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Between legal pluralism and livelihood realities

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Local forest governance in Ethiopia: Between legal pluralism and livelihood realities

Till Stellmacher

Abstract

Ethiopia's montane rainforests have witnessed high rates of depletion and deforestation in the last decades. The main reasons are expansion and intensification of smallholder agriculture and forestry. Forest governance in Ethiopia is characterized by the complex interaction of factors such as nationalization of land, weak state structures, the persistence of traditional local institutions, and socio-cultural heterogeneity promoted by state-enforced resettlement.

This paper aims to contribute to the understanding of forest governance in Ethiopia and the underlying reasons for and variables influencing forest depletion and deforestation by analysing a local institutional arena in a case study approach.

The paper is based on local-level empirical field research conducted in the montane rainforests of southwestern Ethiopia. Methodologically, a combination of semi-structured expert interviews with forest users, local traditional decision-makers and representatives of governmental and non-governmental organizations was used, as well as focus group discussions and visual communication techniques.

The paper adopts a historical perspective, reflecting the path-dependent character of local institutions. Historically, the rainforests in the case study area, Koma forest in Kaffa zone, are divided into forest use-right plots individually held by local peasants. The nationalization of all land in Ethiopia in 1975 was a major institutional turning point. By decree, responsibility for forest management was shifted to state bodies. In practice the newly established state bodies never had the necessary resources or expertise to effectively fulfil their tasks. Instead the traditional forest use rights lingered on, backed by local community-initiated institutional systems with a status of 'tolerated illegality'. However, the research findings also indicate that local community-initiated institutional systems are limited to certain forest user groups, and exclude others. This explains their little practical assertiveness, and contributed to the creation of a local-level power vacuum that allows high rates of deforestation and forest degradation.

Key words: Ethiopia, forest governance, legal pluralism, property rights, *iddir*

1 Introduction

Effective governance is key to ensure sustainable use and conservation of the world's forest cover and resources. In the second half of the 20th century, many African countries underwent transformation processes in which forest governance structures became increasingly formalized and top-down state-administered. However, in reality many formally government-owned forests in Africa are managed on the basis of community-initiated local institutions¹ (Agrawal et al 2008).

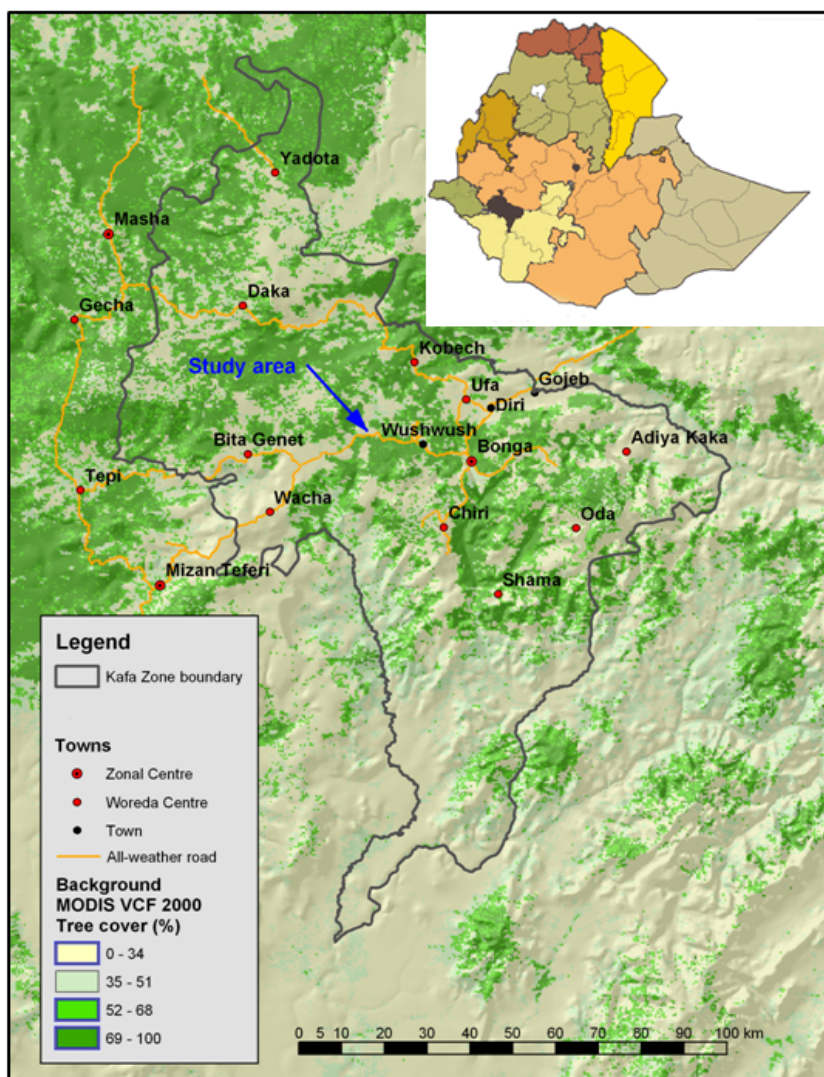
Local institutions represent the critical forest governance module by providing determinations and regulations defining human access to forest resources, thereby “*bringing order into disorder*” (Nørgaard 1996, 33). They often provide the legislative power defining which person has in practice the right to use which forest resource, to what extent, and at what time. In this sense they are not neutral, but may contradict individuals' attempts to gain short-term benefits and can grant or deny individuals or groups access to forest resources (Ostrom 2005). In many developing countries, local institutional settings are characterized by structural plurality and imbalances between actors as well as conflicts arising out of these features, especially when resources are central to local livelihoods, as forest resources often are.

