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Co-Opting the Elders: The Political Economy of State Incorporation in Africa

The new institutional economics provides the basis for a theory of institutional change that helps to explain economic and political change among the East African pastoral Orma. A restudy of the Orma in 1987, following a six-year absence, revealed many changes in property rights over common grazing. The need for change in property rights led the elders to yield considerable authority to the state in return for enforcement of new property rights. The lessons from this case study of state incorporation relate also to the issue of state formation, and more generally to the process of change in institutions such as marriage, lineage, clan, gerontocracy, and patron-client relations.

MOST OF AFRICA WAS COLONIZED close to a hundred years ago, and achieved independence under sovereign states in the last thirty years. Yet to this day, many ethnic groups in Africa remain considerably autonomous in their political behavior. In particular, many ethnic groups do not consider state use of force against their members to be legitimate. For many African peoples, matters involving the sanctioning of their own people are still often resolved internally through the use of councils of elders or other indigenous institutions.

States are defined in part by their monopoly over the use of legitimate force (Weber 1947:156; Taylor 1982:5); thus, one could argue that those peoples who fail to accept the state's legitimacy in this domain are less than fully incorporated into the state (cf. Cohen and Middleton 1970). In this most important sense, such societies can be considered "stateless." I have in mind not the revolutionary hot spots of the African continent, where the question is more one of *which* state a people recognize, but rather, those peripheral and least developed areas that only minimally recognize state authority and jurisdiction. If, as Hyden (1979) has argued, it is necessary for the state to "capture" these areas before development can take off, then it is well worth analyzing the process by which such "capture" occurs. This article describes a contemporary case study of state incorporation and places the analysis in a theoretical context that ought to have relevance to the process of state incorporation and state formation through time, as well as to the more general process of institutional change.

The subjects of this case study are the Orma of northeastern Kenya. The Orma trace their ancestry to southwestern Ethiopia, and are part of the large Cushitic-speaking Oromo group, as are the Boran and Gabbra of Kenya. The Orma's ancestors migrated from Ethiopia beginning in the 1500s and settled much of eastern Kenya before being soundly defeated in warfare by the Somali in the late 1860s, when they were forced to retreat to their current home in the Tana River district of Kenya between the Wapokomo and Somali on the east and the Wakamba on the west.

While Orma social organization is in many ways typical of other East African pastoral societies—they are, for instance, patrilineal, patrilocal, and polygynous, with an informal gerontocracy based on the council of elders—there are many dissimilarities between the

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Orma and other pastoral groups, even their closest cultural relatives, the Boran. For instance, the Orma are more commercially oriented toward livestock marketing,[1] they converted to Islam between 1920 and 1940, and since at least the early part of this century the *gada* age-grade system they once shared with the Boran has not been practiced. Lineage and clan organization is also comparatively weak. These dissimilarities no doubt result in part from the combination of a unique history involving several major migrations leaving them geographically isolated from other Oromo, centuries of unrest with their powerful neighbors the nomadic Somali, a riverine environment that by pastoral standards is lush and affords a more sedentary adaptation, and proximity to the great trading centers at the coast of Kenya.

In 1987 I returned to the Orma in order to carry out a nine-month restudy of their political economy, particularly focusing on changes since my original work there from 1978 to 1981. During this restudy I was continually struck by the institutional changes, many of which had undoubtedly been under way during my first stay, but became apparent only with an extended absence. Among them was a considerable acceleration of the dismantling of the common grazing system, a breakdown of gerontocracy and clan exogamy, and the frequent refusal by young women to accept arranged marriages and by widows to accept prescribed levirate marriages. However, more than any other change, I was surprised by the increase in authority of the government-appointed chief (a state civil servant) at the expense of the council of elders. I was also struck by the frequency with which the chief used force (police and the courts) in the administration of his duties; this represented a considerable departure from previous practice. What is more, although the current chief is an educated young Orma man and might be expected to execute his duties differently than the previous, illiterate and elderly Orma chief, it appeared that what I was witnessing was not simply the result of transition in personnel, but represented a fundamental change in the institution itself. This was supported by discussions with the elders, who made it clear that while they did not approve of everything the young chief was doing, they were in large measure in support of the increasing transition of authority to the state, and supported the chief's use of force against their own people. Significantly, this means that the shift away from local autonomy is not merely an exogenous change forced upon the Orma by the state, but reflects a perceived need (at least by some segment of the population) for change in local institutions.

