but colonial officials were concerned with continued fish stock depletions. At that time it was decided to restock Lake Victoria with several nonnative fish species, most notably the predatory Nile perch, which became the dominant species in the lake, feeding on and depleting the remaining stocks of native fish species. These fish can grow to more than six feet in length and often occupy deeper and less easily accessible waters in the lake, requiring stronger nets and motorized boats. Therefore, the expanding global market for Nile perch has contributed to the need for larger boats and more heavy-duty nets and gear.

If fishers comply with the NFP regulations, leaving their criminalized fishing strategies to become exclusively engaged in legalized fishing work,

their only option for outfitting themselves is to submit to the debt-obligation system, which requires them to sell their labor and/or fish below or near the cost of production. There is more room for price negotiation and response to changing market conditions at unregulated sites because the fish traded in the informal market is primarily bound for local markets. The informal fish market is also preferable because it accommodates trade in (illegal) juvenile-sized fish that can be caught with less gear and less labor-intensive methods.

New Routes for “Participation” and Jurisdictional Confusion under the NFP

In a move that seems to turn against stigmatization and marginalization of small-scale fishers, the 2004 National Fisheries Policy introduces an avenue for greater “participation” of the fishers in managing lake resources and fishing livelihoods through a new local governance body known as a Beach Management Unit (BMU). Located at each regulated landing site, BMUs are mandated to collect taxes and levies from local fishers and wholesale fish sales at the sites. The BMU leader is elected by the landing site community and is usually a resident of the community with a working knowledge of fishing. The BMU leader is supposed to provide lakeshore communities with a line of communication to higher levels of government where lake management decisions are made. The leader is also expected to cooperate with the Maritime Police Force to enforce NFP regulations. Revenue from taxes, levies, and fines for violating fishing regulations are then provided to the county and national government. Despite this stream of revenue, however, BMU workers at landing sites are not paid for their service and are provided with very few resources to carry out their work.

Just as the formalization of Amber Court Market has obscured who is responsible for “governing” and providing for vendors’ needs, the BMU system has created ambiguity around governance and jurisdiction over lake resources and protection of fishers’ livelihoods. Permitted businesses, local government officials, and Maritime Police, as well as informal fishers, all claim differing forms of authority and control over lake resources. BMU leaders are elected through local ballot elections. Enforcement of the NFP fishing regulations is the responsibility of Maritime Police and BMU leaders. But only the fishers themselves have daily contact with the lake and shifting cycles of fish, and the handful of fish processor-export factories located near Jinja in effect wield the greatest authority because of their significant economic power. Geheb et al. (2007) suggest that the NFP has not been unsuccessful in curbing illegal fishing because it does not specify how transparency and accountability are to be maintained by the BMU. This critique, however, does not address the competition for jurisdiction over lake resources.

Fishers and BMU leaders alike said that the new NFP Beach Management system has brought more divisions than solutions in lakeshore com-

munities. One BMU official described how difficult it is to balance his responsibilities. He told me that because he is required to enforce NFP regulations, he is expected to confront friends, neighbors, and family members who are using illegal fishing gear. “How can I take away my brother’s livelihood? He has no other way!” He explained that the government has asked him to go out on the lake and help the police arrest fishers who are illegally harvesting juvenile fish, but he is given no resources with which to manage the local consequences of these arrests and confiscations. This situation of authority without resources has left him in a difficult position. The BMU leaders’ mandate to enforce criminalization of certain fishing practices also means that “illegal” fishers are unable to communicate their concerns about lake conditions without subjecting themselves to potential arrest or legal sanction.

Many of the fishers I spoke with near Jinja were eager to engage the government to provide greater protections for the lake resources and their livelihoods, but they had remained excluded from formal decision-making because of their continued involvement with informal, illegal fishing. Even so, they found the consequences of their exclusion from BMU meetings due to risk to be negligible, since they consider the BMU leader to be relatively ineffectual in terms of his ability to lobby for these protections. Given this context, the informal fishing trade offers fishers more personal control over risk management and more bargaining power through the local market.

