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FUZZY ACCESS RIGHTS IN PASTORAL ECONOMIES: CASE
STUDIES FROM ETHIOPIA

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1. INTRODUCTION

The standard approach to the analysis of property rights recognizes only clearly-defined property right regions and considers flexibly rights as causes for negative externalities. In some cases, the standard approach entertains the notion of “tragedy of the commons” with reference to common property regimes, a concept often confused with open access regimes. The basic weakness of the standard approach arises from the fact that it neglects the complex forms of rights, which are widespread in traditional societies (Aredo 1999), in general, and in pastoral societies, in particular.

Of course, the complexity of property right regimes in pre-industrial societies has been investigated by some authors. For example, Ostrom (1998), who argued that “the world of property rights is far more complex than simply government, private and common property”, has identified a hierarchy of five classes of rights including the right of access, withdrawal, management, exclusion, and of alienation. Corresponding to each of these right regimes, she identified five classes of property rights holders, i.e., authorized entrants, authorized users, claimants, proprietors, and owners. However, although her thesis is relevant to the analysis of undefined access rights, Ostrom persisted with the idea that rights should always be defined if negative externalities have to be avoided.

However, as suggested by the theory of “fuzzy access rights”, access rights should not necessarily be defined to avoid negative externalities. What matters is not the type of tenure arrangement that a society has, but the viability of intuitional mechanisms the society employs to regulate the uses of scarce resources. But, once these mechanisms are eroded, cooperation between groups may breakdown and conflicts will be aggravated. Under such conditions, common pools resources will be over-exploited giving rise to increased vulnerability of households to negative shocks.

The purpose of this study is to explain and illustrate the concept of “fuzzy access rights” (the second section) and provide further evidence from the pastoral areas of Ethiopia using case studies (the third section).

I have used the case study approach to piece together the scattered evidence of fuzzy access rights and investigate factors associate with them. The case studies are based on the anthropological literature and on the author’s fieldwork in south-eastern Ethiopia. The fieldwork was undertaken between the last week of February and mid-March 2003.

2. FUZZY ACCESS RIGHTS: THEORETICAL PERSPECTIVES

Tenure arrangements in pastoral areas of Africa may not correspond to the commonly held concept of common property. Thus, Goodhue and McCarthy (2000:192) note that:

Access to grazing land in sub-Saharan Africa does not closely correspond to the traditional economic concept of common property, where some fixed numbers of the common property user-group have equal and complete access to the available forage. An empirical regularity identified and discussed by a number of authors is that grazing-area boundaries and membership in the access group are not well defined.

With reference to the Borana area of Ethiopia, Helland (1999:9) notes that: “kin groups or other social formations in Borana did not attempt to claim exclusive rights to particular tracts of land within the larger area under Borana control. Ownership to water resources, however, is much clearly defined”.

In pastoral areas, tenure regimes provide “bundles of rights and duties”, disaggregated by:

- Resource type (e.g. grass, shrubs, trees, stream water, ground water, wild animals);
- Resource use (e.g. grazing, cutting of thatch grass, harvesting of fruit, tree felling, lopping of branches, livestock watering, irrigation, hunting);
- Resource users (e.g. individuals, families, sub-groups; primary rights-holders, secondary rights-holders or temporary users, men, women);
- Season of use (e.g. dry season, wet season, wet season, in drought years only); and
- Nature and strength of rights and duties (e.g. exclusive use, shared use, permanent rights, temporary rights, rates of use, boundaries of resource use) (Cousins 2000:155-57).

Based on multiple rights to pastoral resources, in general, it is also possible to distinguish between five types of territorial units (Niamir-fuller 1994):

- i) the customary territory belonging to the tribe;
- ii) flexibly defined annual grazing areas within the territory, with priority use by several clans, sections or sub-sections;
- iii) dry season bases where a specific group, such as a sub-clan, is the primary user and others are secondary or tertiary users;
- iv) key sites within the dry season base; and
- v) Group or individual resource/areas, such as trees, where a household or group of households are primary users.

Multiple uses of resources and bundles of rights in the Sahel are graphically described by Thebaud (1995) as indicated by the following rather lengthy quotation:

Resource use in the Sahel involves a multiplicity of users: an annual pasture is often accessible to many users from different directions that remain for an indeterminate time; valleys or *bas-fonds* may be exploited and jointly controlled by several agro-pastoral village communities, or by smaller groups with family fields within the *bas-fonds*; family fields will be controlled by households. These fields may be opened at certain times of year to passing herders in exchange for the manure from their animals. Non-exclusive rights, such as to water points, may involve priority usage rights held by a restricted group, who also allow access to other pastoralists, in accordance with strict rules aimed at controlling grazing in the surrounding area. Pastoral land use involves a duality between vast rangelands and more limited home areas which often contain strategic resources: deep wells, areas around lakes, rivers, streams or permanent water holes or *bas-fonds* rich in woody species.

Fuzzy access rights, though not necessarily restricted to, are more conspicuous in pastoral economies than in sedentary agriculture. This is primarily due to the specific feature of pastoral economies: mobility.

