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# Customary Tenure and Reciprocal Grazing Arrangements in Eastern Ethiopia

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## ABSTRACT

This article examines how customary tenure provides a basis for reciprocal access arrangements and facilitates access to grazing resources in order to adapt to changing conditions. A critical review of the literature on the range ecology and institutions of resource governance guides the overall analysis, while empirical results from three case studies show that internal social relationships and kinship structures still remain important determining factors in facilitating access to the grazing commons. Many forms of institutional arrangements exist, providing different kinds of incentives. For instance, trading of grazing rights at household level provides an important safety-net for poor pastoral and agropastoral herders, in spite of fears regarding negative externalities for *de facto* co-owners of the commons. Evidence from the three studied districts reveals that the influence of resource attributes on institutional choice favours flexibility rather than supporting the axiom of the conventional property rights theory, which considers greater exclusivity to be a natural response to scarcity. Institutions supporting reciprocal grazing relations are characterized by negotiability and by an ambiguity of rights: clan rules facilitating reciprocal grazing are not based on maximization of benefits from own grazing commons, but rather on maximization of security of use rights through investing in relations with others.

## INTRODUCTION

Among (agro-)pastoralists<sup>1</sup> inhabiting harsh and semi-arid environments, weather fluctuation remains the major source of uncertainty for generating basic livelihoods (Ellis, 1995). Given that, in many cases, land tenure policy is beginning to recognize communal customary property rights arrangements,<sup>2</sup> and given that ecological uncertainty and variability motivate

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1. Throughout the text, this term is used to refer to both pastoral and agropastoral herders, where the former generate their income mainly from livestock and the latter earn nearly equal income from crops and livestock.
  2. Customary institutions are institutions which do not have comprehensive formal recognition by the modern state, and are not established in written law. They include customary land tenure rules, procedures to resolve conflict over access to resources and animal thefts, rules and conventions on inheritance and trade operating on the basis of kinship, descent and geographical proximity (Swift, 1995: 154).

the establishment of flexible ‘access options’ to rangeland resources, understanding informal resource-sharing arrangements is becoming a priority (Behnke, 1994; Cousins, 2000; Lane and Moorehead, 1995; Ngaido, 1999; Rohde et al., 2006; Swallow, 1994; Swallow and Bromley, 1995). This type of institutional arrangement increases the chance of effectively using the rangeland and circulating livestock to reduce the deleterious effects of ecological perturbations. It is also believed to be helpful in adapting to ecological challenges (Milner-Gulland et al., 2006) since extended livestock mobility supports herders in diversifying livestock species (Mace and Houston, 1989).

Studies in certain localities of eastern Ethiopia emphasize how membership of a clan serves as a precondition for resource use for different purposes (Gebre, 2001; Kassa, 1997). However, these studies do not pay attention to customarily defined and enforced resource-sharing arrangements between groups who control their own grazing commons, although these are much more important for three reasons. First, ecological change undermines herd diversification if mobility is confined within a clan territory; second, an attempt to use other clans’ grazing commons without prior agreement can result in armed confrontation (Unruh, 2005); third, making agreements between clans in reciprocal sharing contributes to improvement in rangeland productivity in the long-term (Ornas, 1990; Unruh, 2005: 230). This implies that there are both economic gains (by reducing labour cost to supply feed) and environmental benefits (reducing rangeland degradation).

This article aims to analyse customary property rights<sup>3</sup> institutions with respect to their role in reciprocal grazing arrangements. It attempts to explain how an exogenously determined risk<sup>4</sup> influences the institutional choice of various rangeland users. The basic questions are: What kinds of norms/rules and governance structures exist to arrange reciprocity?<sup>5</sup> Which factors facilitate reciprocal resource use relations? What are the major impediments? While the need for reciprocal access arrangements in semi-arid pastoral regions characterized by environmental unpredictability is a constant, institutions governing such arrangements can vary from one location to another. Searching for answers to the questions posed above throws light on the extent to which existing *de facto* property rights arrangements are able to provide access security for herding households and groups. To achieve the aim and answer the underlying questions in this study, in-depth qualitative

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3. A wide range of definitions of property rights exist. A commonly used definition comes from Bromley (1991: 5): ‘the capacity to call upon the collective to stand behind one’s claim to benefit stream’ from an asset of economic importance.
  4. Risk is understood here as exposure to uncertain and potentially unfavourable consequences; it is more than uncertainty stemming from imperfect knowledge (Hardaker et al., 1997).
  5. Reciprocity is a norm that generally reflects an attribute whereby an individual is inclined to react positively to the positive actions of others and vice versa (Bolton and Ockenfels, 2000; Fehr and Gächter, 2000).

analysis was used to capture diversity in informal rules and to describe the emergence of informal rules favouring co-operation.

The results show that, while existing social networks on the basis of lineage play a crucial role in arranging access to better pasture at individual levels, negotiations between clan leaders are crucial in establishing reciprocal grazing. Moreover, diversity is observed in clan rules and in the challenges of putting such arrangements into practice across the case study districts. It is important to realize that the persistence of an institutional environment for reciprocal grazing has implications for the structure of property rights that suit pastoral and agropastoral systems. Given the challenges the grazing commons presently face, an understanding of the internal capacity of pastoral and agropastoral herders to develop flexible institutions with the aim of reducing vulnerability provides a clue regarding the kind of pastoral land tenure policy that needs to be in place.

The article proceeds as follows. After a brief review of customary tenure and the institutional practice of reciprocity in the context of agropastoralism, the main body of the article presents empirical data based on fieldwork carried out on sites in three administrative districts in eastern Ethiopia, which represent different agropastoralist household economies, political settings and levels of access to livestock markets. After describing the most prevalent resource management practices and property rights arrangements used in the three districts, the following section then examines the governance structures facilitating those reciprocal arrangements. The concluding section sums up the arguments of the article, and points to some practical and policy implications of the findings.