In order to understand these profound changes among the Orma it is necessary first to examine the nature of social order in stateless societies. Second, we need a processual theory of institutional change that allows us to understand the demand for and supply of new institutions, including the state. Finally, I use the case study to illustrate the actual processes by which two significant institutional changes occurred. These are a change in property rights in the form of land tenure in common grazing, and a higher-level, "constitutional" change (following Kiser and Ostrom 1982), which involves a change in rules governing future collective decisions. The latter is the decision to cede authority to the state.

Social Order in Stateless Societies

In his book *Community, Anarchy and Liberty,* Michael Taylor (1982) is concerned with the manner in which societies maintain social order in the absence of a state. Taylor's work provides many insights relevant to the Orma case. He argues convincingly that "community" is a necessary condition for social order in a stateless society. By community he refers to societies with common values characterized by interactions among people based on reciprocity and direct and many-sided relations. Community, he argues, cannot exist without considerable equality.

According to Taylor (1982:66), social order is maintained in stateless societies by a combination of (1) structural characteristics of the society (such as rules of reciprocity, marriage, descent, and residence, which lead to crosscutting ties that may check potentially disruptive behavior); (2) processes of socialization that instill common values; and (3) threats and offers, or negative and positive sanctions.

Having established how well societies can function without a state, Taylor then goes on to discuss the conditions under which states develop. By arguing that stateless societies can perpetuate equality indefinitely, Taylor (1982:ch. 3) rules out the inevitable development of inequality, upon which Marxists rest their case for the development of the state. As Taylor sees it, the state develops under specific conditions of stress in areas where fissioning is not an option (cf. Carneiro 1970 and Cohen 1978). Stress comes in the form of ecological pressure or external attack. Under these conditions, leadership is strengthened (cf. Service 1975) and given the authority to use force.

In many respects Taylor's theory agrees remarkably well with the facts of the Orma case, even though here I am concerned with the process of incorporation into an existing state rather than the development of a primary or secondary state. Orma institutions had long maintained social order under conditions of "community," although not necessarily with the level of equality that Taylor assumes. Nevertheless, the mechanisms by which the Orma elite (specifically the council of elders) managed to orchestrate consensus for collective action operated much as he describes—through crosscutting ties, common values, and threats and offers. Furthermore, the mid-1980s, which brought the local legitimization of the habitual use of force by the state, did coincide with severe ecological stress in the form of a drought and was associated with an invasion of Somali, much as Taylor would predict.

Upon closer inspection, however, Taylor's theory cannot completely account for the Orma case. One problem is that ecological pressures and the threat of external aggression are endemic to the Orma homeland. Historical accounts and annual district reports document regular droughts, human and livestock epidemics, famines, and constant skirmishes with the neighboring Somali throughout the course of the Orma's more than 350-year residence near their current location. Given that the Orma lived in close proximity to Arab city-states on the coast of Kenya for most of this period, followed by British colonial domination from 1895 and independent Kenyan rule in 1963, one must ask why it was in the 1980s, and not during any number of earlier droughts or Somali invasions, that the Orma took the dramatic step of legitimizing the use of force against their people by an "external" state power. Why at this particular juncture did existing Orma institutions fail to adequately maintain social order among the Orma? In addition, while I believe Taylor correctly notes that stateless societies can maintain a high degree of equality over time, it does not necessarily follow that inequality never develops in the absence of the state, nor that it is an insignificant contributing factor in the development of some states. Finally, attention must be given to the issue of "supply" of institutional options. While various models of state organization have been available to the Orma for hundreds of years, these states have also evolved, and what the state organization of the 1980s had to offer may have been far more attractive than anything previously available. By taking an explicitly processual approach to the Orma material, it is possible to see how the dynamics of an internally changing situation among the Orma interacted with and were affected by the developing Kenyan state.