In pastoral economies, mobility is a mechanism by which a sort of equilibrium is maintained between the human population, animal population, and natural resources. The two major critical resources of pastoral economies i.e. water and pasture, are scarce, scattered and are spatially and temporally variable.

In pastoralist systems, a high degree of mobility of livestock and humans is essential because of spatial and temporal variability of resource availability. Seasonal movement of livestock may exploit resource made available through unpredictable environmental fluctuations. Stock movement may take place in response to unpredictable rainfall fluctuations, disease outbreaks a breakdown of water points and to range fires. Thus, it is possible that mobility increases the overall carrying capacity of rangelands. Because of seasonal movement of livestock and claims put forward by heterogeneous ethnic and social groups (e.g. clans, sub-clans, families), it is difficult (or, possibly, less advantageous) to clearly define property rights (Cousins 2000, Goodhue & McCarthy 2000).

Fuzzy access rights are comprehensively defined by Scoones (1994:27) in terms of overlapping claims, flexibility of rights, and negotiations:

Overlapping claims to resources, shifting assertions of rights and continuous contestation and negotiation of access rules dominate tenure arrangements in uncertain environments. The solution is not to impose particular tenure types on a variable setting; whether these are uniquely communal or private they are unlikely to work. Instead, the need for flexible tenure arrangement must be recognized... Customary tenure systems operate shared and overlapping forms of tenure rights in such settings as maintaining strict boundaries is usually untenable.

The distinguishing characteristics of fuzzy access rights include: multiple rights, partial and asymmetric rights, flexible boundaries, time-bound access rights and mutual trust and reciprocity.

Multiple rights and duties are conspicuously evident in pastoral areas, where hierarchies of rights are common. In particular, it is possible to distinguish between: a) primary users having highest priority within the territory; b) secondary users having seasonal access to resources; and c) “tertiary users” having infrequent access to resources dictated by difficulties (Cousins 2000). The following example from south-west Ethiopia illustrates primary and secondary access rights in pastoral areas.

Table 1. Primary and Secondary Rights in the Pastoral Areas of South-west Ethiopia

Primary right holders	Secondary right holder	Type of resource involved	Description
The Hamar people	The Karo People	Grazing land which is free from tse tse fly	Households from the Karo area keep their cattle with Hammar household. The latter also provide their labour for looking after animals. In addition, there is a system of gift exchange between the two ethnic groups.
The Karo people	The Nyangatom (Bume)	Arable land on the west bank of the Omo river. The groups cultivated land side-by-side. Also the Karo grant the Nyangatom free passage on their land so that Nyangatom go to market	The Karo groups grant grazing land to the Nyangatom people. During times of food shortages, Nyangatom women cross the river and help Karo households with harvesting and grinding of sorghum. In return, Nyangatom women get sorghum from Karo households. Young men from the Karo group collect animals from the Nyangatom households for the purpose of cattle leaping ceremony.
The Arbore people	The Borana people	Grazing land and water	Bond-friendship and exchange of gifts
The Borana People	The Abore People	Grazing land and water	The Arbore move to Borana lands during rainy seasons. Bond –friendship and exchange existed between them

Sources: (Gebre 1995; Petros 2000)

Rights are also partial and asymmetric. As indicated above, primary users exercise more rights than secondary or tertiary users. A hierarchy of rights the type of which Ostrom (1998) identified often exists in pastoral areas.

Flexible boundaries (if and when they exist) constitute a feature of fuzzy access rights. In some pastoral areas, boundaries separating contending groups may be clearly demarcated, and, yet they remain flexible to allow groups access to resources during times of shocks. The following example from the Afar area of Ethiopia illustrates how accesses to resources are negotiated between primary and secondary right-holders:

The Afar are conscious of territorial boundaries (though these are considered flexible) since every tribe and clan has its own clearly demarcated territory that is guarded by scouting parties called *giba*. Grazing land is divided among the clans and sub clans within a tribe in accordance with customary law. One clan is not allowed to use the resource of the other without their knowledge and prior consent. Clan resources are often **shared**. Resource sharing is the basis of strong traditions of reciprocity among Afar (Flintan & Imeru 2002:280).

Similarly, Niamer-fuller (1994) succinctly describes how pastoral groups manage overlapping territories by maintaining buffer zones and fall-back areas:

Overlapping territories, as managed jointly by neighboring groups, allow some room for expansion and function as fall-back areas in difficult years. Buffer zones between groups, maintained for similar reasons, are more extensive and often used by more than two groups. The latter require *ad hoc* negotiations over use between the different groups when the need to use these areas arises.

Lack of precision in the definition of physical boundaries is often mirrored by a corresponding fuzziness in the definition of social boundaries (Cousins 2000). Social groups, like neighboring ethnic groups, clans, sub-clans, and families, often intermix and lay claim to the same resource (such as grazing land and water points).

Access rights are often time-bound. Groups get temporary or seasonal access to resources controlled by primary users. “Some clans may use a pasture consistently from year to year but for different lengths of time, while other clans may use it only occasionally” (Goodhue & McCarthy 2000:1994).