## **MECHANISMS AND CONSTRAINTS: A REVIEW**

In the past, rotational grazing within a common grazing area was believed to be an effective strategy for ensuring livestock feed security at all times (Odell, 1982). However, ecological change has reduced the chances of finding reliable supplies of feed on communal land. This condition compels transhumant pastoral groups to begin negotiating for access with other distant groups, with the expectation that there will be reciprocation (Niamir-Fuller, 1999). Such mutually beneficial practice is vital for reducing vulnerability to risk (Ngaido, 1999; Thebaud and Batterbury, 2001). Moreover, when there is limited capacity to harvest the resource, maintaining exclusive tenure can lead to 'rent dissipation'<sup>6</sup> for the 'co-owners'<sup>7</sup> who could increase their

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6. A dissipated rent is a rent that can potentially be earned, but will not be earned due to institutional failure in allowing others to use the resource (see Flowers, 1987).

7. Ostrom and Schlager provide a classification of rights aligned with positions of actors, in which they indicate that co-owners of common property (also referred to as 'proprietors' in their positions) have the first four bundles of rights (access, withdrawal, exclusion and

economic gains by engaging in mutually beneficial arrangements (Behnke, 1994).<sup>8</sup> These may include: 1) ‘stock friend’ arrangements in which pastoralists or agropastoralists herd and manage each others’ animals on a reciprocal basis; 2) contract herding arrangements in which pastoralists herd and manage animals owned by settled agropastoralists in exchange for milk produced by the cows and/or cash; and 3) contract herding arrangements where pastoralists herd animals owned by absentee investors (Swallow, 1994: 11).

Arguments favouring such arrangements have appeared in the pastoral literature since rangeland ecologists claimed that the ecology of the semi-arid land inhabited by pastoral and agropastoral groups operates at ‘disequilibrium’<sup>9</sup> (Behnke et al., 1993; Ellis and Swift, 1988; Niamir-Fuller, 1999; Sidahmed, 1992). This condition occurs due to erratic rainfall and increasing droughts, the causes of which are exogenous to the system (Ellis and Swift, 1988). In such an environment, the old approach to herd management based on stocking rate (Tropical Livestock Unit per hectare) regulations, which are characterized by matching stock levels with resource supply, has become increasingly unfeasible as a resource management strategy (Bartels et al., 1990). In such cases, a shift from ‘optimization and control’ to ‘adaptive coping’ is recommended, which favours a new and flexible mode of tenure based on non-exclusive use rights (Behnke, 1994: 8; Cousins, 1996; Scoones and Graham, 1994). Such a system of property rights will ‘expand the spatial scale of exploitation’ for pastoral and agropastoral herders (Ellis and Swift, 1988: 458). Unlike systems in equilibrium, the stocking rate in these cases will vary along with the variable resource supply for each grazing commons.

To put this into practice, the rules governing access must be flexible enough to meet diverse demands (Thebaud and Batterbury, 2001). Such flexibility involves compliance with a complex set of rules that determine the length of stay in others’ grazing areas and the amount of fodder resources that can be appropriated. To secure the shared access and ensure the greater degree of herd dispersion implied by this system, different mechanisms of negotiating and arranging access exist. The first one involves community networks that are often established on the basis of ethnicity, in which settlement patterns of members of an ethnic group favour a spatially diversified risk-sharing arrangement (Vanderlinden, 1999) — a common practice in

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management) but do not possess the rights to sell their management and exclusion rights (Ostrom and Schlager, 1996: 133).

8. Such a notion is not supported by the arguments of the conventional property rights theory in which increasing scarcity of resources is expected to trigger a shift in property rights towards greater exclusivity (i.e. private property) (Demsetz, 1967).
9. In systems of equilibrium, a relatively high level of climate stability enables a reliable feed supply and stocking levels can expand until a certain point, beyond which overgrazing could occur. This paradigm suggests de-stocking and land privatization as policy options. However, in systems of disequilibrium, optimization is impossible. Livestock and pasture management are not density-dependent but spatial scale-dependent (Behnke, 1994: 6; Ellis and Swift, 1988: 453–4).

many rural areas of Africa (Fafchamps, 1992). This corresponds to Ensminger's (1997: 165) assertion that 'Lineages are not just kinfolk but they also share some characteristics of corporations in sharing labour, risk management and investment. Property rights that do not consider the calculus of kinship are doomed to fail'.

A second alternative is 'market-based' arrangements and contract grazing. For example, farmers might pay herders to graze on their fields in order to get manure as a soil fertility improvement strategy, or farmers might allow pastoralists to graze on their field in return for livestock products (Ngaido, 1999). This could take a different form between pastoral herders, where outsiders pay grazing fee to insiders, although such fees tend to increase in connection with growing resource scarcity (Vedeld, 1998). A minimum condition for the effectiveness of such 'internally enforced contracts'<sup>10</sup> is the existence of some social authorities that enforce rights or rules regulating the entry of new individuals and the mobility of individuals between groups (Swallow and Bromley, 1995: 112).