The first step in the analysis will be to consider why the autonomous Orma social order failed. Accepting Taylor's analysis of the role social structure, values, and threats and offers play in maintaining social order, one must ask what forces were at work that served to undermine these components of the social order. One clue comes from Bailey's analyses (1965) of council decision making. He finds that in societies without separate implementing bodies and relatively weak sanctioning ability (as was characteristic of the Orma), rule tends to be by consensus rather than majority. This stems from the fact that the members themselves are responsible for implementation, and where decisions are not unanimous it would be easy for dissenters to shirk in implementation.

Consensus rule does not, of course, mean frictionless negotiation, nor that the entire community plays an equal role in decision making. Certainly in the Orma case, "unanimity" and "consensus" were arrived at through a great deal of negotiating and positive and negative sanctioning. It is very likely, as Kuper (1971:19) suggests, that on many occasions only a handful of people really made key decisions and managed to convert others. Such decision-makers were typically heads of powerful lineages, recognized loosely as the council of elders (*gasa,* referring to the large shade trees under which the elders typically met). Through the mechanisms Taylor describes, especially social structural crosscutting ties and positive and negative sanctioning, the few were able to win the support of the many. Thus, when village meetings of the whole occurred, the gathering was not a forum for policy generation but, rather, a public demonstration of acceptance for the pre-negotiated policy. What defines the system as "consensual" rather than "majority" or "dictatorial" is not the relative proportion of people making the decisions but, rather, the means by which decisions are implemented and enforced. The critical characteristic of Orma social order up until the early 1980s that leads one to categorize it as consensual is that it relied more upon compensation (offers) that ensured self-enforcement, than on brute force (threats) or third-party sanctioning.

Disputes did of course arise, and here the council of elders played a more formal role as an adjudicatory body. Disputants brought their conflicts to the elders, whose decision was binding upon both parties and often required the payment of compensation. Social pressure to abide by such rulings was intense. For those who would not join the consensus, nomadism remained a viable strategy, and thus migration served to preserve the unanimity of those remaining behind.

A significant difference between rule by the council of elders and rule by the state, therefore, lies in the degree of consensus necessary for policy making. The state has the capacity to substitute force for voluntary compliance. In order to understand the breakdown of autonomous social order, it is necessary to consider the factors that have made consensus formation more difficult. I suggest that the changing nature of the Orma's economic relations with the outside economy, including the increase in trade, specialization, and division of labor, has played a significant role in frustrating internal consensus formation by creating a diversity of interests and undermining the informal institutions through which elders worked to achieve compliance.

To complete the analysis, we need a theory of institutional change that allows us to understand demand for and supply of institutions. The new institutional economics, which specifically addresses the relationship between institutions and political economy, provides a theoretical framework both for understanding the economic context of state–Orma relations, and for understanding institutional change at the local level.[2]

The New Institutional Economics and a Theory of Institutional Change

The new institutional economists are particularly interested in the role institutions play in facilitating or retarding economic growth (North and Thomas 1973). The economic historian Douglass North (1990) defines institutions as "the rules of the game in a society or more formally . . . the humanly devised constraints that shape human interaction." In the sense in which North uses the term, institutions consist of a combination of: *formal rules* (such as those regulating the structure of the polity, property rights, and contracting), *informal constraints* (by which he means norms of behavior or the customary rules of the game), and *enforcement* (including that occurring by self-imposed standards of behavior). Among anthropologists, North's use of the term "institutions" is close to that of Bailey (1969:ch. 1, 1988:62), who also identifies institutions as "the rules of the game," albeit emphasizing somewhat different aspects in his analysis.[3]