The montane rainforests in southwestern Ethiopia are a worldwide hotspot of biodiversity and known as the place of origin of the *Coffea arabica* gene-pool. They represent the majority of the last primary forest cover in Ethiopia (Senbeta et al 2007) and a major coffee production area of the country (Stellmacher and Grote 2011, Jena et al 2012). However, the rainforests are subject to rapid depletion and deforestation (Gatzweiler et al 2007; Stellmacher 2007a). This paper aims to contribute to the understanding of forest governance in Ethiopia and the underlying reasons for and variables influencing forest depletion and deforestation by analysing a local institutional arena using a case-study approach.

The paper is based on empirical field research conducted in southwestern Ethiopia. The study area is located in Koma forest, some 350 km southwest of Addis Ababa, within Kaffa Zone of the Ethiopian province South Nations, Nationalities, and Peoples' Regional State (SNNPRS).

¹ In the following I will use the term *institutions* to refer to “humanly devised constraints that shape human interaction [and] structure incentives in human exchange, whether political, social, or economic [as well as] define and limit the set of choices of individuals” (North 1990, 3).

Figure 1: The study site in Kaffa Zone, southwestern Ethiopia²



Methodologically, a combination of semi-structured expert interviews, focus group discussions, and visual communication techniques was used. A total of 160 expert interviews were conducted with forest users, local traditional decision-makers and representatives of both governmental and non-governmental organizations operating on different levels in southwestern Ethiopia and Addis Ababa.

² Source of map: CoCE research project. G. Lieth.

2 The Ethiopian state, its forests and property rights

Land is the most important production factor in an agrarian-dominated society such as that in rural Ethiopia. Land tenure and property rights arrangements are path-dependent institutions in which history determines not only the present situation but also future developments and prospects for change. Land and resource-use related policies evolve and change over time in the interplay between context-specific circumstances and the changing effectiveness of actors' networks (Alayew et al 2007; Mekonnen 2009; Eguavoen and Weyni 2011; Kelboro and Stellmacher 2012; Aklilu and Stellmacher 2012; Eguavoen and zur Heide 2012; Mwangi et al 2012). In this working paper, considerable emphasis is thus given to the past, commencing with the time of Haile Selassie I.

In the Emperors' time before 1974, land tenure and property rights arrangements in Ethiopia were some of the most complex in the world. They included private, communal, serfdom, state and church land property rights arrangements, among others (Young 2006). Nowadays southwestern Ethiopia, from the end of the 19th century onwards, had been largely dominated by a landlord-tenant system (*neftegna-gebber* in Amharic) with feudal characteristics, in the form of the *gult* system. After the Ethiopian revolution in 1974, the new military government, popularly known as the *derg*³, proclaimed the abolition of the political system and the award of all "land to the tiller", i.e., assignment of land tenure rights to the peasants. The subsequent land reform of 1975 was aimed at putting this proclamation into practice. As one of the most radical land reforms ever undertaken in Africa (Pausewang 1990) it laid the foundation of a land tenure system based on the socialist model. All land tenure and land rights systems in Ethiopia – including the *gult* – were abolished, landlords were dispossessed, and all land holdings, whether farmland, grazing land or forests, were nationalized and came under direct possession of the state (Stellmacher 2007b).

Nationwide responsibility for land administration was vested in a newly established "Ministry of Land Reform and Administration". On the local level, the enactment of the "Proclamation to Provide for the Nationalization of Rural Land No. 71/1975" led to the formation of Peasant Associations, each of which grouped together a few villages and hamlets (*gots* in Amharic). From 1975 onwards, Peasant Associations were given full control to distribute land to local people (Pankhurst 2002, Young 2006).

The weaknesses of the nationalization approach became evident in the post-revolutionary years. Most notably, since Peasant Associations frequently withdrew land tenure rights from the peasants and reallocated them – often at short notice and without provision for refund – uncertainty about whether work and investment on the land would lead to long-term benefits reduced the incentives to invest in land maintenance and improvement measures, aggravated the problem of soil mining, and led to the employment of short-term-oriented measures on the allotments (Pender and Fafchamps 2006). In addition, land could not be used as collateral to secure credit, resulting in low creditworthiness and only marginal financial investment by the peasants (Young 2006; Stellmacher 2007).

After a violent regime change in 1991, the new transitional government, dominated by the "Ethiopian People's Revolutionary Democratic Front" (EPRDF) took power. Notwithstanding the fact that economic liberalization was emphasized as one of the key transformation objectives, the "Constitution of the Federal Democratic Republic of Ethiopia" approved in 1995, states: "*Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange*" (Article 40). The constitution is still in force, and the system of Peasant Associations (now *kebeles*) as the lowest administrative level has remained almost unmodified until today (Stellmacher 2010).

³ *Derg* (Amharic), also spelled as *dergue*, refers to a committee or council, and is used as a shorthand for "Armed Forces Coordinating Committee".

In summary, the revolutionary nationalization of all land holdings in 1975 was a major institutional turning point in Ethiopia, at which land and forest administration responsibilities were shifted from local to central institutions and authorities, effectively overnight. However, it soon became clear that the change of an institutional setting and the transfer of rights and duties from one institutional system to another does not necessarily bring a change for the better, that the passing of rules and regulations does not guarantee their enforcement in reality, and that the setting up of new administrative bodies does not mean that they are actually effective in achieving their objectives. In practice, the new state-initiated bodies did not have the necessary organizational structures, the experience, the expertise or the financial and infrastructural resources to tackle the cross-cutting and nationwide challenge of governing the Ethiopian forests (Toulmin 2009; Teketay et al 2010; Kelboro et al. 2013).