Nevertheless, there are some challenges in co-ordinating reciprocal arrangements. In the Ethiopian context, studies reveal that changes in the land tenure system which favour private use of the rangeland (Helland, 1999; Tache, 2000), and development projects that focus on the establishment of water points in specific areas (Desta, 1993), have discouraged mobility and reciprocal sharing arrangements. The latter, in particular, have become the principal cause for the concentration of livestock grazing close to settlements. In addition, as the experience of southern Ethiopian pastoralists shows, the introduction of new administrative systems such as peasant associations represents a tremendous challenge to the long-established, traditional resource use system by restricting mobility and favouring the expansion of enclosure<sup>11</sup> (Kamara et al., 2004). Such a system reduces the benefits from holding resources as common property that could otherwise serve as an internal means to respond to risk (Nugent and Sanchez, 1998) by engaging in reciprocal grazing arrangements (Niamir-Fuller, 1999).

A wide range of literature underlines that while informal (clan) rules can have the effect of increasing homogeneity by allowing outsiders to qualify for resource use, such homogeneity can be narrowed down whenever there is internal resistance or when members fail to make collective decisions (Nugent and Sanchez, 1993). In extreme conditions, the invitation for friends and relatives to use communal grazing land may motivate a group to subdivide grazing land, since the benefits of accommodation on jointly endowed resources are not shared equally among co-owners (Mwangi, 2005).

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10. Enforcement of this type of contract does not involve a third party and groups have the institutional capacity to enforce it, which is typical among pastoral herders (Swallow and Bromley, 1995).

11. In which a herding household fences off a certain portion of the range for private use (not ownership) with permission of the clan leaders.

If more herders tend to practise this, it will be difficult to keep an eye on the animals, which increases the cost of monitoring. An increase in the number of animals on communal pasture and a reduction in co-operation within a group could lead to the splitting up of communal grazing land in favour of privatization (Fernandez-Gimenez, 1993; Mearns, 1996).

Another challenge is that governments in some countries have imposed limits on herd mobility across district boundaries, which has weakened customary principles surrounding co-ordination of pasture use with neighbourhood groups. This involves defining boundaries between groups, identifying and punishing those who cross these boundaries (Cousins, 1992) — a phenomenon that has severely affected co-operative sharing of resources that would mutually benefit contiguous groups (Mearns, 1996). Those who advocate the new rangeland ecology recognize exclusive boundaries as a problem rather than as a solution to rangeland management, as they constrain flexibility (Banks, 2001; Behnke, 1994). Empirical cases have shown that flexibility of access to a wide range of grazing resources without ‘well-defined boundaries’ is one of the key strengths of the traditional tenure systems (Hoffmann, 2004; McCarthy et al., 2003).

## APPROACHES AND METHODS

The study on which this article is based was carried out in three administrative districts (*woreda*) in eastern Ethiopia: Mieso (Oromia region, formerly jointly administered with Somali region), Kebribeyah and Harshin (both in Somali region, and inhabited by different clans). Mieso district is located at the boundary of Oromia and Somali regional states where it is crossed by the main asphalted road connecting the capital city with eastern Ethiopia. Kebribeyah and Harshin are adjacent districts located in the north-western part of the Somali region. Harshin district is the most peripheral area, with an international boundary: pastoralists of this district practise cross-border herd mobility. These three sites represent different (agro-)pastoralist household economies, political settings and levels of access to livestock markets.

The pastoral and agropastoral inhabited region of eastern Ethiopia is considered to be semi-arid, with a bi-annual rainfall pattern (*gu* rains from March to June and *deyr* rains from October to November) with a mean annual precipitation of 600–700 mm. The annual precipitation, temperatures and, therefore, the rangeland capacities vary significantly between the different locations and from year to year. While the literature on pastoralism tends to emphasize climatic risk (Little et al., 2001), a historical comparison of rainfall patterns by Devereux (2006) indicates that recent rainfall has not been more erratic than in previous periods. Hence, exposure to climatic variability and drought has been a persistent feature in Somali region.

To collect data, a variety of methods were employed including: (1) focus group discussions with community representatives and clan leaders to

understand resource governance structures and customary decision-making procedures; (2) a detailed household survey (160 households) to obtain data on assets, incentives and opportunities of households in resource-sharing arrangements; and (3) key informant interviews with government bureaucrats, staff of non-governmental organizations (NGOs), local elders and other key informants to generate information on institutions of resource governance. Data were collected in two phases: in the first field phase (2004–05), the focus group discussions, the household survey and selected key informant interviews were carried out. The second field phase (July–August 2006) focused on key informant interviews to complement the earlier data collection and to bridge specific information gaps.

A qualitative in-depth analysis of selected cases was undertaken by looking into the specific factors that affect the rules governing collective action<sup>12</sup> and property rights. This also allowed some analysis of the distributional effects of these institutional arrangements. In particular, a comparative approach was used to identify similarities and differences across the study sites with respect to the different resource management practices and property rights arrangements, as well as the different incentives embedded in the institutional choices of the collective. The analysis emphasizes the strategic choices of a household within the collective (that is, clan, village communities, and so forth) to attain livelihood security. This empirical study is based on one-shot data collection but it delivers an in-depth longer-term perspective of historical changes over the last decades.

## **FLEXIBLE GRAZING UNDER CUSTOMARY TENURE**

Among (agro-)pastoralists of eastern Ethiopia, communal grazing land is controlled and governed by the clans, although the limit of a clan territory remains fuzzy and shifts over time. Fuzziness is typical in areas where physical features do not support the delineation of boundaries, though a clan roughly knows where its boundary lies. In the customary tenure system, members of a clan have a right to graze in the area of their clan with the possibility of extending access to the territory of another clan with prior agreement. Within a clan there is a hierarchy of nested property rights. A clan head devolves control over pasture to the village (camp) chief who may grant exclusive use rights to individuals when they need land for private use. For clan members, use of clan communal pasture is unregulated. Each clan member can keep as many animals as they choose. However, a clan has explicit rules for permitting non-clan members to use its grazing commons. Whenever a clan is not capable of enforcing its own rules, it forms an

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12. In this context, this refers to a decision made (or an action taken) by a group to achieve a mutually beneficial outcome in the short and long terms.

alliance with another clan to exclude all others from encroaching on its territory (Unruh, 2005).