According to North (1981, 1990), institutions are by no means always efficient, nor does change necessarily move in the direction of increased efficiency. One way in which institutions may facilitate economic growth, however, is by reducing the costs involved in exchange. While the institutional economists accept the insight of Adam Smith (1976) that economic growth stems from gains from trade and increasing specialization and division of labor, they do not accept that such gains are automatic or costless (North 1981:176). Societies may *not* benefit from trade or specialization if the "transaction costs" incurred in the process of exchange outweigh the benefits of that exchange. Transaction costs include those of measurement, information, negotiating and enforcing contracts, and monitoring principal-agent relationships (Wallis and North 1986). It is exactly these costs that governments reduce by clearly specifying property rights, by regulating weights and measures, and by providing third-party enforcement of property rights and contracts. These economists maintain that economic growth comes not merely from technological change, as has been the emphasis in most neoclassical analyses, but may also derive from institutional change, particularly by reducing transaction costs. The importance given to institutional rather than technological innovation is a view familiar to anthropologists from Karl Polanyi's work (1944).

Among other things, institutions may ensure that exchange is more cooperative, as for instance when contracts are honored. While such cooperation may be achieved easily in small-scale societies by dealing face-to-face with well-known individuals, often even kinfolk, and by repeat dealings, the natural limit to this type of exchange is obvious. In order to capture the gains from broader trade and specialization it may be necessary to develop more complex institutions which ensure that people who have no previous knowledge of one another, no kin relations, and perhaps no prospect of future dealings, will cooperate in good faith.

Abner Cohen's work (1971) on the Hausa trading diaspora provides an example of the type of organization one will likely find when the institutional environment across ethnic boundaries is weak (cf. Grief 1988). Institutions to facilitate the free flow of information about supply and demand, and to adjudicate disputes relating to credit, contracting, property rights, or any number of other potential sources of friction are unreliable or nonexistent. As a consequence, one finds a high degree of vertical integration, with one organization (frequently an ethnic group) involved in many different stages of production and distribution of a particular commodity. Because transaction costs are otherwise high, by establishing an ethnic trading diaspora, members ensure a greater degree of trust and cooperation, thus reducing costs over what they would be if forced to interact in the marketplace for all production and marketing components.

A situation analogous to Cohen's trading diaspora existed among the Orma at the time of my first fieldwork, and it illustrates some of the economic consequences of a poorly developed institutional environment. One Arab trader from the coast dominated much of the livestock trade in the area. He had an enormous organization spanning all aspects of production and marketing, from breeding herds in Orma territory and permanent agents who bought stock for him, to a fleet of lorries for transporting stock to market, ranches for fattening, and, finally, the butcheries themselves where the stock were slaughtered. One could easily make the case that this degree of vertical integration was in part a response to extraordinarily high transaction costs stemming from the general lack of institutional structure in the area and the consequently higher level of insecurity in livestock trading. For example, bandit attacks on traders were common, secure title to property in livestock was not easy to determine, information costs were high between point of production and point of consumption, capital credit markets and banks were absent, and courts to enforce contracts were often nonexistent or bribable. Given such a weak institutional environment, the rewards of vertical integration are great in the form of reduced transaction costs. In fact, the rewards are so considerable that the small trader finds it difficult to be competitive in any segment of the trade. One result of a weak institutional structure, therefore (common in the developing world), is that it may facilitate a monopsony situation (presence of one buyer). Indeed, livestock trading in much of northern Kenya has followed exactly this pattern.

Institutions that have the effect of decreasing transaction costs, such as the simple notarizing of legitimate traders and property rights by third-party agencies, security forces to reduce banditry, banking facilities to extend credit and reduce the dangers of travel with cash, regulation of weights and measures, courts to enforce contracts and property rights, and even the improvement of roads (which increases the flow of traffic and information), not only make trade more profitable, but may also increase competition in different sectors of the trade, thus affording the opportunity for those with less capital to break into one stage of the marketing process. These institutional changes have been coming to the Tana River district in recent years, and one consequence is a great increase in the level of Orma involvement in all aspects of livestock marketing.

North (1981) has argued that the state can realize economies of scale in the provision and regulation of institutions such as those just described, thus further reducing transaction costs.[4] As more economically efficient state institutions reach deeper into peripheral areas, such as Tana River, the costs of transaction decline, the relative profitability of trade increases, and more actors are pulled into exchange. It now remains to be seen how this wider economic environment has affected local Orma institutions by altering the incentive structure and relative bargaining position of different actors.