3 Between legal pluralism and local realities

Field research provided evidence that despite the aforementioned revolutionary regime changes, the interrelation between the local people and the forest continued to be widely based on community-initiated institutions. However, this does not mean that those institutions remained unchanged in form and meaning, or equitable in access and impact. The fact that community-initiated institutions in rural Africa persisted during decades of influence and interference from “the outside”, e.g. by European imperialists or the centralized national state, is not new as such. However, it is not thoroughly understood how this institutional world impacts on the use, management and conservation of the Ethiopian coffee forest resources. In the case study discussed in this paper, namely that of Komba village in Koma forest, Kaffa Zone, southwestern Ethiopia, two sets of institutional arrangements are of particular importance. These are:

- a) the institutional arrangements for collective coffee forest management (including harvest of forest coffee berries), which have taken the organizational form of neighbourhood working groups;
- b) the legislative and juridical structures that provide the operational set of institutions determining land and forest resource property rights.

These are discussed in the following two sub-sections.

3.1 Collective forest management: *daddo* and *dabbo*

In many African societies, one of the benefits of being member in a community is the access it provides to the labour of other community members on a non-cash basis (Tache and Irwin 2003). In the management of resources in the nearby coffee forest, a wide range of work is carried out by neighbourhood working groups, be it the relatively light work of forest coffee harvesting, the production and putting up of beehives (which is more long-term oriented and requires more knowledge and skills), or – at the top of the hard labour scale – timber-logging and construction of *tukuls*, the thatched round huts omnipresent in southwestern rural Ethiopia. For collective labour, two types of working groups are relevant in Komba village: *daddo* and *dabbo*. Both provide short-term work teams beyond kinship ties on the basis of equal labour exchange in times of high labour demand. In both working groups, the households being assisted are expected to provide sufficient food (maize and *kocho*⁴) and beverage (coffee and *tella*⁵), for the workforce involved, hence the arrangements also include a certain “food for work” aspect. A *daddo* working group consists of about three to five people working together for half a day. *Dabbo* is “*much bigger than daddo*”⁶ in terms of workforce involved, expenditure of time and action radius⁷.

All households in Komba village may be engaged in *daddo* and *dabbo* at any time of the year. Labour is exclusively carried out by adult men, whereas women are busy preparing food and beverage for the workers. If a household requires a larger numbers of workers at a specific time, the respective head of the household can ask for work assistance at an *iddir* meeting (see the discussion below).

⁴ A staple food made from *enset*, a plantain-like perennial crop endemic to Ethiopia, often referred to as the ‘false banana’.

⁵ A self-brewed light beer.

⁶ Interview with Alemayehu Ketto, secretary of Komba *iddir* (Komba, 04/11/2004)

⁷ The people in Komba village differentiate between forest areas relatively close to their homesteads, called *kubboo* in the local language, Kaffichio, which are used and managed individually on a daily basis (e.g. by women for firewood collection), and more far-off forest areas, named *kuddoo*, that are entered only in groups, for security reasons such as to provide protection from wild animals.

Beyond guaranteeing a high level of reciprocity and social coherence, these working group arrangements provide a substantial level of social control that prevents individual (over)use of forest resources. The working systems are not organized spontaneously by their participants, but are both arranged by and bound to a superior village administration, the *iddir*.

3.2 The ‘formal tradition’ of *iddir*

Iddir is an Ethiopian phenomenon. It can be found all over the country and even among Ethiopian communities abroad, across all social classes, ethnicities, and religions. Nevertheless, although often thought to be an ancient institution, *iddir* is actually a relatively recent innovation. The first *iddirs* developed as late as the 1930s, during the Italian occupation (Pankhurst 2002; Hoddinott et al 2009). There is no clear and consistent definition of what *iddir* actually is. Literature vaguely describes it as a financial institution informally organized by local communities “in which members regularly contribute to a common pool with a view to supporting a needy member” (Aredo n.d.). There are, in fact, several types of *iddir*, which vary in terms of their organizational arrangements, aims, rules and regulations, as well as their social and economic importance for their members. Some *iddirs* are, for example, potentially open to all members of a community, others are restricted to a certain group of people (e.g. women’s *iddir*, youth *iddir*).

In Komba village, there is only one type of *iddir*, which is multifunctional. Following the stringent ethnic differentiation in the village, however, the Komba *iddir* is in fact subdivided into one *iddir* for Kaffa and one for Mandjah people (subsequently termed Komba Kaffa *iddir* and Komba Mandjah *iddir*). Each is governed by an *iddir* committee, composed of five committee members each, namely chairman, treasurer, secretary and two additional members with advisory functions.

The Komba Kaffa *iddir* and Komba Mandjah *iddir* are sub-*iddirs* of the higher level Agama *iddir*. Agama *iddir*, in turn, is one of five umbrella *iddirs* in Yeyebitto *kebele* (district). Membership of an *iddir* implies membership of the next higher level one, thus: “if you are a member of Komba sub-*iddir*, you are also a member of Agama *iddir*”.⁸

All households of Komba village are members of either the Komba Kaffa or the Komba Mandjah *iddir*. Households are represented as members by the head of the household.⁹ They meet for general *iddir* assemblies once a month on the communal grazing ground located right in the centre of Komba village. These meetings serve various purposes. They are occasions on which the *iddir* committees are nominated, elected and dismissed by the *iddir* members, by means of voting by showing of hands. There is no legislative period, and only “when a committee member makes bad things, he will be substituted by another person”.¹⁰ The cited chairman of the Komba Kaffa *iddir* was in charge from 1991 to 2004. We have no information on the reasons behind the termination of his tenure.