Reciprocal access is a resource use arrangement (agreement) between two clans that involves reallocation of rights as necessitated by the variable nature of the rangeland environment. The number of resource users of a specific grazing area is thus not fixed over time. For the purpose of analysis, we can categorize users as primary and secondary. The right of secondary users is conditional; the clan with *de facto* control rights (the primary users, or 'hosts') decides on the duties to be met by the secondary users ('outsiders'). This traditional practice has been useful in creating options for different users to have access to livelihood resources.

An important feature of reciprocal arrangements in the use of rangeland resources can be understood by analysing the institutional environment that favours mutual gains. This is done by focusing on the embedded incentives for engaging in this practice. Taking data from interviews and discussions with various individuals and groups, findings are presented for each case study site by making comparisons of rules of access at both clan and household levels. Arrangements in the latter case take place between relatives. For example, a household might take a few of its livestock to graze on the territory of another clan, where relatives live. The relatives will manage the animals and keep them on the communal clan land, with the incentive of the benefits available from livestock products.

In Mieso district, for example, clans have their own grazing land and communal water points used by clan members or groups within the clan. Some households have their own water points: they can sell water to outsiders or clan members or allow animals of their relatives to be watered for free. There is also an overlapping territory between two clans, which each clan claims to control. This forms a fuzzy boundary that occasionally becomes a source of conflict and at other times serves as a strategic resource for the most constrained clan. In terms of resource sharing, households that are not members of a clan but who have relatives who are members of clans can graze their animals at the grazing commons of this clan. Any two clans (for example, A and B) can also practise reciprocal sharing arrangements. For example, if clan A permits access by clan B at time  $t$ , then clan B is expected to reciprocate at time  $t+1$ . Members of a clan may also have fenced land for private use; one finds many fenced lands in pastoral areas. These fenced areas provide an opportunity for household-level contractual grazing arrangements, with the permission of clan authorities. This type of agreement between households of different clans on privately enclosed land occurs in all the study sites, and on post-harvest crop fields in the case of Mieso district. The expansion of enclosure and farming in agropastoral areas favours household-level grazing arrangements where herders contract out a specific herd for grazing. This creates a system in which management responsibility and livestock ownership title remain under different households, with the host incurring the labour cost.



Table 1. Reciprocity Forms in each District and their Distinctive Features

Districts	Forms of Reciprocity		
	Clans	Relatives	Contracts
Mieso	Costs of exclusion from access to water determines the chance to use pasture (i.e. once access rights to pasture is granted, it is difficult to prevent the use of water points); not all members of a clan are aware of differences in rules for different resources (51)	Secured access to communal water points; opposition by some members (25)	Between households of different ethnic groups (Issa-Somali and Oromo clans)
Kebribeyah	Limited reciprocal access options due to tensions with neighbouring large clan; internal controversy between customary and religious law enforcers in making decisions to permit outsiders (20)	Payment for livestock watering (27)	Problems of shirking as hosting household keeps the animals on common pasture; the extent of engagement in contracts has increased with an increase in private grazing parcels (7)
Harshin	A wider opportunity to arrange grazing relations even across national boundary (32)	Payment for livestock watering (21)	Not practised

Note: Figures in parentheses show number of respondents practising a specific form of reciprocity.  
 Source: Survey data.

Table 1 presents an overview of the different forms of reciprocity in each site, which are discussed in the following sections. Some of these features are peculiar to particular areas, others are overlapping. Social relationships and water availability are the main determinants for a household in deciding whether to keep its animals on a relative’s land or arrange a contract (enforced by village elders) with others who have private grazing areas. Contract grazing is a relatively new phenomenon but is growing with an increase in the amount of enclosed land, encouraging a more commercialized form of livestock production. In general, a household-level arrangement involves immediate exchange of benefits while inter-clan level is time-bound, since current rights to graze can only be reciprocated at some time in the future.

**Reciprocal Access in Mieso District**

Clans in Mieso district have separate communal grazing areas although they are formally administered as one district. Access arrangements between Oromo clans begin with a process of negotiation. A clan head organizes

discussions with community members to assess whether the resources they have available are sufficient for other clan members. While there is no precise way of assessing the resource condition, this practice gives an indication that priority is given by primary users to the needs of their members. They then decide, through meetings, whether to permit or resist entry by others. This process shows that clan members have the right to exclude, and a clan head facilitates collective decisions. In general, the hosting period usually lasts a maximum of two months.

As communal clan land is endowed with various resources (water, pasture, trees, etc.), use rights to these resources have to be differentiated. Focus group discussions revealed differing experiences. While some participants said there were no strict rules discriminating access according to resource type, others observed that the right to pasture does not automatically secure access to water. The expectation that outsiders could negotiate for use of communal water points once they are allowed to use pasture makes access to the pastures conditional. If there is a fear that granting access rights to pasture will introduce higher exclusion costs to specific water points, a clan will tend to resist outsiders, as exclusion at water points is likely to cause conflict. For outsiders, this condition increases the cost of negotiating rights to use pasture and water. Indeed, this remains a challenge to customary tenure in maintaining reciprocal access arrangements during normal rainfall years.