In an as yet unpublished work, Douglass North (1990) develops a theory of institutional change that I believe has considerable application to the developing world. He argues that change comes ultimately from two sources—a change in relative prices (to which individuals or organizations may respond by attempting to alter the institutional constraints), or a change in preferences or tastes. He specifically stresses that institutional change will not necessarily be in the direction of increasing efficiency, that is, for the good of society as a whole, because change stems from the acts of agents, who act in their own self-interest or that of an organization they represent, and whose values may not perfectly overlap with those of others.

In North's terms, institutions define the choice-set available to people or organizations. Change occurs when individuals consider it in their interest to alter these constraints by changing the rules of the game. This may be because they expect to reap an economic reward by so doing, or because they wish to see the behavior of others brought more in line with their values. In either case, the agents deem it worth their while to undergo the costs of a campaign to change the constraints, or rules of the game, under which they operate.

I turn now to an application of the theory to the Orma case study, keeping in mind the economic environment of declining transaction costs to which the Orma have been responding for several decades. Two types of institutional change receive special attention: change in property rights over common grazing, and the "constitutional" change this precipitated over collective decision making by the council of elders. As will be apparent, however, it is impossible to understand the conditions that led up to a constitutional decision by the elders to cede authority to the state, without addressing changes in other institutions, such as lineage, clan, and marriage, which have previously been so important to maintaining social order.

Dismantling the Commons in Ormaland

As is the case with all African pastoralists, in the past the Orma maintained communal control of grazing land but private ownership of livestock. This appears to have been a remarkably efficient adaptation, given great fluctuations in rainfall, low population density, and a weak institutional environment. Under these conditions, alternative forms of property rights were both ecologically unsound and too costly to monitor and enforce.

In a famous 1968 article, Garrett Hardin suggested that common ownership carries with it the threat of the "tragedy of the commons," as it is in the interests of each producer to use as much of the common resource as possible, with no concern for the long-term effects on that resource. Despite the pessimism of the "tragedy" argument, the historical viability of pastoralism and any number of common resources elsewhere indicates that somehow the problems of common property can be overcome. This is true because people are capable of changing institutions as need arises. As a common resource begins to deteriorate, perhaps through population growth, people have an increasing incentive to incur the costs of restructuring their property rights.[5]

Examples of such restructuring abound in the literature: Netting (1972, 1976) observed that Swiss meadows were protected by the development of informal monitoring systems; Acheson (1975) found the development of de facto property rights in fishing grounds to prevent the overfishing of Maine lobsters; Blomquist and Ostrom (1985) reported on a solution to the common-pool problem concerning an underground water basin in Los Angeles County; and Behnke (1985) describes a case of spontaneous range enclosure in Sudan analogous to the situation described here. Consequently, while the case I will present was ultimately resolved by state incorporation, I by no means intend to suggest that privatization or state authority are the only means, or the best means, by which common resource problems are resolved.[6]

In previous centuries the Orma have solved their potential commons problems through migration to uninhabited areas and, where necessary, through militaristic territorial expansion. Neither of these options were practical by the time the Orma began again experiencing pressure in the 1960s, for population pressure was at least as great in neighboring territories and it was unlikely that a militaristic adventure would have been successful against the far more numerous Somali.

Through the 1960s and 1970s, as sedentarization increased, the situation rapidly deteriorated. This was of course compounded by the alienation of large tracts of Orma land to game reserves, private and cooperative ranches, and irrigation schemes, which served to truncate the time period for resolution of the commons dilemma.

The Galole Orma began to settle in the Wayu area in the late 1940s. The process was at first gradual and the area so naturally fertile that a small population could remain there through wet and dry seasons with few detrimental consequences to either the ecology or the well-being of their livestock. By the 1960s, however, the Galole Orma were beginning to feel some pressure on the local resources. Their village had for a decade housed the only shop in the area, the local chief, a primary school, and a mosque; a dispensary was built later. The population continued to grow.

