



Mobile Peoples, Contested Borders: Land use Conflicts and Resolution Mechanisms among Borana and Guji Communities, Southern Ethiopia



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SUMMARY

The article explores the determinants of different types of land-use disputes and institutional mechanisms for their settlement in the agro-pastoral and pastoral areas of Borana and Guji zones, southern Ethiopia. The analysis uses both household survey and qualitative interview data to answer the following questions: (1) what are the effects of spatial location on types of land use disputes experienced by households; (2) what types of boundary/border disputes are experienced by pastoralists within and between different ethnic groups; (3) what are the principal social and economic determinants of land use disputes; and (4) what factors determine the level of satisfaction by different parties in dispute settlement? We show that despite widespread land use changes in the area and the emergence of private enclosures on communal grazing lands, disputes around administrative borders trump all other determinants of conflict. We also find significant spatial and scale differences in the incidence of conflict, and that different types of conflict are taken to different conflict resolution institutions. Along these lines we also demonstrate that overall conflict and dissatisfaction with conflict resolution outcomes are more pronounced among the more mobile, livestock-dependent segment of the population than other groups. Finally, the article highlights the importance of understanding political and historical factors related to land rights and disputes as necessary for proposed land tenure programs in the area.

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1. Introduction

This article explores the determinants of different types of land-use disputes and mechanisms for their settlement in Guji and Borana Zones, southern Ethiopia. This region of Ethiopia is undergoing considerable land use and institutional change that heighten ambiguities over access to lands and other resources (Kamara, Kirk, & Swallow, 2005; Kamara, Swallow, & Kirk, 2004; Tache, 2013). There are changing rules and regulations for governing access and institutional responsibilities for enforcing land use disputes. Increasingly, competing land use systems complicate the context for dispute settlement in the area (Mulatu & Bekure, 2013). In addition, there are multiple institutions which can claim legitimacy when resolving land-related disputes and sanctioning violators. We argue in the article that the key changes in the area are: (1) increased farming by pastoralists and agro-pastoralists, often in areas that were formerly reserved for grazing (Angassa & Oba, 2008; Boru, Schwartz, & Degen, 2015; Tache & Oba, 2010); (2) growth in community and private land enclosures known locally

as *kalo*¹ (Napier & Desta, 2011; Tache, 2013); and (3) implementation of new administrative borders² at *woreda* (district), zonal and regional levels that heighten existing tensions between different communities (Bassi, 2010; Tache & Oba, 2009). All of these have implications for land use and institutional mechanisms for addressing land-based disputes, but it is factor (3) that shows up as the most significant determinant of conflict in our analysis. By analyzing quantitative data from a large-scale household survey and qualitative data from key informant interviews (KIIs) and focus group discussions (FGDs), we ask the following question: what are the key household and community-level factors that explain the types of

¹ Kalo enclosures only became important in Borana during the 1970s. Before then there were customary enclosures called *seera yabbii* that were around 10 hectares and for calves and lactating or sick cattle (Napier & Desta, 2011: 3). As Napier and Desta point out, “they have mostly been replaced through the introduction of *kallos*, which are larger, fenced enclosures and which have different functions (Napier & Desta, 2011: 3).”

² Border and boundary are used interchangeably and capture the same phenomenon in the paper.

land disputes occurring in the area as well as the institutional mechanisms for resolving them? We place particular emphasis on the different roles of customary institutions compared to formal government institutions and the ways that individuals strategize about which institutions they choose to resolve disputes.

Land use and resource conflicts between cultivators and herders and between different herding groups has long been a topic of interest in the development studies literature (Galaty, 2002; Haro, Doyo, & McPeak, 2005; McCabe, 2004; Turner, 1999; van den Brink, Bromley, & Chavas, 1995; Vedeld, 1998). We revisit this topic with a specific objective in mind; what needs to be understood about current patterns of conflict in the larger study area that is critical for land tenure programs seeking to resolve ambiguities in land use and resource claims and thereby reduce the risk of conflict? The remainder of the introduction further develops the background and reasons for the study. It also highlights the article's contributions to existing theories and understandings of pastoralist tenure systems, land use conflicts in pastoral/agro-pastoral areas, and mechanisms for dispute resolution.

This article mainly draws on data that were collected during August–December, 2014 as part of a baseline study for an impact evaluation of the USAID-funded Land Administration to Nurture Development (LAND) project, which is being implemented in Ethiopia's Oromia Region in the Guji-Borana pastoral zone. The LAND Project aims to establish institutional responses to legally recognize and protect the communal land and resource rights of pastoral communities and recognize and strengthen their customary land governance institutions. The Ethiopia LAND Project is working with regional governments and pastoral communities and their customary institutions. The objective is to strengthen land tenure security in pastoral grazing territories through a pilot certification process that allows communal land rights to be officially recognized and certified. The project is also designed to strengthen pastoral communities' capacity for inclusive and evidence-based land use planning, management, and investment negotiations.