This changes, however, when a prolonged dry season or drought affects the resource base of the outsiders more than that of the hosting clan, resulting in relative scarcity. Where this happens, secondary users will be granted complete access rights, since hosting clan members think that they do not have any other option and anticipate that they could face similar circumstances in the future. This decision leads to greater competition on relatively better pasture. Theory would suggest that access would be more strictly controlled during scarcity than during normal rainfall conditions, but customary institutional practice determining access to resources seems to contradict this theoretical notion. The main explanation for this is that the hosting clan members value the future benefits they could derive from being permitted to graze at outsiders' grazing area when they face similar ecological challenges. Thus, when primary users assign more value to the future than to the benefits they could have earned from withholding access from others, a situation of scarcity may still produce an incentive to permit secondary users.

Reciprocal resource use relations exist among consanguineal families living in different clans, where ecological difference causes variation in resource availability. These families have a close blood-relationship on a patrilineal basis and through marriage. Such kin ties are often seen as a means through which social obligations are fulfilled. About 31.25 per cent of the sample households in the district currently practise these arrangements, which differ from clan-level arrangements since access rights through

relatives secure the rights to communal water points. This is possible because the number of livestock is often small compared to hosting a large group. In times of poor water supply, such security of rights to others' communal water points may be enough on its own to encourage households to engage in this practice. The most common incentives for the two parties include milk (consumption) and calf-sharing by the hosting household and labour and asset saving for the livestock owner.<sup>13</sup> The mutual gains include the livestock owner's access to production inputs and the host's access to food.

For this to be effective, certain internal agreements have to be reached. The rights to trade access rights<sup>14</sup> to a relative from another clan (absentee livestock owner<sup>15</sup>) requires the consent of the village chief, elders and neighbours who are co-users of the communal land. Although the potential for benefit sharing is limited to the relatives, and although the village chief plays an important role in facilitating the decision, it is the collective that decides on the right to keep the livestock of the absentee owner, indicating decentralization of decisions. In some cases, however, key informants pointed out that clan members without relatives outside of their clan territory sometimes oppose such arrangements. In theory, it is the duty of primary right holders to prevent outsiders from creating negative externalities affecting jointly-used pasture. This becomes a typical obstacle for the endowed poor to trade rights to the grazing commons, for reasons associated with incentive disparity in granting rights.

An important feature of this district is the predominance of inter-ethnic resource conflict which constrains resource sharing by causing tension and by limiting mobility and social relations. For this reason, reciprocal grazing between clans of different ethnic groups is often said not to exist. But, surprisingly, a further probing indicates the incidence of mutually beneficial arrangements between Issa and Ittu at household level, where Issa keeps the livestock of Ittu on communal grazing land. The benefits are shared in such a way that those keeping the animals take offspring (calves) and the livestock owners benefit from taking the milk. As Ittu agropastoralists face a shortage of grazing land compared to Issa, this is a useful strategy. For Issa, it is relatively easy to roam for long distances to the east and northeast to gain access to better pasture.

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13. Calf-sharing will only be practised if the animals stay on the relative's land for extended periods.

14. The idea of trading rights among co-owners of common property was coined by Stevenson (1991). Since then, it has been widely used to refer to the condition in which poor members of a community convert their resource endowments into assets through exchanging their rights to resources with outsiders.

15. The term absentee livestock owner is often used to designate a system where urban economic elites (or outsiders in general) keep their animals on communal grazing land governed by others (Little, 1985; Mearns, 1996).

There are two ways in which households from the two ethnic groups meet and establish such contractual relationships. First, they meet regularly during market days, as they buy and sell livestock. Frequent meetings produce a sense of friendship or partnership. Second, some households from the Ittu clan apply certain cultural customs to gain membership to the Issa clan while still residing on Ittu territory. Informal affiliations built in both these ways encourage members of the Ittu to purchase and keep animals on the grazing commons of the Issa. Although the agreements are made between male household heads, they extend to the formation of economic relations between their wives. The Ittu wives collect milk during market days from their female Issa counterparts. Historical accounts show that, although the exchange of benefits between contracting parties may be temporarily suspended during times of confrontation, the informal agreements involving mutual gains continue to exist.<sup>16</sup>

The case of Mieso district shows the various strategies households use to increase access options to various resources, and the diversity of options the customary tenure system provides. The fact that informal rules change in response to the resource setting in the case of clan-level arrangements shows the flexibility of property rights embedded in the customary tenure system, as reflected in the available empirical literature. There are cases in which villagers face collective action problems when trying to reach agreements, particularly when members hold different positions in arranging reciprocal access between close kin. However, there was no evidence of incidences in which disagreements among clan members had become unmanageable. Finally, the access option that informal relations create even in the context of recurring interethnic violence affirms the vital role of social ties in generating assets.

### **Reciprocal Access in Kebribeyah and Harshin Districts**

These two districts are analysed together, for two main reasons. First, the inhabitants share a similar ethnic and cultural background, differing only in terms of production systems and clannishness. Second, as ecological and rainfall conditions in these and other neighbouring districts show variability (Devereux, 2006), they provide an ideal environment to draw lessons on the reciprocal resource use arrangements.

As a mechanism for benefiting from resources of variable productivity, herd mobility is quite common. The mobility routes of clans in Harshin district extend eastwards to Somaliland, crossing the international border

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16. Households which engage in such informal arrangements do not encounter resistance from neighbours who do not. Rather, they serve as mediators and mobilize elders from both sides when necessary, as conflicts affect relationships of economic importance.

(clan and administrative boundaries do not coincide), to Kebribeyah district and to the territory of the Ogaden clan in Degehabur district. In extreme circumstances, herds might be moved to Shinille Zone, involving treks ranging from 40 km to over 150 km, in order to exploit the pasture in different eco-zones. Similarly, the clans in Kebribeyah district move their livestock as far as Gursum and Fafem (northwest of Kebribeyah) during tense moments with the Ogaden. However, their options are more limited compared to those in Harshin district, partly due to their semi-sedentary characteristic. In order to look in depth at the rules and customary governance structures in decision making, the following analysis is conducted at both clan and household level.

