



*Managing Land Conflicts in Plural Societies. Intergroup Land Governance in Ethiopia*  
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## ENGLISH SUMMARY

Natural Resources (NRs) and their ecosystem services sustain people's identity and livelihood. Rural communities in developing countries are directly dependent on NRs as they are their primary means of subsistence and source of income. Societies in developing countries with fragile economic, social, political and legal systems face vulnerability which is usually exacerbated by challenges such as impoverishment, limited resources, complex disasters, and the impacts of climate change. At times, these factors contribute to the rise of conflicts of various levels and natures. These conflicts are usually related with NRs. Many scholars have dealt with abundance and scarcity of NRs in relation to conflicts. However, in undermining human security and increasing the risk of (violent) conflicts, both scarcity and abundance must be combined with other environmental, social, economic, political and institutional factors to lead to conflicts.

In relation to land, the rules in property regimes, both state and non-state ones, regulate and determine people's relationship to land, and the power relations between and among individuals and social groups. When conflicts over land occur, there are different conflict management approaches; namely, formal/legislative/administrative approaches, alternative dispute resolution (ADR) mechanisms and customary approaches or hybrid combinations of the above.

The role of customary systems in the governance of land and land related conflicts (LRCs) is often well-appreciated and constructive collaboration, reformation and harmonization of the relationship between the formal and customary is called for. However, some pertinent questions remain unanswered. These questions include: how can plural legal systems best relate to each other; how to ensure that different legal orders that exist in a particular jurisdiction operate in a way that maximises their ability to cross-fertilise, support and enrich each other; what exactly does this harmonized relationship incorporate, which challenges result from building such a hybrid system; and how to deal with such challenges. Hence, the main research question of this research is: **How can formal and customary systems of plural societies, especially in the case of farmers and pastoralists in developing countries, particularly Ethiopia, interact in managing LRCs and ensure sustainable development?**

I use legal pluralism (LP) and sustainable development (SD) to answer this overarching question and its sub questions. LP analyses the multiple rules applying to the same jurisdiction and provides an analytical lens to examine and explain the processes as well as mechanisms of managing LRCs. I examined the interaction within the formal systems (vertical and horizontal) and the interaction between the formal and customary systems. SD is then used as the parameter against which the effectiveness of the conflict management processes and mechanisms are measured. SD was unpackaged to include: social objectives (justice, peace, strong institutions, equitable access to land and participation); environmental objectives (sustaining ecosystem services of land, forest management, halt & reverse land degradation, combat desertification); and economic objectives (sustainable farming and herding, wellbeing and eradication of poverty).

I used a qualitative methodology. Before delving into the current situation of the management of LRCs, I provide a historical overview of the causes and effects of the conflicts at three geographical levels (continental, national and local) as it enables deeper analyses and better understanding of the driving forces of the conflict being studied (Rutten & Mwangi 2014). Then, I applied a multi-level institutional analysis framework further developed by Gupta *et al.* (2013), which was based on the International Human Dimensions Programme's institutional analysis framework (Young *et al.* 2005) and the multilevel governance theory of the Earth System Governance Project (Biermann *et al.* 2009). This multi-level institutional framework has six basic elements of analysis: institutions (regional, national and local), instruments, actors, drivers, effects and redesign. It begins with an analysis of the causes or drivers of the problem. It then examines the institutions and the operative instruments applicable to boundary, land governance and conflict management issues. It assesses whether the instruments can change human behaviour given the causes or drivers of the problem in such a way that social, economic and ecological goals are achieved. Based on an analysis of whether the instruments work or do not work in a specific context, it suggests ways to improve the instruments. Throughout the analysis, the instrumental assessment is based within a political ecology approach and hence addresses issues of power.

This framework is used to analyse the management of LRCs in Africa, Ethiopia and the Afar-Wejerat conflicts (see Chapters 4, 5 and 6, respectively). These chapters discuss the relationships in the institutions and instruments that regulate boundary lines, land governance, and conflict management issues of both formal and customary institutions. The analysis addresses how the formal and customary institutions/instruments operate and interact with one another; and the nature of their interaction in achieving SD objectives. The data used for this analysis was gathered from a literature review and qualitative content analysis of laws and policy documents conducted for each geographic level. I also undertook a single layered case study of the Afar-Wejerat LRCs in Ethiopia for in-depth analysis. In addition to the literature review and content analysis, 57 individuals were approached for in-depth interviews. The individuals interviewed included officials from 3 federal governmental bodies, 16 regional government officials including security and militia heads, 11 *Abo Gerebs* (community elders) of the joint customary institution (*Gereb*), and 27 community members including women and youth of both ethnic groups. Additionally, six scholars/academicians were consulted because of the proximity they have to the subject matter at hand. This research was complemented by several other projects I have worked on with bearing on the issues that this thesis covers.