While scholars and practitioners have debated the efficacy of legalizing or criminalizing informal sector activity, fishers’ actions are driven by a desire to maintain direct control over their livelihoods. In this context, legal status becomes a secondary concern. Fishers are keenly aware of reductions in fish populations and know that catching juvenile-sized fish is not a long-term sustainable practice. But they also expressed to me their sense of unfairness about the blame they receive for the loss of fish stocks. They see many of the problems on the lake and in lakeshore communities as stemming from their *lack* of control over lake resources and the failure of fishing exporters to reinvest profits in their communities. The BMU does not offer a route to changing the extractive nature of Uganda’s fish export business. Observations of fishers negotiating fish prices at the illegal landing site made it clear that people engaged in the informal fishing economy near Jinja know a good bargain when it is presented. The NFP is not considered a good deal because it asks too high a price in exchange for weak BMU representation. In other words, it offers a few benefits of “participation” in exchange for the loss of control over one’s labor and livelihood.

Conclusion

Formalization that provides greater legal protections and increases the participation of local people in decisions affecting them is a noble aim that has

become integrated into many emerging development policies, including Uganda's open-air markets formalization scheme and the 2004 National Fisheries Policy. However, special attention to the consequences of such formalization and new routes to "participation" and democratic governance must be considered, especially when such projects target previously marginalized groups such as people engaged in the informal sector. Ultimately the consequences of formalization may be more risky and involve greater loss of control over livelihood options than those encountered in the informal sector.

Although open-air market vendors have been cast as deviants and prostitutes, and small-scale fishers have been marked as unruly outlaws, there is a practical rationality behind the ways in which people engaged in Jinja's informal sectors conduct their business and interact with recently introduced participatory policies. Through informal sector strategies which they have devised and continually revise, vendors and fishers assert their desire to remain in control of their productive resources and to hold on to the bargaining power available to them through informal strategies. The market formalization scheme and the 2004 NFP enforce undesirable and precarious formalization frameworks that put vendors and fishers at a disadvantage in their globally connected businesses. Even as they offer local communities greater forms of participation in governance and decision-making, these policies have the effect of exacerbating contested forms of authority as well as reinforcing the flow of resources away from local economies. The market formalization scheme provides representation through a government-appointed representative, and the NFP provides representation through an elected BMU leader. But neither type of representation offers the accountability and bargaining power required to respond to vendors' and fishers' need for protection in globally integrated and volatile agrifood markets. Ambiguous authority, lack of formal mechanisms of support, and a steady appropriation of resources from the affected populations are some of the key conditions that have tended to spur informal sector activity in the past, and that continue to do so now.

The market formalization scheme enforces legalization of informal sector activity, while the NFP enforces criminalization of certain fishing practices. On the surface it seems that vendors at Amber Court Market are complying with the formalization directive while fishers are more visibly cast as noncompliers. But vendors are not satisfied with the new system and have largely disengaged from formal representation, relying instead on "invisible" cooperative endeavors such as savings groups that reinvest in market improvements such as waste collection. However, since their previously informal strategies were more or less "invisible," it is somewhat difficult to discern their dissatisfaction with the market formalization scheme. Because of the criminalization enforced by the NFP, it is more immediately apparent that fishers are continuing with their "illegal" activities and not complying with the NFP pressure to formalize, nor are they participating in

the new BMU process. This makes it easier to blame fishers for the failure of the policy and/or continued concerns over distribution of lake resources.