### *Clan-Level Sharing Arrangements*

The most important reciprocal access arrangement in these districts takes place at clan level, and is subject to negotiated agreements. The contents of the negotiation include the rights to use communal water points, the length of stay (extent of grazing rights), number of livestock to be admitted, agreement not to trespass on enclosed land of the hosting clan members, payment of 'blood money' (a compensation known locally as *mag*), and assurance that animals are healthy, to reduce risk of disease transmission at watering points. Thus, to secure rights of use, there are obligations to be met by the negotiating party. It is easier to negotiate for pasture use than for water points.

Unlike in Mieso district, water points in both Kebribeyah and Harshin are mostly private. Many jointly used wells have disappeared and those wells that are available do not discharge enough water for outsiders (see Beyene and Korf, forthcoming). Some open access water points such as natural ponds are seasonally available. Where access to water points becomes a constraint, availability of pasture alone does not create a sufficient condition for secondary users to actualize their access rights to better pasture. This adversely affects those poor households who are unable to buy water from privately owned cisterns. However, it reinforces the position of wealthy households as prime beneficiaries from secondary access rights. Thus, it is unlikely that inter-clan reciprocal arrangements benefit the marginal clan members.

As in Mieso district, the rules governing reciprocal access are complex and variable, in response to varying rainfall conditions that affect productivity of clan grazing land. In this case, the dominant clans of the two districts adopted slightly different internal rules. Traditionally, every clan categorizes each calendar year as 'normal' or 'bad' (which means prolonged dry season or drought) by looking at rainfall conditions that enable it to predict resource availability. The decision to permit other clans to graze on communal clan pasture depends on this categorization. For instance, Harshin pastoralists

(Isaaq clan) allow other clans to graze ‘unconditionally’ on their land during bad years, when the pasture available on communal land of the secondary users is confirmed to be poorer than their own pasture — although this does not mean that there are no restrictions imposed on outsiders. In normal years, Harshin pastoralists completely prohibit others from their grazing area, and consider outsiders who negotiate for access to be ‘greedy people’.

In contrast, agropastoralists in Kebribeyah district (Abskul clan) do not grant access rights to others without negotiation in either normal or bad years. For example, during normal years the neighbouring Ogaden clan grazes on Abskul territory and vice versa, subject to negotiations. As we have seen in other cases, clans in Kebribeyah restrict outsiders’ access more seriously in normal rainfall years than in bad years. Thus, rules vary slightly across sites and entail different levels of transaction costs<sup>17</sup> in arranging access. Comparing the experience of the three districts, the decision to permit other clan members access to grazing resources seems to depend on the production system rather than ethnicity, since access to grazing land that agropastoralists control always requires prior negotiation.

An interesting aspect in these two districts is the presence of mixed clans, which facilitates reciprocal grazing arrangements. In situations where clan members have relatives in another clan with distinct commons, the lineage connection serves as a bridge to facilitate exchanges and co-operation. The networks which people establish over time amongst close kin play a significant role in the gradual emergence of institutions. The Somali social system is organized on a genealogical basis in which lineages and their segmented units are the basis for defining rights to benefits, so that membership of a clan plays an important part in meeting access qualification. Hence, rights to benefit streams from a resource and functions of institutions are not based on the principle of territorial ownership boundaries, where the rights of one group end and those of another begin (Sorenson, 1995). This means priority use rights do not depend on where one lives but on one’s ancestral line. In this case, members of other clans on the territory of a dominant clan become agents for negotiation to arrange access to the dominant clan’s resources.<sup>18</sup>

So far, then, the role of social capital based on lineage and individual clan rules is clear. The next crucial step is to examine how the collective defines and implements the rights of use. Collective decision making at clan level involves internal division of tasks. Elders from different villages, along with negotiating teams of secondary users (scouts), assess the condition of their resource. The negotiating team of the secondary users is composed of dominant clan members and non-members (lineage-wise they are members

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17. The concept of transaction cost is wide-ranging but in this case it refers to costs of reaching joint decisions, protecting rights, carrying out negotiations and enforcement of agreements (see Williamson, 1996: 379).

18. I use the term ‘dominant’ only to indicate the clan that principally controls a specific territory.

of the prospective host clan). Customary elders believe that this ensures transparency and reduces inter-clan confrontation if the decision is negative. Clan members are involved in decision making as elders consult them, indicating the delegation of responsibility to lower levels in the actualization of rights. But the community vests the clan leader with the power to approve or reject lower-level decisions.

Nevertheless, disagreements may arise among different decision-making bodies within a clan, especially when the roles and responsibilities of village chief, clan head and heads of the peasant associations (PAs) create confusions (as in Kebribeyah). As controversy arises, religious leaders intervene because they are traditionally trusted to be honest in their role in the decision-making process, although many key informants believe that they favour 'permitting access'. There are two aspects deserving particular attention here. First, clan leaders empowered to act as common property managers pursue the principle of decentralization in decision making, rather than taking action unilaterally. Second, there is some competition between religious law, exercised by the religious leaders, and customary clan law (the *Xeer*) as the basis for defining access rights.<sup>19</sup> While the former is based on the premise that 'land is a gift of nature and humans are nurtured on it', the latter adheres to the judgements of the collective.