Mutual trust and reciprocity constitute the pillar of the institution of fuzzy access rights. Reciprocity manifests itself often in the form of gift exchange based on the institution of “bond-friendship” fostered between individual families from two or more ethnic groups or clans.

Fuzzy access rights are acquired either through negotiation (See Case Study 1) or without negotiation, i.e. through long existing cultural norms and practices as indicated by the relationship between the Karo and Hamar peoples of south – western Ethiopia (See Case Study 2).

Why are flexibly -defined access rights preferred to well-defined rights? To the extent that pastoral economies of East Africa are concerned, flexibly access rights generate more positive results than well-defined access rights. According to Goodhue and McCarthy (2000:193) flexibly defined access rights to grazing areas have two advantages: improved in comes of pastoralists and possibilities of risk minimization given the uncertain

Flexibly defined, or fuzzy, access may be preferable to well-defined grazing areas for two reasons: the ability of pastoralists to improve their income realizations by mutually adjusting access to commons ... and the risk-reducing role of mobility.

Flexibly –defined access rights are mediated through culture-specific institutional mechanisms and through formal negotiations. These institutions and agreements serve two major purposes, i.e. a) to prevent or minimize negative externalities arising from non-cooperative behavior of groups and b) to prevent resource-based conflicts from going out of control.

Resource use under fuzzy access right regimes are regulated by cultural norms (See Endalew 2002 & Case Studies 3 & 7) and threat of withdrawal of rights if rules and regulation are violated. There are culture-specific rules and regulations defining the timing of physical access to pasture and water points, determining the type and number of animals to be brought to natural resources, and determining the length of stay in a given area. Interestingly enough, wild animals too, are granted access rights to natural resources. Anecdotal evidence suggests that there is no inherent conflict between man, domestic animals, and wild animals. An informant in the Borana area of southern Ethiopia told the present author that tradition dictates that water should be drawn from boreholes and be set aside for the use of wild animals. Therefore, according to the informant, every time the cattle are brought to a waterhole, the water “father” (*aba ela*) makes sure that some water is left for wild animals to drink.

In general, it is possible to identify the following factors as mechanisms for making fuzzy access rights workable:

- i) Bond-friendship between families from different ethnic groups
- ii) Inter-marriage among families from different ethnic groups
- iii) Common historical clan origins of ethnic groups.
- iv) Different cultural norms and practices like the *geda* system of the Oromo people.

In addition to the above, trade relations, too, are very important to forge bonds between people. An excellent example of trade is the one undertaken between the Dassnetch and Arbore (where 5 to 7 bulls were exchanged for one rifle, depending on its quality).

Further causalities are prevented by reconciling antagonistic clans or group. Most often, elders from both sides assemble together and settle disputes. The reconciliation process often involves rituals, swearing of oaths, payment of compensation (blood money), and transparent discussions (See Case Studies 4 & 6).

However, to the extent that East African pastoral systems are concerned, indigenous institutional mechanisms are being undermined resulting from external factors to a large extent and from internal factors to a lesser extent (See Case Studies 5 & 8).

Underlying external factors is the economic, social, and political marginalization of pastoral areas (Aredo 2004a). Adverse external factors could lead to progressive shrinkages of the resources basis of pastoral resources. Referring to the Karrayu area, Gebre (2001:109) noted that “access to pasture land is traditionally regulated collectively, entitling all members of the Karrayu society to equal access to pasture”. In the past, Non-Karrayu people were granted, by a village leader in consultation with other village leaders, permission to use resources to the Karrayu people. But nowadays, outsiders are denied access to land simply because there is no

more excess land to grant to others. The Karrayu land has been shranked enormously resulting from the expansion of commercial farms and establishment of national park in the area. The total territory of the Karrayu people have been reduced by 60 % from 150, 113 hectares in early 1950 to about 60, 000 hectares today (Gebre 1995).

In turn, the shrinkage of resources bases could lead to increased competition over resources, disruption of economic activities, and to increased incidence and frequency of conflicts (See Case Study 6). The case of the Arbore and the Hamar people of south-west Ethiopia provide interesting illustration. Between the period of Italian occupation of Ethiopia (1936-1994) and 1974 (the eruption of the February revolution), the Arbore and Hamar peoples were engaged in a cycle of conflicts involving death of persons and raiding of animals. During this period, at least eleven major incidents were reported. In some cases, corrupt local officials were directly involved in the cycle of attacks and counter attacks under taken using firearms. In other cases, local government officials attempted to punish the wrong-doers and restore peace. Some of the Arbore people (who were out numbered by the Hamar) left their place and settled near the police post, where they got protection. But, government sponsored peace efforts were short-lived. It has also been reported that, on one occasion, the Arbore people were aided by their ally, the Dessanetch in their fight against the Hamar. Finally, in mid 1970s an irrigation scheme was constructed using water from a river, which used to be a bone of contention among the local groups of people. According to Gebre (1995) the construction of the irrigation scheme ushered in a period of relative peace (see Case Study 6).