In Africa, conflicts linked to NRs are related with scarcity and abundance coupled with political, economic, demographic, environmental and socio-cultural drivers. The colonial history of Africa has also contributed to boundary conflicts and it has shaped the nature of land governance and conflict management. At a continental level there are commendable efforts of the African Union (AU) aimed at bringing about integration and responding to conflicts. In relation to boundary issues - the African Union Border Programme (AUBP) and the Niamey Convention; regarding natural resource management (NRM), land governance, LRC management, issues of pastoralists and SD- the AU conventions and resolutions, the Land Policy Initiative (LPI) and the African Peer Review Mechanism (APRM), play a significant role. At the state level, formal institutions and instruments are generally based on western legal concepts. The main LRC management bodies are land governance/land law review commissions, land tribunals and formal peace committees. Many African countries also have customary and religious land tenure systems with a component of the customary mechanism of conflict management. Nevertheless, the operation and interaction of these institutions and instruments are not uniform. Moreover, lack of proper

implementation and coordination as well as deficiency of resources has made them ineffective. The relationship between formal and customary systems is also more accommodative in relation to social objectives, mainly in ensuring peace, justice and building strong institutions, while environmental and economic objectives are not addressed, especially at the national and local levels. Thus, instruments need to be redesigned and harmonized in such a way that they can address the drivers of LRC, including those between pastoralists and farmers, define the roles of formal and customary systems, and accommodate and prioritise SD objectives.

In Ethiopia, land has been the main source of the livelihood of the people as well as the main source of individual, group and regional conflicts because of political, economic, environmental, demographic and socio-cultural drivers. There are over 82 ethnic groups most having their own customary legal system in Ethiopia. Legal modernization in the 1960s attempted to wipe out customary systems and replace them with transplanted laws. But half a century later, the customary systems are still vibrant in many parts of the country. The Federal Democratic Republic of Ethiopia (FDRE) Constitution (1995: Article 34) recognizes the role of customary laws in private and personal (e.g. family) matters. Other laws (e.g. Proclamation 456/2005) and policies (e.g. Criminal Justice Policy) are also widening the scope of the recognition of customary systems bringing the *de jure* scenario closer to the *de facto* one. This process has widened the scope of the LP but calls for a new design to facilitate the interaction between the two systems. In addition, the Constitution has also recognized the right of self-determination and various legislative, executive and judicial bodies and instruments have been put in place to deal with boundary issues between Regional States (RSs), land governance and conflict management. However, the limitation of capacity of institutions/instruments, the lack of clearly delineated physical borders between the RSs, the absence of well-defined property or land rights (especially communal land) and the lack of coordination between organs have inhibited the success of their individual and collective efforts in addressing all LRC drivers. These instruments do not clearly set out the relationship that needs to exist between the formal and the customary system as well. Therefore, there needs to be a clear definition of administrative boundaries between RS in a way that takes into account environmental, economic, and social needs of the societies; adherence to constitutional principles through enactment of policies and legal instruments that define and protect pastoralists rights over communal lands; synergizing organs that work on land

governance, environmental protection and conflict management; and defining the relationship of the formal system with the customary systems after exploring the customary systems of the country.

The LRCs between the pastoralists of Afar RS and the neighbouring Wejerat people of Tigray RS are a result of political, economic, environmental, demographic and socio-cultural drivers. Pastoralists/herders in the Afar and farmers of the Wejerat community are the main actors in the local conflicts in this region. The instruments/institutions of the federal and RSs as well as those of the customary institution of *Gereb* interact in responding to these LRCs. The interaction between the state institutions of both the federal and regional states and the *Gereb* has become more frequent and more of a hybrid system that was able to bring about harmony, peace and strengthening of the institutions. However, all the underlying causes of conflicts were not given due attention in the process and all the state institutions involved in environmental protection, land governance and conflict management do not collaborate. The closeness of the elders with governmental officials is also raising the suspicion that their neutrality is compromised. In addition to threatening their legitimacy, the interactions might also bring national politics into local systems adversely affecting their ability and credibility in resolving conflicts. Hence, the boundary issue between the RSs, the lack of regulation on communal land, the collaboration between the state institutions and the roles of the formal system and the *Gereb* must be clearly addressed for an effective LRC management that ensures SD.

The final and seventh chapter summarizes the findings of each chapter and answers the overarching research question. The three geographic levels share similar features and exhibit distinct characteristics of their own. Regarding how formal and customary institutions interact, it points out that it is important to first identify the unique strengths and weaknesses of each of the system involved. Doing so will clarify in which areas these systems can complement one another. Once this is done, and the terms of the relationships are designed, the collaboration shall ensure that the objectives of SD are targeted and addressed. In this endeavour, these two systems can assume different roles. For instance, the research has identified that the customary systems can take the lead in dealing with securing harmony and peace while the formal system can design scientific solutions that will address economic and environmental issues. Nonetheless, it should

be noted that conflicts over resources are not just simply technical issues that can be solved by new technologies and regulatory frameworks regarding the relationships between various actors. The conclusion and recommendations of this study mainly spell out the need to revisit boundaries in light of the needs of governments and the people, strengthening collaboration between customary and formal systems and ensuring the incorporation of SD objectives in the management of LRCs through formalization of the relationship between the formal and the customary systems, harmonization of legal frameworks, maintaining the autonomy of customary systems, adaptive and complimentary co-existence, continuous improvement and cross-learning. It is also emphasised that one size does not fit all and that case-specific analysis of conflicts as well as relationship between formal and customary systems is essential.