These are thus different sources of 'legitimizing' access rights, with the potential for contradiction. Although one may think of customary institutions in such societies as being rooted in religion, the influence of religion on decisions of access to grazing resources is rather limited in this area. In the cases studied, customary principles work on the basis of prior control of a territory, rejecting the premise of religious leaders who tend to favour an open access regime.<sup>20</sup> Nevertheless, the existence of religious and customary laws indicates the presence of possible dual strategies to negotiate for access. If the potential contradictions inherent in such a system are seriously manifested, an inter-clan council will intervene and adjudicate the case.

### *Household-level Reciprocal Arrangements*

Household-level agreements can take two forms. The first is the private agreement (contract) negotiated between households from different clans.

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19. According to Shivakumar (2003: 15), '*Xeer*, representing a tradition of *ad hoc* covenants, governs relations among members of different clan units, particularly with respect to the sharing of common pool resources such as grazing land and water sources'. But the universality of *Xeer* is often contested, with some viewing it as 'localized specific bilateral agreement between adjacent clans while others argue that it is possible to refer to a single Somali *Xeer* because the underlying principles are common' (Sage, 2005: 32).

20. Zeidane (1993) finds similar contradiction between Koranic Law and customary tenure in Mauritania, as the former permits much broader access to grazing resources than the latter.

This is a short-term contract. The host manages a few animals from the absentee owner on his private grazing area in exchange for cash. This is common practice in villages in Kebribeyah district where expansion of enclosed land from the commons (1.87 ha on average) or crop fields (after harvest) provides a relatively rich grazing resource base. However, while elders claimed that this was a widespread practice, only 17.5 per cent of the respondents in Kebribeyah and none in Harshin said they had experienced it.<sup>21</sup> Clan authority is not involved in such contracts, since the host does not keep the animals on communal land. However, there is no guarantee that the host will fulfil this promise; since there is no institutional mechanism to exclude access, and since it is not practical to exclude animals once they have entered the vast clan grazing area, there is little to prevent hosts from grazing the animals on common pasture.

The second mechanism of access at the household level is the arrangement made between relatives (*reer*). This is driven by the immediate exchange of economic benefits associated with it. The survey shows that on average 28.8 per cent of respondents keep livestock belonging to relatives. This figure is higher for Kebribeyah (67.5 per cent) and for Harshin (53.8 per cent). Households in a subordinate position because of their lineage relationship with other clans have the right to reciprocal benefits from access to pasture with their relatives. This is different in a number of ways from the contract grazing described above: 1) households involved have close blood ties; 2) animals are not confined to private grazing areas but rather are put on the commons together with the livestock of the host; and 3) the arrangement requires the consent of the community through the facilitation of association leaders or the village chief.

In this type of arrangement, the time period is usually longer than with contractual grazing due to the absence of restrictions in using the grazing commons. The motivation of both parties is similar to that seen in Mieso district. Family members of a hosting household consume milk while all calves, kids and lambs born during the period are shared.<sup>22</sup> These mutual gains enable the poor (with rich relatives) to convert resource endowment into food and assets that support their survival. An additional, though less common benefit, is that a host engaged in opportunistic farming (that is, when rainfall conditions permit) can also benefit from access to traction power if he keeps bulls.

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21. In Harshin, contracts remain private arrangements (between neighbours).

22. As some elders pointed out, a practical problem in this type of herding arrangement is that, since the owner has no control, the host may engage in intensive milking to secure his family subsistence, leaving less milk for the calves. In extreme cases, this could lead to calf mortality.



### Governance Structures

There is a hybrid form of governance structure facilitating those reciprocity arrangements. Since the late 1990s, it has been state practice to integrate customary and formal decisions by assigning elders as advisors. In this case, we have government elders and customary elders, where the latter are members of traditional inter-clan councils (*Guurti*). Government elders are expected to work with the traditional inter-clan council and are officially appointed to convey state policies and programmes to the local community and provide feedback to the state bureaucrats. They hold a middle position, serving as both community and state agents. The formal structure begins from the regional level; the region is divided into zones (nine in the case of Somali) and each zone into districts, with a district consisting of many peasant associations. Elders serve as advisors at all (region, zone and district) levels. At a lower level, we find villages and their chiefs complying either with customary norms or formal rules. There is potential for the decisions of the state authorities and those of the inter-clan council to contradict each other at the village level.

Elders in the traditional inter-clan council have a parallel position and do not work under state influence. The role of the council is broader, including occasional interference in resource-sharing arrangements, whereas that of government elders is often confined to conflict resolution. A traditional inter-clan council constitutes elders from different clans, each of which may be divided further into sub-clans.<sup>23</sup> Both inter-clan council and government elders are comprised of these different clans. The process of integrating customary elders into the formal system started in 1999 with the selection of 100 members of *Guurti* out of 700 elders in the entire Somali region, to form a government *Guurti* (CHF International, 2006: 27). In some circumstances, villagers have observed disagreements between the two groups of elders in settling disputes because government *Guurti* members (or government elders) were felt to be more loyal to the state than to their own community (Table 2).

Table 2 presents the key features of reciprocal grazing arrangements in our case study sites. In Mieso district, elders do not act as advisors at lower administration levels. Here, state influence does not seem to reduce as one goes down the levels, from the region to the peasant association. Indeed, state intervention has become more frequent in connection with the violent resource conflicts in this district, which is located at the boundary between Somali and Oromia Regional States. This is not the case in Kebribeyah and Harshin districts, in the Somali region; here there is a decline in state role down the levels. An important indicator for the declining role of the state

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23. The Somali genealogy includes many layers of subdivision: clan, sub-clan, sub-sub clan, family, etc.