Of the adverse external factors, it is possible to mention: a) commercialization of agriculture; b) direct interference by political cadres and local officials; c) displacement and migration of people (including cross-border migration); and d) the introduction of money and new consumer goods, which could lead to individualism. In addition, there are factors which tend to aggravate or worsen the erosion of indigenous institutions and lead to increased incidence and frequency of conflicts. Increased flows of firearms can be taken as an example.

Of internal factors, the Ethiopian situation suggests that there is no convincing evidence in support of the neo-Malthusian argument of population pressure over grazing lands. To the contrary, herd size has been declining due to droughts, conflicts, bush encroachment, diseases, etc. Pastoral areas are sparsely populated. Adverse internal factors (such as bush encroachment, concentration of animal population around water points) are actually induced by external factors. For example, in the Negele area of Borana (a place known as “Walanso-leman”) population concentration had resulted from a donor-sponsored rangelands project which, among other things, by digging water holes in a contested pasture area, led to the degradation of once rich pasture area and to endless conflict (Case Study 8).

Interestingly enough, because of uncertainty created by non-cooperative behavior of contesting parties, resources are not only over exploited but can be underutilized. What used to be a rich grazing land may turn into a buffer stock. This what happened in a part of the south-western corner of Ethiopia, along the Kenya border, there rich pasture and salty water were available. Attracted by so rich natural resource, as many as five ethnic groups seasonally concentrated in the area in search of the luxuriant pasture and the precious water. However, such rare natural

resources are often understated simply because the contending ethnic groups were unable to cooperate and put in place mechanisms for sharing resources (Gebre 1995).

Under pressure from external and internal forces, flexible access regimes may evolve into different forms of right regimes. For example, the Ethiopian conditions suggest that, over time, flexible regimes may assume one of the following forms:

- i) individualization of commons associated with the emergence of agro-pastoralist system (see Swallow & Kamara with respect to the Borana area of Ethiopia);
- ii) open access regimes associated with widespread negative externalities, underutilization of available resources, and cycles of conflicts and socio-economic disruption; and
- iii) mixed regimes coexisting in the same area.

The transition to individual tenure can be effected through an agro-pastoralist system as suggested by a narration of an informant in the case study area (the Negele area of Borana) undertaken by the present author:

During the reign of Haile-Selassie, our people were rich and owned as many as 1500 camels (or 3000-4000 goats) per household, while a poor man owned about 30 camels. But today, animal diseases have become increasingly prevalent. As a result, the herd size has declined. Today, a rich man owns not much more than 150 camels. In those days there were few agro-pastoralists. In the past, people had little demand for grain. Milk was their major diet, and it was abundant. But today people are increasingly switching to the cultivation of food grains. Farming competes with pastorals over household labour. There is limited labour for taking care of livestock. Competition over land has been intensified as more and more land is enclosed. People fence large tracts of land for future cultivation purposes. A new type of conflict has now emerged. Pure pastoralists fight against the newly emerging farmers. There are cases where lives were lost resulting from conflict over land.

3. CASE STUDIES

Case Study 1. The Isso Institution of the Afar people: Negotiated Access (to Resources)

In the Afar region of north-east Ethiopia, land and its resources are perceived a collective property belonging to the collective descent units of groups, the clan and the lineage. As clearly indicated by Kassa (2000: 148), in Afar communities, “land cannot be owned or claimed exclusively either by an individual or as a family holding, nor can it be sold”.

To regulate the use of land, the Afar people “have developed institutional arrangements that allow access rights to land resources”. These institutions define rights and duties not only with respect to the use of clan land, but also access right (and duties) with respect to lands of other clans (Kassa 2000).

The institutional arrangements are classified into two broad categories. The first one, known as **waamo**, defines exclusive and inalienable rights of member of a specific Afar clan or lineage. **waamo** rights bestows a given clan or lineage with primary rights to a specified territory.

The second type of right, known as **isso** right, defines secondary rights granted to non-members. **isso** (literally meaning “lease”) rights are limited in scope and in time. **Isso** imposes certain restrictions on the secondary right holder. For example, the right holder is not allowed to cut down particular trees. **Isso** rights are alienable rights. The right holder is entitled to a defined grazing land for only specified time period.

Isso rights acquired in two supplementary ways. Formal negotiation is one way. Leaders of two or more clans negotiate in order to allow their respective clan members to have access to each other’s grazing land and other resources, including the establishment or residence for limited period of time. Access right is gained, among other things, through payment in kind or through provision of services.

Besides formal negotiation, there are informal arrangements by clan elders. These arrangements include cultural ties such intermarriage and bond-friendships. According to Kassa (2000), such access right is granted during times of shocks such as drought, epidemics, and displacement caused by civil strife (Kassa 2000).

Thus, the various Afar clans, communities, and others have for centuries, cooperated to share resources in a reciprocal and fair manner. However, since the 1950s (when commercial farms were established in the Afar area), the **isso** institution have been undermined as a result of the shrinkage of the resource base of pastoral economy in the Afar area. Afar clans have now shown tendency to deny non – member secondary access rights to grazing lands and water points. There are indications of individualization of holding (Kassa 2000).