Early in the 1960s, the elders resident in this area, including the resident government chief, proclaimed that a small area around the permanent village of Wayu was off-limits for wet-season grazing to any stock but that owned by the local villagers. The Orma term for the area is *laf sera, laf* meaning "land" and *sera* meaning "law," or roughly, "prohibited land." While the restriction applied to the wet season, the intent was to protect dry-season grazing. There were two reasons for this. First, the amount of dry-season grazing is limited to that which is not eaten in the rainy season, and second, ownership of wells already served to a certain extent to limit access during the dry season. The elders explained that this restricted area was "like our ranch," and "we used it to store our grass" for the dry season. The impetus for this change was that the permanent villagers had to protect the dry-season grazing around their settlements. The only way to do so was to prohibit nomadic herders who could go elsewhere from using the only resources that were within the reach of villagers' herds. The fact that villagers could continue to use as much as they liked of the remaining commons (which they used extensively for their remote cattle camps) was seen by them as irrelevant.[7]

The settled villagers justified their position with the argument that they had to settle in order to send their children to school. This rationale gained momentum in the late 1970s when the government instituted universal mandatory primary education. The nomads continued to refuse to send their children to school because child labor was far too valuable for herding and because schooling was incompatible with nomadism. The wealthy sedentary households, who solved the labor problem by hiring herders to substitute for their own sons, used this government mandate as a threat to keep the nomads out of their restricted territory. As long as the nomads stayed out of the restricted grazing area, their children would not be forced to go to school. In practice, the restricted area was not large enough at this point to represent a serious threat to the nomads. Conflict was relatively easily avoided. Incursions, while they definitely occurred, were not serious enough to jeopardize the resource base of the settled households. Nomads also had, and continue to have, the option of settling and abiding by the same rules that apply to others living within the restricted zone. Significantly, up to the early 1980s, the chief never arrested heads of households for failure to send children to school or for trespassing on the restricted grazing land. Such sanctions as were employed, worked through traditional Orma institutions controlled by the elders.

Over the years, the settled villagers gradually increased the restrictions on this grazing area by limiting the period recognized as "dry season," and by increasing the size of the territory to include all grazing lands within a day's walk from the center in every direction.

By the end of the great Sahelian drought of 1968 to 1974, the numbers of settled households in the restricted area had increased considerably. Wayu and its sister village three miles to the west had approximately 70 permanent households totaling some 700 individuals. By 1985 (following a second severe drought), these numbers had increased another 55%, and the restricted area had been declared out of bounds to outsiders year round.[8] By 1987 several other major villages along this seasonal river also talked of developing the same kind of restricted grazing zone—thus threatening to provide a nearly continuous barrier east to west across Orma territory. Meanwhile, in the Wayu area, strong sentiment was also developing for the restricted area to be increased substantially in order to accommodate the cattle camps of the resident villagers, which previously had been located elsewhere. Simultaneously, large numbers of Somali moved into the general vicinity, representing an even greater threat to already scarce grazing. It was at this juncture that problems of consensus and enforcement became severe, leading the elders to rely upon the chief and his police to enforce the increasingly restrictive property rights, both against fellow Orma and against the Somali.

Applying the Theory to the Case Study

North (1990) suggests that institutional change stems from either a change in relative prices, which changes the incentives or bargaining position of actors, or from a change in preferences or values. It should be clear from the discussion above that population pressure provided a clear incentive for wealthy herders to change property rights, as overgrazing was increasing the cost of maintaining the common system. Technological changes (especially the availability of roads, vehicles, and radio communication), together with legal changes, also potentially decreased the costs of enforcing more restrictive property rights. Another change in relative prices, in the form of increased returns to livestock marketing, served to pull more and more people into the market and into market towns. This trend left fewer nomads and others on the outskirts of the restricted territory who would be penalized by more restrictive rights. As the numbers of those less market-oriented households decreased (from approximately 61% of the population in 1979 to 37% in 1987), their relative bargaining power declined, making it easier (all other things being equal) for the forces in favor of greater restrictions.