Table 2. A Summary of Key Features of Reciprocal Grazing among the Case Study Districts

Features	Study districts		
	Mieso	Kebribeyah	Harshin
Ethnic belonging (and clans)	Oromo (Ittu, Alan and Nole)	Somali (Abskul and others — Akisho, Bartere and Ogaden)	Somali (mainly Isaaq and also others)
Water points and uses*	Communal ponds; communal wells	Communal wells and private cisterns	Communal wells; private and communal cisterns
Mobility nature	Highly confined to specific areas in times of conflict	Moderate in nature; except to the south of the district, all other corridors being used	Much more extensive even across international border with Somaliland; a trading route connected to Hargesa
Decisions in customary arrangements	<i>Daminas</i> (clan heads) are actively involved in mobility decisions	Decisions made by the <i>Guurti</i> (inter-clan council) consisting of elders	Decisions made by the <i>Guurti</i> (inter-clan council) consisting of elders

Note: \*The expansion of farming, a parallel capture of water wells by the agropastoralists and the state-supported water harvesting schemes (ponds), have complicated governance of water points in Mieso, which affected reciprocal arrangements.

down to the PA level in the Somali region is that residents in the village respect elders and customary local chiefs rather than the formal PA leader; they respect the rules enacted by the former rather than those of the latter.

Customary institutions of the pastoral commons which favour reciprocal access can make a sizeable contribution to improving property rights security *vis-à-vis* grazing resources. In the case of inter-household reciprocal arrangements, the benefit flows occurs simultaneously. Negotiations take place between a host and his neighbours to secure the right to invite relatives; decisions are made at a lower level. However, in inter-clan arrangements, there is a certain level of *ex ante* uncertainty<sup>24</sup> for the hosting clan since exchanges are not automatic: the hosted clan may fail to reciprocate and the hosting clan could anticipate a high level of transaction costs. In general, as decisions regarding access by outsiders are made at different levels, there are differences in the costs of negotiation incurred. Comparing the three cases, there has been an expansion of private water points in Kebribeyah and Harshin districts, relative to Mieso district, which seems to make inter-clan reciprocal arrangements more favourable for the wealthy households than for the poor.

24. In which a hosting clan remains uncertain about the likely outcome of the future negotiation (see Slater and Spencer, 2000).

## CONCLUSIONS

Evidence from the three case studies reveals that reciprocity, as customary institutional practice, is characterized by negotiability and ambiguity of rights. This does not necessarily produce insecurity; but neither does it involve a mechanism by which negotiation always produces a positive outcome. Current outcomes of negotiation over rights not only depend on the past but are also affected by the resource setting. An important source of this ambiguity lies in the attributes of the resources themselves; these may cause a shift towards institutions that favour flexibility rather than supporting conventional property rights theory that promotes greater exclusivity as a response to scarcity. In other words, co-owners can deny outsiders their rights to benefit from the use of a resource, but such a denial may reduce the security of rights for the co-owners themselves, should they in their turn need to request access from others. Hence, clan rules facilitating reciprocal grazing are not based on maximization of benefits from own grazing commons through prohibiting access by others. Rather, herders make use of these rules to maximize security of use rights through investing in relations with others and permitting them access.

There is a common challenge in all the sites: the restriction or denial of access to water points discourages reciprocal arrangements because herders cannot find water where they can actually benefit from the use of pasture. In all localities, water is more highly valued than pasture as recurring droughts and other factors have reduced water sources. A huge investment in communal water point management to improve access to water points in different grazing places would potentially facilitate reciprocal pasture use between neighbouring clans. This could create a mechanism for the very poor herders to benefit, as they can rarely afford to pay for water use fees from private sources. Hence, interventions aimed at establishing evenly distributed communal water points on the territory of different clans would increase the efficiency of customary tenure and the likelihood of achieving food security among pastoral and agropastoral herders.

In many pastoral areas of Africa, where herders make best use of fragile rangeland resources and there are no other investment options to improve the optimal use of such resources, there is a growing consensus over the effectiveness of customary institutions in managing risk. The survival of such a system is challenged, however, by development policies and interventions that systematically introduce alternative land use systems into such fragile environments, which are neither effective nor sustainable in securing better returns. This implies that any pastoral development policy that advocates the break-up of the commons and aims at restricting herders' mobility will remain, at best, irrelevant (Behnke, 1994; Ngaido, 1999; Niamir-Fuller, 1999; Ornas, 1990).

This point notwithstanding, given the increasing role of state governance in several pastoral regions (mainly in eastern Africa), the success

of customary tenure in providing security of rights to grazing resources depends on the extent to which government policies recognize and provide legal support to customary tenure systems that permit flexibility and risk management. The state has a vital role to play in terms of protecting group rights where inter-group relations hamper reciprocity, and in preventing political factors that undermine the reciprocal grazing arrangements. In the Ethiopian context, too, effective translation of the constitutional provision that safeguards group rights should also be aware of the need to respect herders' collective rights to the rangeland resources where common property provides better adaptation through employing flexible customary institutions.

### Acknowledgements

An earlier version of this article was presented at the 11<sup>th</sup> Biennial Conference of the International Association for the Study of Common Property Resources on the theme 'Survival of the Commons: Mounting Challenges and New Realities' (Bali, Indonesia, 19–23 June 2006). I would like to thank Konrad Hagedorn at the Division of Resource Economics at the Humboldt University of Berlin, Germany, and Benedikt Korf from University of Zurich, Switzerland, who gave me valuable comments and encouragement. I am grateful to the German Academic Exchange Service (DAAD) and the CAPRI/IFPRI project for their financial support in carrying out the fieldwork in Ethiopia. Lastly, I am very grateful to the two anonymous reviewers who provided insightful and constructive comments that have substantially improved the content of this piece.

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