Case Study 2: Bond-friendship Between the Karo and Hamar Groups

The Karo and Hamar groups inhabit the south-western tip of Ethiopia bordering Kenya. The Hamar inhabit a mountainous area which is free of tse tse fly infestation, while the Karo live in the lowlands, where tse tse flies are widespread. On the other hand, Karo area is suitable for the cultivation of sorghum. The Karo get access rights to grazing lands in the Hamar highlands through the institutions bond-friendship and reciprocal gift exchange. The system works as follows (Petros 2000).

During the dry season, the Karo people keep their cattle with bond-friends in the Hamar area. In exchange for the grazing land and their labour, the Hamar households keep most of the butter and milk for themselves.

The Karo families regularly visit their bond-friends in the Hamar area. On their way, they engage in marketing activities. They sell products, like honey, and buy goods like coffee and bullets. Upon arrival at a bond-friend's home, the Karo families inspect their cattle and stay at their host's house for days and even for weeks. The host often gives his guest sheep and goat. In addition to the gift, the Karo family takes home some butter produced by its own cows kept with the Hamar family. The Hamar family, in turn, visits its bond-friend in Karo area and returns home with sorghum obtained as a gift from the Karo family. Resource-based conflicts often flare up between the Karo and Hamar people. But, conflicts rarely went out of control, because the two people have developed mechanisms to manage conflicts. Whenever, a conflict arises, elders from both sides assemble together and settle the issue. As usual, the reconciliation process is accompanied by rituals in which goats are slaughtered as a part of an elaborate ceremony.

Case Study 3. Institutional Mechanisms for the Regulation of Resource uses and Protection of the Environment: The Case of the Karrayu Oromo

In the Karrayu area, pastoral tenure rules are enforced through local institutions (Gebre 2001). The council of elders, referred to as *aba halengi*, forms the highest body of authority as far as local resource management is concerned. The council decides who should be allowed to use the resources in a particular locality. The general assembly, called *korra*, addresses the groups' relation with its neighbors such as the Afar, mainly on issues pertaining to common resource use. The *korra* elects a committee to deal with misunderstandings over the use of pasture and water at the local level. Conflicts over access to resources are settled between the Karrayu and their neighbors through the mediation of elders of the groups.

Also, Karrayu regulate the use of trees and protected the environment. Trees (*muka*) are the property of the village (*genda*). By permission of the village head (*abba genda*), any Karrayu who is a member of the village may collect timber from the trees. Permission for tree cutting is given only when it is ascertained that it is done for purposes of house building, fencing, browsing and rituals involving the villagers at large. It is, however, prohibited to cut trees from another village. Acacia species are almost never cut as they serve as sources of dry season fodder. Those

who cut timber and procure charcoal are, as a matter of custom, in a position to do so in parts of Karrayu territory where traditional authority and control are not so tight. In fact, until recently the Karrayu regarded the practice of charcoal burning and firewood selling as demeaning. Hence, the poor Karrayu and Ittu engaged in the practice were much looked down upon (Gebre 2001).

Case Study 4. To Resilience and Demise of Indigenous Institutions for Conflict Resolution: The Arrarra Institution of the Karrayu Oromo of Upper Awash

The following narration draws on (Ayalew 2001). The term *Arrara* refers to the process of conflict management involving individual clans within the community as well as conflict involving the Karrayu people and the neighboring ethnic groups like the Afar and Argoba. The term refers to both the group of people making peace (i.e. *jarssota Arrara*) and the actual process of reconciliation and peace-making ceremonies.

A process of reconciliation is initiated when one of the parties involved in the conflict sends a messenger, a go-between, to the other party expressing its intention for reconciliation. The first group messengers are often women (who are considered to be harmless), while the second group consisted of settlers in a buffer zone, or in a “no man’s land” unused by the antagonistic parties due to fear to mutual suspicion and retaliation.

The reconciliation process often involved oath-taking rituals, making of pledges to honor agreements reached at the ceremony, and payment of compensation by the wrong-doer (the guilty party). Compensation often involved blood money (*guma*), depending seriousness of the harm inflicted. For example, the blood price for a person killed in a conflict amounted to “one hundred heads of livestock, including cattle, camels, and small ruminants” (Gebre 2001: 179).

At the climax of the peace-making ceremony elders of contending parties shake hands through the skin of a bullock (slaughtered for the occasion). Then, participants swear oaths as a sign of joint commitment to peace and reconciliation.

Interesting enough, the now reconciled persons lose no time to demonstrate, in concrete terms, possibilities and desirability of resource sharing arrangements. Before the elders left the place, herdsmen of both sides took their animals to the contested area “so that they share common grazing and watering resources for their livestock” (Gebre 2001: 180). At the end of the reconciliation process, representatives of the groups involved let the government authorities know that justice has been done and the disputes are settled peacefully.