Land certification programs in pastoral areas are not without considerable controversy in eastern Africa, even when they propose to work with local institutions and customary grazing units (Catley, Lind, & Scoones, 2012). Perhaps the best documented case has been the group ranch scheme that was established in Kenya beginning in the 1970s and attempted to work with customary grazing units, as well as create new institutions for regulating access to communal grazing and commercializing livestock production. However, they failed to generate local economic benefits, avoid elite capture, or halt the eventual sub-division of communal grazing areas which over time has made pastoralism less viable and household wealth more unequal (Galaty, 1994, 2013). Unlike the group ranch initiative, the LAND project does not propose to create new institutions but, instead, will work through existing local institutions. It is premised on the fact that without some level of certification and strengthening of customary institutions, livestock herders in the region will continue to lose valuable grazing lands and water points to alternative uses, such as private investments in crop agriculture, without any compensation (Mulatu & Bekure, 2013). However, it is important to develop a nuanced understanding of how existing institutions deal with land use and resource based conflict, which will be the focus of this article.

Our analysis builds on a growing body of theory that argues pastoral ecosystems, including those of southern Ethiopia, are best understood as being in disequilibrium where mobility and flexibility are keys to economic and ecological viability (Behnke, Scoones, & Kerven, 1993; McPeak, Little, & Doss, 2012; Scoones, 1995). Climate variability drives these disequilibria systems where drought is a normal feature and where attempts to fix stocking rates and boundaries through fencing and other means are problematic.

Common property tenure systems, rather than individual property rights, usually characterize these systems, since they allow the necessary flexibility to access grazing and water under conditions of high spatial and temporal heterogeneity in rainfall distribution. The extent to which local institutions can facilitate access to dry season pastures and negotiate mobility across fixed boundaries during extended dry seasons and droughts and, thus, enhance human and livestock welfare, will be key measures of success in any pastoral tenure program, including LAND.

Of particular interest for customary communal land governance is an analysis of land- and resource-based conflicts and the institutional means and power to resolve them. In doing so, it is equally important to understand the historical context to some of these disputes, which in some cases can be traced back several decades. We suggest that analyses of land use management, land claims, and the effects of Ethiopia's regional and ongoing decentralization program (see Abbink & Haggmann, 2013) should be conducted with awareness of the historical depth of land-based conflicts and the objective of anticipating and managing any future conflict created by land certification.

There currently are both customary and formal government conflict resolution institutions in the study area, and the domains of authority for resolving conflicts are not always clear when contrasting these institutions. It is critical to understand the roles and pressures that each set of institutions face as future institutional capacity building will be predicated on the existing structures and the challenges currently experienced in the study area. We also show that conflict in the area should be analyzed at different scales—village, district, and regional—and that relevant findings look different depending on the scale of analysis. In the article, we define conflict as a publicly recognized dispute. We do not address familial and other kinds of private conflicts.³ Finally, we cover conflicts ranging from those that are local and relatively minor, such as livestock entering a cultivated farm and damaging crops, to those regional and major in scope, such as a dispute over a critical water point or an administrative border, and show how severity and scale affect the institutional mechanism sought for resolution. In the next section we turn to discussing the methods and background for the study.

2. Methods and background

The data gathering process was conducted as part of the baseline wave of an impact evaluation of the larger Land Administration to Nurture Development (LAND) effort in Ethiopia. In brief, more than 3,800 households were surveyed across 52 *kebeles* in the Borana and Guji zones, with the Guji zone sampling intended to serve as an eventual control group for program intervention activities planned to take place in Borana (see Figure 1). A *kebele* is a low-level administrative unit comprised of a small set of villages or settlements.

An additional set of qualitative data on rangeland governance and condition, land allocation and use, and tenure security was also collected in several of the communities via key informant interviews and focus group discussions (USAID, 2016). The proposed LAND development intervention is planned to take place at the grazing unit level of what is called a *dheeda*, which is an intact grazing ecosystem, containing both wet season and dry season grazing areas that are used by a relatively well-defined set of households. Exceptions may be made to the rules about who can access these rangelands in the case of droughts (see Tiki, Oba, & Tvedt, 2011; Wassie, Mellisse, Hoag, & Desta, 2014). The concept

³ We thank our colleague Peter Castro for helping us think through how we are treating conflict in the article.

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