Rather than increasing agency and participation, the market formalization scheme and the NFP have contributed to greater marginalization of fishers and vendors through the hard bargain that it drives. Each policy routes vendors or fishers into specified systems of formalization that reduce their control over their own livelihood and risk-management strategies. The market formalization scheme has effectively undermined the self-organizing strategies developed through vendors' associations at Parkyard and Amber Court markets, which before formalization were organized to provide a responsive social security net geared toward individual profit as well as collective well-being. After formalization, accumulation of profit for private market managers has been rewarded more than cooperative strategies. The original vendors' association at the Amber Court Market had a distinct institutional structure and role that was simply overlooked by the formal system of open-air market governance; rather than encouraging "participation," the new structures effectively demolished it. For fishers, the prospect of negotiating their livelihoods from a position of relative powerlessness in the legal "exclusive rights" and debt-obligation system that is ultimately controlled by fish exporters is more risky than the danger of police harassment for outlawed fishing practices. Conforming to the NFP fishing regulations requires that fishers give up the ability to demand a sale price based on their own calculated cost of production. Ignoring the practical concerns of fishers and simply maintaining the idea that fishers are reckless outlaws depleting the lake's fish stocks have undermined the effectiveness of the NFP.

It is important to emphasize that vendors and fishers pursue informal or illegal strategies because this route offers them greater protections and control over their livelihoods, not because of a desire to pursue illegal or unregulated activities. Formal "participation" would be more attractive if it did not come at such a steep price and if it offered them greater influence in larger-scale decision-making. If a formal system were able to provide the kinds of protections and bargaining power required by vendors and fishers, there would also be less competition and confusion over authority and jurisdiction between the formal and informal sectors.

Both the market formalization and the National Fisheries Policy place an intense focus on activities at the "local" level. Rather than reversing trends in "top-down" approaches to development and economic growth, however, this local focus tends to divert attention from the role of donors and larger-scale governing bodies in shaping policies that reinforce the unequal flow of global resources as well as the precarious positions of vendors and fishers in the global marketplace. The flow of resources away from open-air markets and fishing communities cannot be reversed by local votes or meetings with a local representative alone. Turning such a powerful tide

requires changes at the level of transnational governance and in the trade organizations that determine global resource flows.

Greater participation by groups such as open-air market vendors and small-scale fishers is certainly a crucial aspect of producing greater equity and successful development outcomes for both economic prosperity and environmental resource protection. Having a place to speak at the table, however, is not the same as having a place to eat at the table. The two participatory policies examined here show that the equity, inclusion, and prosperity promised by enforced participation and “good governance” cannot be accomplished simply through “representation” or locally elected institutions, but require a more comprehensive approach to economic and political empowerment through both political and market protections. The “good governance” format utilized by the open-air markets formalization scheme and the 2004 National Fisheries Policy does not serve the needs of vendors and fishers because it does not reverse the outflow of resources or provide a solution to existing forms of contested authority. Instead these policies tend to route vendors and fishers into positions of weaker economic and political bargaining power. Paradoxically, these policies designed to promote formalization and inclusion have resulted in greater confusion, instability, and uncertainty. Such precariousness is a key factor driving informal sector growth. People engaged in the informal sector require materially substantial forms of livelihood protection as well as political leverage far beyond the local level. While the informal strategies used by vendors and fishers are not ideal, they have succeeded since the colonial era in providing relative protection and stability, and therefore they continue to be practiced.

The effective “inclusion” of groups that have previously been marginalized and/or criminalized such as those in the informal sector requires a shift in the “good governance” paradigm that recognizes the logic and practical considerations that have shaped the strategies of those engaged in the informal sector. Focusing on abolishing the illegal economy and local governance reforms effectively places the burden of holding policy-makers and global market structures accountable on the shoulders of those who have the least power. Policies focused on a singular model of formalization and/or local governance participation can ultimately undermine the economic and political empowerment of historically marginalized groups.

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Notes

1. All names of research participants have been changed to protect personal privacy. All interviews and observations took place in Jinja, Uganda, in May, June, and July 2009, with permission from the Ugandan Council for Science and Technology and in conjunction with the ongoing research of Holly Hanson.
2. See *Africa News* (2009); *New Vision* (2010).