However, recent decades saw progressive erosion of the arrarsa institution resulting from unwise and arbitrary intervention by government officials. Local elders traced the origins of the problem to late 1970’s, when the local cadres of the *Derg* (the military junta) “hijacked” and distorted the *arrarra* institution. Government-sponsored peace deals remained ephemeral and ineffectual. Government –appointed “elders” undermined the *arrarra* institution through corrupt practices, which lead to a state of mutual mistrust among groups and increased conflict in the area. Thus, Gebre concluded: “there is more instability than formerly as demonstrated by increased conflict between the Karrayu and neighboring Afar group”. Between 1994 and 1995, these two ethnic

groups waged retaliatory attacks twice in a year. The attacks took place in along the Kesem river in an area endowed with relatively rich pasture and water. This area, (similar to the one we noted with reference to the south-west) has remained a bone of contention for the five ethnic or clan groups (the Karrayu, Afar, Argoba, Ittu and Minjar Amhara) living in the vicinity. For 30 years four of these groups have never gone to the same market place.

On the other hand, Gebre (2001) witnessed that, in an area where government interference was minimal, communities from the Karrayu and Afar groups shared resources and lived together in peace for ten years, partly because their indigenous institutions have remained almost intact. Thus, Gebre (1995:183), wrote that in the remote areas, “both sides equally utilized grazing resources”, used together “hot spring located inside Afar territory”, and the Karrayu got “access to the Afar local market” place. Besides, both sides were engaged in intermarriage arrangements.

Case Study 5: Cooperation Among the Arbore and Borana and Competition Over Resources: External Factors and Firearms

The following narration draws on (Gebre 1995). For decades, the Borana pastoralists and the Arbore agriculturalists had viewed each other as enemies, although they “have long enjoyed much cultural, social and economic cooperation” (Gebre 1995:20). However, conflict over resources did not go out of control until the coming of Italian colonists (1936-1941). Having got access to weapons brought by the Italians, the Borana launched a big raid on the Arbore people, whom they killed in great numbers and whose cattle they looted. The Arbore held grudges against the neighboring Borana people. When they got the opportunity, they organized a raiding force, killed a certain number of Borana and drove away a large number of animals belonging to the Borana Oromos.

Afterwards, however, according to the long established traditional institution of peace-making existing between the two groups, the Borana sent their representatives carrying along a sheep and a bull to the ritual leader (*kawot*) of the Arbore. A peace agreement was made between the two people, ending hostilities and reviving the former friendly ties. Accordingly, the reconciliation was announced to all members’ especially young members of Arbore through their political leaders (*jaalabe*) so that any provocation and bloodshed would be avoided.

The peace and reconciliation thus established lasted for many decades without any form of provocation and hostility taking place until 1991, when the military government of Ethiopia was overthrown by rebel forces. Beginning from 1991, however, a wave of raids and counter-raids took place between ethnic groups: the Borana against Arbore, the Borana against Konso, the Borana against Tsamai, against the Tsamai against Konso. Towards the end of 1991, the Hamar, in collaboration with some Arbore youths, crossed over into the Borana territory and raided cattle belongs to the Borana.

Since this latest incident, both groups have not been on good terms, each side keeping a watchful eye on the other. In the meantime, a large area of fine pasture-land in Borana territory, where the Arbore formerly grazed and watered their cattle, now remains unused. The Arbore, who are now suffering from a severe drought, are losing much of their cattle while some of the most luxuriant

pasture lies unused. The principal reason for the hesitation of both groups to use these pasturelands is the mutual fear that one side would likely launch an attack on the other.

Since the period of the Italian occupation, the fighting between the two tribes has claimed more lives due to the availability of modern arms. With the change of government in 1991, and the accompanying developments more and more firearms (Kalashnikovs in particular) became available. The Borana in particular, are in a position to acquire a ready supply of weapons which were smuggled into their territory from neighboring Somalia, Kenya and from the central parts of Ethiopia. Recently, however, the Arbore and Borana, together with the other groups in the region, have organized a peace ceremony at which agreements were reached to end the hostilities between them. (For the details of this traditional peace-making ceremony at Arbore, see Appendix 1) (Ayalew 1995).

Case Study 6: A Chronology of Conflicts Conflict between the Hamar and the Arbore People

Year	Attacker (raider)	Causalities	
		No. of persons Killed	No. of cattle raided
1930-1935	The Arbore	4	Not stated
1936-1941	Both alternatively	Not reported	Not reported
1941	The Hamar	10 killed from both sides	The winning party took away 900 head of cattle belonging to the vanquished
1943	Not possible to identify	93 killed from both sides	At least 1,350 heads of cattle raided were from each side
1960	Not possible to clearly identify	At least 6 persons killed	Not reported
1965	Hamar sides	48 killed from both sides	450-550 heads of cattle were raided by the Hamar
1966	Not possible to identify	Not reported	The Arbore raided 400 heads of cattle
1970	The Arbore	Not reported	300 head of cattle
1972	The Hamar	35 killed from the Arbore side	Not specified
1973	The Arbore	Not reported	100 heads of cattle and 800 to 1,000 goats raided
1974	The Hamar	25 persons killed from both sides	The Hamar raided 300 heads of cattle

Source: (Gebre 1995)

Case Study 7. The Case of Gambella: The pastoralist Nuer and the Cultivator Annuak

For centuries the pastoral Nuer and the cultivator Annuak people of Gambella regional state of Ethiopia had managed to accommodate their differences and cooperate on the basis of reciprocity and mutual economic benefits. The Nuer people inhabited the low lands, where they could get ample pasture for their animals. The Annuak inhabited the highlands, where they cultivated crops and engaged in hunting and fishing. However, during the rainy seasons (when parts of the grazing land are flooded), the Nuer temporarily migrated to the highlands and shared grazing land with the Annuak. In exchange for their grazing land, the Annuak got cattle and milk from the Nuer. For centuries the economic bases of the two ethnic groups have remained interdependent (UN-EUE 2003).