While these changes explain why more restrictive property rights were favored, they do not account for why the elders chose not to work through the council of elders, but rather, to cede authority to the state in order to accomplish this objective. I argue that this "constitutional" change resulted from further, more complicated changes in "relative prices," that is, the cost of achieving consensus relative to the benefits offered by state incorporation. More permanent inequality in the distribution of wealth and greater diversification of the economy increased the costs of achieving consensus and made it far more difficult to maintain social order by working through traditional Orma institutions. Finally, the state offered several distinct advantages over the council of elders. While virtual unanimity was needed to effect a policy change through the council, action by the state demanded at most a majority. Thus, while the elders were previously often responsible for "buying" the compliance of dissenters, they would now be spared many of these costs, and the new costs of enforcing more restrictive property rights would be borne by the state. I turn now to a discussion of how these events were played out.

The Orma suffered severely from two recent droughts (1974 and 1985), during each of which they lost approximately 70% of their herds. The effect of the 1974 drought, in combination with a marked increase in sedentarization and dependence on the market, was to generate far greater inequality in the distribution of wealth than had previously existed (Ensminger 1984). The ratio of wealth between the bottom 40% of sedentary households and the top 30% had increased from 1:7 before the 1974 drought to 1:25 after the drought, and dropped to only 1:23 in 1979 after four more or less normal years of recovery. What is perhaps more dramatic is that by 1987, despite another 70% overall loss of livestock in 1985, households came out in rank order very close to where they were in 1979 following the 1975 drought losses. This may indicate that something resembling an elite group of livestock owners has developed, such that they can be quite confident of maintaining their position even through a drought.

The persistence of stratification over time has several implications for the maintenance of traditional clan, lineage, and affinal ties. To the extent that redistribution of resources among such groups, especially following times of drought, represents something of an insurance system, secure households have less need of continuing the practice. Before stratification became "permanent," the wealthy faced a higher risk than now of being wiped out in a drought or through other means, such as raiding. It made sense for them to invest in such relationships for insurance purposes, as they might well be on the receiving end at a future date. The wealthy households of today, however, have little prospect of ever being on the receiving end of these relationships. Also, the wealthy now have alternative options for investing their surplus resources—they may trade livestock, build a shop, pay school fees, or invest in real estate in the district headquarters (cf. Anderson 1978).[9]

Another reason for a decline in transfers from rich to poor is that direct livestock production makes up a smaller percentage of the total economy than was previously the case. The 1980s have brought a tremendous increase in economic diversification to the area. Due in part to declining transaction costs described above, there are now far more opportunities for trade and wage work than was true even in the late 1970s. One example of this was the appearance of not one, but six tea kiosks in the small village of Wayu Boro by my return in 1987. Nothing of the sort had previously existed. Other sources of income include civil service jobs, school teaching, religious instruction, shopkeeping, casual labor at a local stone quarry, casual labor building schools and roads for the government, craft specializations, and a myriad of petty trading activities. By 1987 the percentage of poor households who were living primarily off subsidies from wealthy relations or patrons had declined. Most poor households were to a far greater degree dependent upon income from other sources than had been the case in 1979.

Economic diversification has also had a significant effect upon kin relations. By 1987 young men were in the position to be more financially independent than they were under a purely pastoral system where fathers controlled the livestock and, indirectly, young men's access to wives. This has many consequences. Only fathers with large numbers of livestock manage to hold their sons together, and even few of these are completely successful. For the rest, early independence of sons is now the norm. Independent young men are also effective in attracting young wives, thus further reducing the control of elders over the younger generation. Increasingly, daughters are asserting their own will in marriage and divorce, refusing to accept arranged marriages, marriages to nomads, and prescribed levirate marriage. The extent to which young men and women are determining their own future in love marriages without respect for the institutions of their elders is also evident in the breakdown of clan exogamy, which occurred between 1981 and 1987, by which time intra-clan marriages were common enough to not even occasion a comment.

