

CHAPTER 8

CUSTOMARY INSTITUTIONS IN CONTEMPORARY POLITICS IN BORANA ZONE, OROMIYA, ETHIOPIA

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Introduction

Customary institutions are varyingly understood by scholars, development experts and governmental officers. Since they are not legally or constitutionally recognised by the state, most sociologists and political scientists have usually assumed that customary institutions are informal. Elizabeth Watson (2001, 4, 18) has tried to apply this mainstream theoretical model to natural resource management in Borana Zone, but she found a mismatch with the fact that the Borana ‘indigenous’ institutions operate in quite a formal way. Indeed, functionalist anthropology has fully shown how roles of authority, decisional and juridical procedures, norms and institutions are legitimised or formalised in non-industrial polities. The problem with functionalism was that customary institutions were ethnographically treated as if in isolation from the colonial or post-colonial states. The formal/informal theoretical divide reflects the different disciplinary and methodological approaches to the study of social reality. Customary institutions are in fact considered ‘formal’ when priority is given to the point of view of local actors; they are regarded as ‘informal’ when evaluated through the sole legitimating prism of the nation-state.

With the development of the notion of indigenous rights, this dichotomy can be considered a dated one. In fact, the expanding body of international law on indigenous and tribal peoples provides the legal framework for the recognition of customary law, institutions and territorial rights. Self-determination is the encompassing political principle that defines an independent decisional space with reference to the management of natural resources and development. In practice, however, the enhancement of these rights varies greatly between different continents and is highly dependent upon the degree to which international law has been adopted into national legislation. Despite the fact

that the peoples of Ethiopia have a variety of fully fledged and still operative customary institutions, the internal political debate and the international discourse on development have so far been constructed without any reference to indigenous rights.

The post-*Derg* government of Ethiopia has shown full awareness of indigenous mechanisms' potential for conflict resolution. Attempts to institutionalise the contribution of elders in this field were made in Oromiya back in 1992, before the Oromo Liberation Front (OLF) withdrew from the Transitional Government of Ethiopia (TGE) (Leenco Lata 1999).¹ More structured attempts to involve elders in an advisory role have been made in the Afar and the Somali regions (Kelemework Tafere 2006, 93–4; Vaughan and Tronvoll 2003, 39; Lister 2004, 26; Hagmann 2007).

In the field of development, the attention to customary institutions has been mainly raised in the pastoral sector. The pastoral lowlands of Ethiopia were less affected by the imperial and socialist land reforms forcibly implemented by the Ethiopian governments (Boku Tache and Gufu Oba 2009, 412–13). The governance of the natural resources on which pastoralism relies remained fundamentally based on customary elements. The contemporary relevance of the customary institutions is recognised in an international report commissioned by the International Fund for Agricultural Development (IFAD) and prepared for the Pastoral Community Development Project (PCDP), an initiative by the World Bank, IFAD and the Government of Ethiopia to reduce poverty among pastoralists. In this report it is claimed that 'the PCDP is based on the assumption that pastoral livelihoods can be improved by strengthening the self-management capabilities of indigenous institutions' (Waters-Bayer 2003, 2). The report goes on to advocate capacity-building for both governmental and indigenous institutions among the Somali, the Afar, the Borana, and various ethnic groups in South Omo.

The Pastoralist Communication Initiative (PCI) has been particularly active in the field of advocacy. Its initial objective was to obtain a chapter dedicated to pastoralism in the National Poverty Reduction Paper. In line with the poverty reduction strategy of ensuring citizens' participation and institutional responsiveness, the PCI supported the dialogue between the pastoralists and the Government of Ethiopia.

¹ The OLF was one of the three major political organisations that formed the TGE after the fall of the *Derg* government in 1991.