General *iddir* assemblies are not only held for the appointment of internal positions, but also serve as “plenary sessions” in the broader sense. A regular point on the agenda is the payment of the monthly membership contribution to the *iddir* treasurer. Both Komba Kaffa and Komba Mandjah *iddir* membership fees amount to 0.25 birr per household (about 0.01 EUR) per month, payable in cash. Admission of new members is another duty undertaken at the general *iddir* meetings. In case of newly founded households with kinship linkages within the *iddir*, the case seems rather simple: “when a son [offspring of a household which is an *iddir* member] gets his own house he directly becomes an *iddir* member”.¹¹ For settlers coming from “outside”, a stricter procedure is applied, in

⁸ Interview with Hailemariam Gebre, chairman of Komba Kaffa *iddir* (Komba, 12/11/2004)

⁹ This includes female-headed households. In Komba village, there is no exclusive women’s *iddir*, as is found in other communities in Ethiopia.

¹⁰ Interview with Hailemariam Gebre, chairman of Komba Kaffa *iddir* (Komba, 12/11/2004)

¹¹ Focus group discussion with Komba Kaffa *iddir* group (Komba, 27/11/2004)

which applicants have to present a letter of recommendation from their former *iddir*, whereupon the *iddir* committee will decide on the new admission; but “when he does not have the letter, we will refuse him”.¹² When a larger number of settlers relocate in the area they can ask for the incorporation of their own sub-*iddir* under the existing umbrella one. This happened to be the case with newcomers from Kambata (see discussion below).

Beyond being a multi-purpose insurance system, the Komba *iddir* associations hold and execute significant functions as administrative and juridical bodies. This includes not only a definite member roster, but a written statute, to which all household members are bound. For the management of the nearby forest, the Komba Kaffa *iddir* statute¹³ contains two relevant articles (see box below).

Rules and regulations of the Komba *iddir* concerning forest management

1) If any *iddir* member from the village stands against the rule and regulation of the forest management, for example, when ordered to keep the forest from any attacks, in the first instance, he will be fined 50 birr, in the second, 75 birr, and finally he will be accused and referred to the *kebele* social court.

2) If any *iddir* member is absent from any [working group] call concerning forest management and development, he will be fined 5 birr the first time, 10 birr the second time, and finally he will be denied any share of the forest produce.

Signed by the *iddir* committee

(translation from Amharic)

This extract from the Komba *iddir* rules and regulations exemplifies the formality and distinctive attention displayed by community-initiated institutions – otherwise often referred to as “informal” – towards the management of forest resources by the population concerned. The *iddir* is the most significant community-initiated institution with regard to forest use, management and conservation in the research area. The *iddir* provides a clear and long-standing organizational structure on the village level, with definite membership and – seldom recorded in the relevant literature – written by-laws concerned with the forest management activities of its members.

Beyond the *iddir*, there is one other community-initiated decision-making structure that has a decisive impact on the decisions and activities of forest resource users in the research area, and that is the group of the elders, locally known as *shimagile*.¹⁴

3.3 The elders, who “do not fear others”

By tradition, village societies in Ethiopia are gerontocratic. Age is accorded a high socio-political value, and especially old men who possess greater economical resources enjoy a high social status (Vaughan and Tronvoll 2003). This is expressed through the influence this group of people has, and the respect shown towards them, not only within households and extended kinship networks but in local communities in general. Nevertheless, although being a *shimagile* is associated with “being older” one’s reputation as a *shimagile* comes less from one’s seniority than from the sense that one is a “wise” and “rich” man. This tends to coincide with belonging to an influential family clan¹⁵ and a status of an “unassailable” who “does not fear others any more”.¹⁶ Elders are not elected through a

¹² Interview with Hailemariam Gebre, chairman of Komba Kaffa *iddir* (Komba, 12/11/2004)

¹³ The Komba Mandjah *iddir* statute could not be obtained.

¹⁴ *Shimagile* (Amharic) literally means “old man”.

¹⁵ Clan is understood as a number of households with social ties bound together by a tight kinship network.

¹⁶ Interview with Mesfin Tekle, Farm Africa/Kaffa Zone Rural Development Desk (Bonga, 26/11/2004)

democratic procedure, and do not necessarily represent the interests of the village community as a whole. Women, the younger generations, and persons from less influential family clans are basically excluded. In Komba village, a total number of eight elders were identified, four each from the Kaffa and Mandjah ethnicity, and all male. Their formal education, ages and religious affiliations were found to vary considerably.

This *shimagile* is the lowest legislative and juridical body beyond kinship relations in Komba village. The *shimagile* exert considerable authority in decision-making and in the enforcement of traditional norms and rules, and manage the affairs of the villagers to a certain extent. In the use, management and conservation of the coffee forest, the elders have a teaching and advising function, in the way that they pass on local knowledge to the communities they live in. This is indicated in the following two statements of inhabitants of Komba village: “The *shimagile* give advice on how to manage the trees, not to cut them at a very early stage.”¹⁷, “The *shimagile* said we did not have to disturb the trees. For cardamom they told us to clear all the unwanted material from the plant. They restrict the cutting of *wanza* trees [important for lumber, equipment and furniture making]. They do not impose penalties, but they give us warnings not to offend again”.¹⁸ The primary role of the elders within the village community is to make the community-initiated rules and regulations, including those concerning the management of coffee forest resources, binding to all community members and to help solving disputes or conflicts that go beyond the scope of nuclear families and yet remain outside state courts. They are the “respected people who negotiate quarrels”.¹⁹ The function of the elders is embedded in a specific code of conduct in which the *iddir* can assign juridical cases to the *shimagile*, as specified by an *iddir* chairman: “If two people have a quarrel, I [the *iddir* chairman] try myself to solve the problem; if this is not possible, I call the *iddir* committee. The committee tries to solve the problem, but if they fail then they give the problem to the elders. [...] They report to the *iddir* chairman what their decision is”.²⁰ This “protocol of respect” was described in a group discussion with Komba Kaffa *iddir* members as follows: “Firstly the *iddir* is informed about a problem, then the elderly come and talk to the *iddir* head, than the elderly take the persons of the dispute to other places and then they report to the *iddir*”.²¹

In sum, the elderly constitute, together with the *iddir*, the village-level administrative and juridical basis to administer, manage and enforce the community-initiated forest property rights, which dictate who is allowed to use and manage which forest resources, and to what extent.