Whenever conflicts arose between the two ethnic groups, elders from both sides assembled together and negotiated peace. They made sure that victims of attacks were compensated with cattle. At the end of the reconciliation process, symbolized peace by breaking weapons (UN-EUE 2003).

The disruption of the cooperative relationship between the majority Nuer (who account for 40% of the population of Gambella) and the minority Annuak (27% of the population) can be traced to colonialism which, by creating artificial international boundaries between people, split the Annuak into two parts, one part remaining with Ethiopia, the other part going to the British East African colony of the Sudan. During the post-independence period, the endless civil war in Sudan displaced tens of thousands of people from the south and contributed to unprecedented increases in the flows of small arms in the area. The displaced people migrated, *en mass*, to the Gambella region of Ethiopia and put huge pressure on nature resources in the area.

In addition, though slow, money and consumer goods were introduced into an area once used to be self-sufficient and independent of the outside world. The introduction of money led to the erosion of established cultural norms and social relations. For example, money replaced the Annuak marriage beads (*dimui*) and made young women “a thing to buy.” The adverse effects of these developments were succinctly put by the king of the Annuak, who remarked that there were three bad things in this world: “clothes, money, and firearms” (Pender 1993).

The eruption of the February revolution and the seizure of political power by the military junta in Ethiopia further disrupted traditional relations in Gambella by undermining the power of traditional rulers. The military government organized villages into a new structure known as *kebeles*. Power was transferred to the young and relatively educated. Power and benefits were disproportionately distributed between the Nuer and the Annuak peoples. In addition, the military government, through its resettlement program, transferred tens of thousands of people from the food-deficit parts of the Ethiopian highlands and settled them in Gambella. Today migrants account for almost one-third of the population of the Gambella regional state.

The fall of the military regime in 1991 and subsequent developments led to further erosion of indigenous institutions in Gambella and to increased incidence and frequency of inter-ethnic

conflicts. These led leading to the tragic death of hundreds of people, mainly the Annuak, in early 2004. The new regime in Ethiopia made a radical departure from all previous regimes in Ethiopia and introduced ethnic-based politics. The Constitution guaranteed nations and nationalities the rights of self-determination, including secession. The country has now been divided into ethnic-based regional states, of which Gambella is one. Ethnic-based politics become the order of the day. Today, Gambella has become unruly, chaotic, and insecure. The recent discovery of fuel in Gambella may add fuel to already coarsening civil strife.

Case Study 8: The Demise of Indigenous Intuitions and the Aggravation of conflict among Oromo and Somalis Clans of South-eastern Ethiopia

The following draws on the author's fieldwork in the Borana and Liben area of Somali clans known as Dogdi and Merhar. (for details see Aredo 2004 b). Colonialism and sub-regional factors have contributed to the aggravation of resources-based conflicts in south-east Ethiopia. Sub-regional conflict had spillover effects on the long-standing and localized conflicts over water and grazing land in the study area. Somalia irredentism and the flows of small arms added fuel to what was used to be more or less controllable conflict. With the coming of Italian colonialism and subsequent developments, localized conflict assumed sub regional and political dimensions as well-articulated by Flintan and Tamrat (2002:252) with reference to the Somali clan, known as the Haud and Ishak:

Earlier competition to control the Haud pastures rarely entailed large loss of life. Instead, traditional institutions (known as the *diya*) effectively contained and resolved these types of conflicts. Following the colonial scramble for control of the Horn of Africa, conflicts took on a more political nature... Since the Ishaq were under British administered Somaliland and outside Ethiopian territory, claim to the Haud pastures between the Ogaden and Ishaq clans became a territorial dispute... subsequently, after the border was demarcated, control of the Haud pastures **became increasingly political** [emphasis added].

The case of Somalia amply demonstrates how the interplay of external and internal factors destroys the institutional basis of fuzzy property rights and leads to continuous conflict over resources and anarchy. In their incisive study of conflict in Somalia, Farah et al (2002:342) noted that: "lack of known mechanisms for sharing resources has worsened conflict because different sub-clans move across a wide area with no clearly marked boundaries". In Somalia, colonial rule and post-independence dictatorship undermined customary laws and uprooted one clan in order to resettle another. Consequently, "it became extremely difficult for different clans and sub-clans to meaningfully negotiate on important matters, including resource access and control, independently of central authority", which is no more there.