3.4 “The forest belongs to us”: community-initiated forest property rights

Empirical research (Zewdie 2003a) from the coffee forests in Kaffa area provides evidence that beyond the “official” land legislation initiated by the Ethiopian state, long established arrangements of definite forest property rights do exist in the coffee forest areas. Their roots are definitely found in history. During Imperial times, the *neftegna* in Bonga town (see map) owned all the land in Bonga forest. His district officer, the *chiquashum*, managed his belongings in the area between Washi River and Wushwush, including Koma Forest. Within Koma Forest, the *chiquashum* in turn established local representatives (*gacheukurro* in Kaffichio language) as local “village officers”, who assigned use rights for forest land as well as for agricultural land to the small-holder peasants, the *gebber*, from whom he, in return, obtained tax payment.

The population of today’s Komba village is composed of former *gebber* (or their descendants) from six hamlets (Bushasha, Cangatarra, Gokasha, Kabah, Kama and Kidah), who held land use rights in

¹⁷ Interview with Yerango Ambo Gedawo, Komba *iddir* committee member (Yeyebitto, 25/11/2004)

¹⁸ Interview with Abeto Mamo, chairman of Komba Mandjah *iddir* (Yeyebitto, 26/11/2004)

¹⁹ Focus group discussion with Komba Kaffa *iddir* group (Komba, 27/11/2004)

²⁰ Interview with Hailemariam Gebre, chairman of Komba Kaffa *iddir* (Komba, 12/11/2004)

²¹ Focus group discussion with Komba Kaffa *iddir* group (Komba, 27/11/2004)

Koma forest in the Emperor's time. The former chairman of Komba Kaffa *iddir* narrates the historical context as follows: "First, the forest belonged to the *chiquashum*, but he distributed it permanently to the farmers. But I got my land from my father. The *gacheukurro* once gave it to my father and my father gave it to me. [...] The *chiquashum* gave the order to give 10 percent of our harvest to him. This was for all crops. When we collected coffee from the forest, he got 10 percent, also from the honey. [...] I had to pay 5 kg honey per year to the *chiquashum* for use of the forest (for my 70-80 ha). In Haile Selassie's time, we used the honey to pay the *chiquashum*; now we have the honey for ourselves".²²

After the revolution in 1974, the institutional setup fundamentally changed. *Neftegna*, *chiquashum*, and *gacheukurro* were dispossessed and lost their privileges, and had to begin living as "normal peasants". The Yeyebitto Peasant Association was established embracing a dozen villages with some hundred households in total (cp. section 2. above). Additionally, former *gebber* from the six hamlets concerned were provided with some acreage of agricultural land for farming. In the words of the former chairman of Komba *iddir*: "The *derg* gave land to all people that they could live equally. The *derg* gave some land to me. I got six hectares of farm land only, but there was no reform on forest land".²³ This narrative provides an insight into how the regime change of 1974 and the following reform of land property rights was perceived and experienced by a *gebber* and forest resource appropriator on the "local level". The peasants' own words illustrate that the *dergs'* land reform sorted out the re-distribution of land that was meant for agricultural purposes, but did not include land in the coffee forests in this area. De jure, the Yeyebitto Peasant Association took over responsibility for Koma forest, but the state-initiated regulations concerning its use, management and conservation were not enforced. Consequently, from the peasants' perspective, the *de facto* property rights of the coffee forest did not change. "Starting from Haile Selassie's time, the forest belonged to us. [...] This did not change during the *derg*".²⁴

Accordingly, from the mid-1970s onwards, persisting community-initiated and newly established state-initiated forest property right systems drifted apart and created a situation of legal pluralism. The former *gebber* continued to execute their forest resource-management activities on the basis of "their" forest land property rights, rather than within the scope of the newly established institutional framework under the local Peasant Associations or higher-level state bodies.

This institutional arrangement was consolidated such that community-initiated property rights were transferred from generation to generation, mainly by patrilineal inheritance, so that "when a father divides his forest, the first son gets the most, the second and third etc. less. The boys who are engaged in school or in governmental jobs often get no forest".²⁵ We found no empirical evidence in the case-study area that these property rights are – or have been in the past – subject to disposal.

But what about the effectiveness of these institutions? If they are not legitimately recognized by the state but initiated by the communities themselves, what happens in the case of malfeasance, misfeasance or nonfeasance, for example, if community members do not appreciate the forest property rights, and pick coffee cherries in plots that "belong" to others?

The effectiveness of institutions is very much linked to the actual availability of punishment "tools" which can be applied in case of rule-breaking.

For the management of forest resources of the Komba village inhabitants, the community-initiated case law system employs three kinds of pressure and disciplinary methods by which to exert its functions, namely: a) exclusion, b) fining, and c) directing a case to the *kebele* court, known as *fered shengo*, for arbitration. The most radical sentence that the *iddir* can impose on its members is a

²² Interview with Hailemariam Gebre, chairman of Komba Kaffa *iddir* (Komba, 12/11/2004)

²³ Interview with Hailemariam Gebre, chairman of Komba Kaffa *iddir* (Komba, 12/11/2004)

²⁴ Interview with Hailemariam Gebre, chairman of Komba Kaffa *iddir* (Komba, 12/11/2004)

²⁵ Interview with Abeto Mamo, chairman of Komba Mandjah *iddir* (Yeyebitto, 26/11/2004)

membership revocation, which entails the permanent exclusion of a household from the *iddir* association. In light of the fact that all households of Komba village are *iddir* members, and “without *iddir* you lack social acceptance”²⁶, it is self-explanatory that this sentence entails stigma and social ostracism, and hence acts as a strong coercive instrument. However, this sanction is the last resort, and has not been applied in the recent history of the Komba Kaffa *iddir*. A more frequently applied sanction imposed to punish behaviour that is judged to be objectionable is that of fining. The fine incurred increases with repeated indictment, and was reported to peak at 75 birr. As a third possible juridical reaction, the cases can be referred from the community-initiated to the state-initiated law system. This may come about when the former cannot reach consensus to resolve the case, or on the request of the accused. This provides evidence that state-, and community-initiated institutional systems are not fully independent from each other, but may co-operate in certain situations. The handing over of cases between the community-initiated to the state-initiated legal systems in rural Ethiopia has also been described by Fule and Tadesse (1996).²⁷

The perpetuation of this institutional system has positive as well as negative implications from an environmental and socio-economic point of view. On the one hand, the transmission of forest land rights by inheritance implies a certain commitment to the “forefathers”, and strengthens the emotional relatedness and sense of binding of the forest “owners” to “their” forest plots. On the other hand, this system is self-contained, with little potential to react to changes from outside, be they ecological, socio-economic or demographic. Both the existence and the distribution pattern of the individually-held forest plots in the coffee forest form part of the original inhabitants’ special common knowledge, and so far have not been “formally” recorded or documented in any way. Most importantly for the management of resources in Koma forest, the system does not allow the involvement of people from “outside” as new settlers. Not one out of the 54 forest plots identified in Koma forest was reported to be obtained by a new settler household. The issue of new settlers living right next to Koma forest is briefly described in the next section.

²⁶ Interview with Hailemariam Gebre, chairman of Komba Kaffa *iddir* (Komba, 12/11/2004)

²⁷ In their case study village located in the Rift Valley area of central Ethiopia, legal cases are at first brought forward to the *kebele*, which then hands them over to the elders (Fule and Tadesse 1996).

4 “I am not from this area”: new settlers and community-initiated institutions

Even before the invasion of the Amharic Empire at the end of the 19th century, the cultural and ethnic composition of the population living together in the then Kaffa Kingdom was a complex patchwork. Since the violent integration of the area into the Ethiopian state, diversity has multiplied due to immense long-distance population movements from other Ethiopian regions, often strongly encouraged or even forced by the ruling government. The state’s involvement had already begun in the Emperor’s time, but became more considerable during the *derg*, with the implementation of nationwide resettlement programmes, with hundreds of thousands of households being relocated. As a result of this policy, the present Kaffa zone is highly multi-ethnic. Komba village and its surroundings are no exception, with two ethnicities living in the village alone, and communities of Kambata, Oromo and Amhara ethnicities only a few minutes’ walking distance away.

One rationale behind the *derg*’s resettlement programmes was to permit a more intensive use of land. Certain areas had been identified as “underutilized” (Rahmato 2003) – as having a low population density and seemingly low agricultural output, and hence a low economic value – according to the records of the Ministry of Agriculture and Rural Development. In that view, Kaffa zone in general and then Yeyebitto Peasant Association in particular provided a seemingly ideal destination for resettlement. In search for adequate residential places and agricultural land for new settlers from Kambata region²⁸, Yeyebitto Peasant Association administration chose an area south of the national road, until then a part of Koma forest, which had been almost totally clear-cut. The ethnic, cultural and religious background of the Kambata people is considerably different from that of the Kaffa and Mandjah people. For example, the Kambata in Yeyebitto *kebele* speak the Cushitic Kambata language, and are without exception affiliated to Catholic Christianity, while the locals speak the Kaffa language and follow predominately Orthodox Christianity. Environmentally, the region of origin of the Kambata people can be described as savannah lowland, without any tracts of primary forest.

With the successive arrival of Kambata settlers, the size of the population living adjacent to Koma forest increased, involving a growing demand for land for dwellings, infrastructure and grazing, as well as forest resources such as firewood and timber. Beyond population increase, the new settlers brought along a different institutional and knowledge background, not adjusted to the specific ecological and management conditions of the coffee forest environment.

As already mentioned above, the new settlers’ households could not obtain community-initiated forest property rights in Koma forest. Nevertheless, they seem to be knowledgeable about the existence of community-initiated forest land property rights held by local people. The awareness of new settlers on their own “secondary” status regarding the old settlers’ “primary” use rights, is reflected in a statement made by a new settler from Bita Chega, an Amhara-dominated *kebele* some four kilometres north-west of Komba village. The new settler had moved from Wollo region in northern Ethiopia to Bita Chega in 1985 in the course of a *derg* resettlement programme. To the question of whether people from Bita Chega village utilize forest coffee from the nearby Komba forest, he responded: “We do not have our own coffee in the forest. The forest is occupied by other people”.²⁹ These words match the statement of an inhabitant from Washi village, located about four kilometres to the west of Komba village: “Around Mulah (Bitá Selam) and Agama village there is coffee in the forest. Only the people in these villages get the coffee in the forest”.³⁰

²⁸ Kambata is located in Central Ethiopia and part of Sidama Zone in SNNPRS. The region is characterized as one of the most densely populated and impoverished regions of Ethiopia.