In addition, adverse ecological developments and drought have contributed to increased incidence and frequency of conflict in the study areas in several ways. First, the resource base of the area was depleted resulting from increased occurrence and severity of drought. Second, in recent decades, bush encroachment has become an increasingly serious problem. The causes of bush encroachment are yet to be identified and explained. The magnitude and devastating effects

of bush encroachment are enormous. Today, one can see vast tracts of grazing lands lost to dangerous bush types. The local pastoralists and NGOs operating in the area are worried very much about bush encroachment. In the past, pastoralists used to control bushes by burning them during the dry season. But, according to local informants, this indigenous practice has been partially abandoned due to government policy that banned the burning of rangelands on the grounds of environmental concerns.

Drought conditions can trigger off and escalate conflicts over scarce resources. Drought leads to large death in livestock. Raiding after drought is common to restock livestock. Drought has become chronic and severe in parts of Ethiopia, Somalia and Kenya. For instance, in the Somali region of Ethiopia, according to the report of the regional agriculture Bureau major droughts had occurred ten times between 1918 and 2000. In Borana, the major two recent droughts occurred in 1983-84 and 1991-92.

Environmental migration is another factor leading to increased incidences and frequency of conflicts in the area. For decades, Somalis from neighboring state of Somalia and Northern Kenya kept on migrating into Ethiopia. Following the breakdown of the Somali state in 1991, migration picked up at an alarming proportion. According to elders interviewed in the town of Filtu, two-thirds of the total Dogodi clan was originally migrants from Somalia and northern Kenya. State-less Somalia has registered the largest net migration rate in the Horn, which are nearly 6 persons per 1000.

Starting from July/August 1996, the southwestern rangelands received an influx of drought-displaced nomads from adjacent pastoral regions in northeast Kenya. Seasonal migration of drought affected Kenyan nomads to Moyale district of the Ethiopian Somali National Regional State was common. The main reason for the exodus from Kenya into both zones is failure of the main season rains.

Moreover, migrants have put more pressure on another Somali clan, the Merhan. The Merhan used to form a buffer zone between the two big traditional enemies, i.e. the Dogodi Somalia clan and the Borana people. Following the accentuation of conflict since the early 1990s, the Merhan group, which was already sandwiched between two hostile forces, could no more stand attack and counterattack by the Borana pastoralists. The Merhan people were dislodged *en mass* and were resettled in temporary shelters near the Negele town.

The donor-sponsored Southern Rangelands Development unit (SORDU) has undermined cooperative relations between the clans and ethnic groups who used to share resource in the area. SORDU has succeeded, among other things, to erode indigenous rangeland management systems, such as the practices of split herd management (in which case livestock alternatively moved between wet and dry season pasture). Although SORDU fell short of promoting commercial production of livestock in Borana rangelands, it did inadvertently contribute to the accentuation of conflict in the area in several ways. First, the establishment of SORDU-sponsored water points contributed to the disruption of traditional rangeland management (particularly, to the disruption of seasonal movement of livestock). In addition, it failed to put in place a lasting institutional mechanism to regulate resource use in the area. Second, areas around

the new water points have been highly degraded because of unusual concentration of animals in one place. Third, the Somali clans felt that they were marginalized by SORDU and accused it of favoring the Borana Oromo in terms of training service and other benefits. Having accused SORDU of discrimination, the Dogodi Somalis rejected the water committees set up by SORDU to regulate water use.

4. CONCLUDING REMARKS

The theory of fuzzy access right is at its formative stage. From what we observe in the literature, the term “fuzzy access right” suggests a negative connotation. According to the Oxford Advanced Learners’ dictionary, “fuzzy” means something “blurred or indistinct, especially in shape or outline”. In the literature, authors try to explain “fuzzy access rights” using words having negative connotations (such as “imprecise”, “ill-defined”). However, evidence from the pastoral areas of Ethiopia has suggested that one should look for a terminology that could better explain the reality of tenure arrangements in pastoral systems. Perhaps, the term “flexible access rights” could be used instead of “fuzzy access rights.”

Fuzzy access rights constitute a part and parcel of customary tenure arrangements, which are widely practiced in Africa (Aredo 2004a). Our understanding of fuzzy access rights can be further improved if researchers undertake in-depth investigations of customary tenure in the pastoral systems of Africa.

Fuzzy access rights function only as long as they are mediated through indigenous institutions and practices. But, as suggested in this study, the time-tested institutions of pastoral people are being eroded under pressure from external and internal forces emanating from the very fact that the pastoral areas of East Africa are economically, politically, and socially marginalized. Under such pressure, customary rights are likely to evolve into individual tenure or into open regimes. The latter case obviously would lead to negative externalities of the type that the neo-Malthusian enthusiasts predict.

The policy implications of this study are straight forwards. Donors and policy should look for ways of ending the process of marginalization of pastoral areas. In recent years the Ethiopian government has moved a step forward by formulating development policies specifically designed for the pastoral areas, which account for more than a half of the country’s total land area. It is high time that policy-makers attempt to recognize customary tenure systems harmonize them with statutory laws. It is also time to recognize the role of indigenous institutions in regulating the use of scarce resources by cooperating and competing groups and in preventing latent conflicts from irrupting into uncontrollable violence.

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