²⁹ Interview with Seyoum Tefera, Kaffa Zona Department of Agriculture (Bonga, 24/6/2003)

³⁰ Interview with Wondemariam Abadati (Washi, 20/6/2003)

The diverse historical and ethnic backgrounds of the forest resource appropriators raises the question not only of whether the new settlers are acquainted with the fact that Koma forest is fragmented into forest plots that are individually “owned” by the original population, but also of whether they accept the rules and regulations that are attached to this forest “ownership”, and act accordingly. In other words, do new settlers in a property rights system created and maintained by the original community, in which the new settlers themselves have no chance of acquiring the property rights to their “own” forest plot, actually respect that utilization and management of forest coffee and other forest resources is in some respects restricted?

The issue of disobedience of the community-initiated forest related institutions is a delicate one, and took much effort and time to investigate. A major question is that of what happens in the case of non-compliance by people that are not living in the sphere of jurisdiction of the village *iddir* or the elders. Do “rule violators” need to fear penalties when they use the forest resources according to their understanding? How are the aforementioned institutionalized authorities involved in the resolution of conflicts between the different groups of forest resource appropriators? To elaborate on these issues, two different ‘truths’, one that of new settlers, the other that of the original inhabitants, are presented below in the form of interviewees’ statements.

First I discuss the perception and experience of new settlers. The following statement was issued by a peasant who settled in Komba village on his own initiative in 2001 – not, therefore, within the scope of the *dergs*’ resettlement programmes. Although he is of Kaffa ethnicity and – at least compared to the Kambata people – ethnically a “native”, he (and, accordingly, his household) does not possess property rights in Koma forest, which begins some twenty meters behind his *tukul* house. When he was initially asked whether he ever collects coffee from the forest he responded: “I do not go into the forest to collect coffee because I am not from this area”.³¹ After extensive field research, when confidence had been established between the research team and the interview partners, the questions were answered more specifically, partly contradicting the previous statements:

“I get firewood from everywhere within Koma forest, also the coffee and spices. I do not have to ask for permission. Also for house construction materials I simply go into the forest. The owner does not complain. Also the forest owner steals coffee from somewhere else. Even the hanging of beehives is sometimes possible without permission, otherwise the owner is very serious. The serious people kick the thieves and take all the produce from them. But the forest is not controllable; that is why I do not want to have my own forest”.³²

Other settlers living adjacent to Koma forest commented in a similar way:

“Anybody can pick coffee; it is impossible for the owner to prevent stealing. But the owner does not try to prevent it. Sometimes they go into the forest, and if they see a thief they take the produce from him and give him a warning. Both firewood and house construction materials are also possible to use. But timber for selling is forbidden. Timber thieves would be brought by the owner to the *kebele* and accused. [...] There are demarcations, but I do not know where the plots are”.³³

Questions concerning the validity and effective reach of the community-initiated forest property rights - and the “stealing” of forest resources - appear obviously different from the “forest owners” original settlers’ point of view. A peasant of the Mandjah ethnicity who grew up in Gokesha *got* related the “thieving narrative” from a rather contrasting angle:

³¹ Interview with Interviewee #32, anonymous (Yeyebitto, 04/11/2004)

³² Interview with Interviewee #32, anonymous (Yeyebitto, 04/11/2004)

³³ Interview with Interviewee #146, anonymous (Yeyebitto, 28/11/2004)

“Others are not allowed to take coffee, to take firewood, to hang beehives, spices, fruits, medicinal plants. Four days a week (Tuesday, Thursday, Saturday, Sunday), I keep my forest from thieves by patrolling. When I meet a thief, I catch him. He begs me not to take him somewhere, then I allow him to go, but he has to give me what he has gathered. After the third time I will bring him to the *kebele*. The *kebele* will punish him. They put him into prison for two to three days and advise him not to do it again. I do not allow other people to take materials, only house construction materials, or for ploughing material, I give permission to any people of my *kebele*. If people from other *kebeles* are thieving, I bring them to my *kebele*, and they will write a letter to the other *kebele*”.³⁴

The statements above illustrate how the community-initiated institutional framework regarding forest resource use, management and conservation is weakened through the heterogeneity and fragmentation of forest resource users. This is basically due to the fact that people who are “not from this area” are less involved in, bound to and knowledgeable about the community-initiated institutional setting than those who are “from this area”. The new settlers are aware of the existence of certain rules and regulations imposed by the original communities concerning use of the forest resources, but perceive them not to be binding to them personally. This situation is conflictive, as households of all communities, regardless of their historic or ethnic backgrounds, depend on natural resources from Koma forest for their very livelihoods.

³⁴ Interview with Abeto Mamo, chairman of Komba Mandjah *iddir* (Yeyebitto, 26/11/2004)

5 “The *kebele* knows”: split between local “tradition” and state policies

The *kebele* administration provides the state-initiated institutional framework through which governmental policies ought to be implemented “on the ground” (see section 2). For use and management of forest resources, the *kebele* is vested with the authority to enforce state-devised operational institutions, and hence to impose rules and regulations meant to guide the activities of forest resource appropriators in its area of responsibility. But how does the *kebele* execute this mandate in practice? How does it deal with the local-level legal pluralism that has developed in the coffee forest areas? To elaborate on these questions, interviews were conducted with the *kebele* chairman and vice chairman. The first issue concerns the *kebele* chairman’s perception of whether the *kebele* administration is in practice capable to regulate forest use and management activities in its area of authority and to prevent Koma forest from undesirable human interference such as wood cutting: “The *kebele* cannot catch the people; they hide themselves. [...] From 1986-89 [1992/93-1995/96 Gregorian calendar], I was vice *kebele* chairman, from 1994 [2000/01 Gregor. cal.] up to now, main chairman. [...] We never caught anybody, because the forest is very vast. When we try to catch them, they throw everything down and run away”.³⁵ According to the *kebele* chairman, ever since the early 1990s, not a single person has been charged with disobedience of state forest conservation laws in Yeyebitto *kebele*. This statement portrays the same dilemma that is evident at the local level – in which the authorities’ responsibilities exceed their practical capabilities – mirrored at the state level. The *kebele* administration is *de jure* responsible for the maintenance of state “law and order” but has no *de facto* ability to enforce the state forest resource conservation policies.

But how do the representatives of the *kebele* perceive the community-initiated forest property rights within its own area of responsibility, and how does the *kebele* administration deal with this issue? Is there – as suggested in the statement of the Mandjah peasant cited above – juridical interaction or even cooperation between the two institutional “worlds”? When the chairman of the Yeyebitto *kebele* was asked whether he is informed about the subdivision of Komba forest into use right plots he stated: “The *kebele* knows the traditional forest division, but the traditional users do not pay forest use taxes”.³⁶ The Yeyebitto *kebele* vice-chairman also stated that “even if the [forest] land officially belonged to the state, it unofficially belongs to the people. The *kebele* knows and accepts it”.³⁷ The practical threshold between tolerance and collaboration in the way in which community-initiated forest property rights can institute legal proceedings at the *kebele* court, the *fered shengo*, could not be fully ascertained in the interviews conducted. The *kebele* chairman described the circumstances as follows: “the traditional demarcation is not documented, and there are no written documents. But the *fered shengo* acknowledges the traditional rights, if the forest owner comes with tangible evidence”.³⁸ This, however, seems to be more the theoretical case than a practical reality: “Since I have been the leader of the *kebele* nobody has come to me with traditional forest issues. [...] People say ‘my honey, my coffee etc. is stolen’, but they do not bring the thieves”.³⁹ These statements make clear that the lowest-level state representative in the case study area is a) knowledgeable about the existence of community-initiated institutions, b) does not disapprove or take action against them, and c) acknowledges them in the way that malfeasance against the community-initiated institutions can principally be prosecuted in the legal court of justice.

The individuals working in the *kebele* administration have themselves grown up in this area, have manifold kinship and peer relationships on site, and – importantly – their own households’ livelihood

³⁵ Interview with Mengisto Mamo, Yeyebitto *kebele* chairman (Yeyebitto, 29/11/2004)

³⁶ Interview with Mengisto Mamo, Yeyebitto *kebele* chairman (Yeyebitto, 29/11/2004)

³⁷ Interview with Abebe Abafogi, Yeyebitto *kebele* vice-chairman (Yeyebitto, 24/11/2004)

³⁸ Interview with Mengisto Mamo, Yeyebitto *kebele* chairman (Yeyebitto, 29/11/2004)

³⁹ Interview with Mengisto Mamo, Yeyebitto *kebele* chairman (Yeyebitto, 29/11/2004)

also critically depends on the extraction of resources from Koma forest. To put it into the provocative words of an NGO representative working in the Bonga area: “The use of forest products is allowed by the *kebele* because the *kebele* leaders also use them”.⁴⁰

When bringing together the statements of the forest resource appropriators and those of the *kebele* representatives, it becomes evident that there is no strict division between community-initiated and state-initiated institutional “worlds” as regards their cognizance of forest resource use and management activities, but rather that the institutional systems complement each other. The *kebele* acts as the “the linkage between informality and government”⁴¹ and leaves the basic responsibility for forest use and management issues with the community-initiated units, elders and *iddir*, which derive their authority primarily from historically developed social standards and norms. Forest-related rule and regulation compliance is more ensured by mechanisms of social sanctioning, which are powerful in a naturally grown and relatively cohesive society with common norms and values. Similar findings are presented by Alula Pankhurst, who did research on irrigation in South Wello in Central Ethiopia. He writes that “disputes over irrigation tend to be solved by elders, with the threat of sanctions by burial associations [being *iddir*] in recent years. Only if the matter cannot be resolved informally, [...] [will] the case be taken to government institutions.” (Pankhurst 2002).

⁴⁰ Interview with Mesfin Tekle, Farm Africa/Kaffa Zone Rural Development Desk (Bonga, 26/11/2004)

⁴¹ Interview with Mesfin Tekle, Farm Africa/Kaffa Zone Rural Development Desk (Bonga, 26/11/2004)

6 Conclusions

In this working paper, local-level forest governance is illustrated and discussed on the basis of empirical data collected in the montane rainforests of southwestern Ethiopia. The paper draws on the social order concept by Mielke et al saying that social order always exists as “the structuring and structured processes of social reality” which is “constantly generated by the interplay of worldviews and institutions” (Mielke et al 2011, 1).

This working paper provides evidence on historically-evolved and community-initiated institutional structures that regulate the use and management of forest resources and execute administrative and juridical functions on the local level. In part, these structures fill out a governance vacuum left by the Ethiopian state. However, the research findings also indicate that local community-initiated institutional systems rest on social sanctioning and consensual conventions, the application of which is limited to certain forest user groups, most notably the ‘original’ inhabitants, rather than on tangible and universally accepted agreements among all people using the resources from a particular forest. This provides community-initiated institutions with little practical assertiveness, and consequently effectuated the creation of a de facto local-level power vacuum in which both state-initiated and community-initiated forest use, management and conservation governance systems are weakened by the habitual violation through forest resource users.

Externally-initiated development projects that aim to promote more sustainable use and conservation of forests in so-called developing countries tend to activate institutional change by creating new forest users’ groups with newly developed rules and regulations. This leads to the addition of yet another institutional ‘layer’ referring to the same forest patch, and hence often increases local legal pluralism. Instead, existing local institutional structures should be “taken on board” and bolstered. An expedient approach in southwestern Ethiopia would be to find appropriate mechanisms that provide existing local-level community-initiated bodies, particularly the *iddir*, with more legal and material capacities to decide and act on forests’ use, management and conservation. Formal recognition of and the provision of legal backup to these institutions by the state would be a necessary first step into this direction.

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