The weakening of all these institutions—gerontocracy, patron-client relations, clan, and even marriage—is important because these same institutions were the means by which elders wielded authority and achieved compliance in political matters. In Taylor's terms (1982), these make up two of the three components for maintaining social order in stateless societies: the social-structural basis for crosscutting ties and the institutions through which positive and negative sanctions are manipulated. With these institutions diminished in strength, so too is the ability of elders to form consensus for their economic and political agenda diminished. For example, as divorce rates increase, the "value" to the elders of marriage alliances decreases. Another way of summarizing all these trends is to say that the costs of engineering a consensus have increased.

A further obstacle to consensus formation is the fact that economic diversity has also led to competing economic interests. While almost all households have some livestock interests, most now also have interests in trading, agriculture, or wage labor. Even among the "purest" pastoralists, some have split herds that remain nomadic and therefore strictly speaking are banned from the restricted grazing area, others have close relatives who are nomads, while others are completely sedentary. Among those with trading interests, most are involved to some degree with nomads, and a few do considerable business with the Somali, thus having an interest in their continuing presence in the territory. Thus, no unanimous consensus about policy regarding the restricted grazing, or even the Somali invasion, has emerged, although there is clearly majority support for more restricted grazing and a total ban on use of Orma wells by the Somali. The most dramatic evidence of the elders' failure to achieve consensus regarding property rights was the behavior of several households that allowed the Somali to use their wells in return for bribes of sheep and goats.

It was this type of impasse that led the elders time and time again to fall back on the chief and his police to arrest violators of the restricted grazing and send them to court. What the chief and the state had to offer was a separate, implementing and enforcement body capable of acting upon the decision of the majority. On numerous occasions the police were sent out to arrest Orma and Somali alike for infringing upon the restricted grazing. The situation among the Orma in 1987 is aptly summarized by one senior member of the council of elders: "In the old days, even if the elders lied, they lied together. Even if they made a mistake, they made it together. . . . Yes, we need the Chief, because we cannot agree. I can refuse the Somali my well, but my neighbor may not."

It is the use of force, sanctioned by the majority of elders, that I see as a critical threshold in the transfer of authority to the state. It represents an admission on the part of the elders that their institutions are no longer capable of maintaining social order. However, it should not necessarily be viewed as a loss of power on their part. At least at this stage, the state is enforcing the will of the elders with regard to property rights. In a sense, therefore, the constitutional change that transferred authority to the state can be viewed as an act on the part of the elders that allowed them to continue controlling policy, at least in some critical domains. That they are paying a price for this in loss of authority in other realms is also clear to them, but they appear to accept the trade-off. For example, as 1987 wore on, the chief heard more and more cases brought by women with grievances against the elders (mostly husband and wife disputes), and by year's end, almost all cases of significance were being brought to the chief and were bypassing the council of elders.

The account given here is consistent with Elizabeth Colson's (1974) observations of the process of state incorporation in Zambia years ago. Her words could as well describe the Orma in the late 1980s:

> men may see governments as providing services for them, services which they cannot see themselves capable of providing and, if necessary, they are prepared to pay the cost of that service.
>
> We cannot understand the history of the colonial period, or indeed the history of our own time, if we do not understand that people may be prepared to accept authority, even though they find it both threatening and frustrating, because they see it as the guarantor of an overarching security which they value or as promising a security that is lacking. [Colson 1974:67]

Conclusions

As this case study has demonstrated, state incorporation is an iterative process. It is logical to assume, as does North (1981), that states can realize economies of scale in the provision of economically efficient institutions. As these institutions reach further and further into the periphery, they may gradually reduce transaction costs and make even more attractive the gains to be realized from trade and increasing specialization and division of labor. This changing economic environment ultimately has the potential for profound effects upon the societies it reaches. The gains from trade are rarely shared equally, however, and in turn may result in previously unknown levels of wealth inequality.

Increasing specialization and division of labor place yet more challenges before communities that heretofore may have maintained social order largely through consensus. Such consensus, engineered by common values, social structures with numerous crosscutting ties, and positive and negative sanctions, may be increasingly more difficult to realize under new conditions of inequality and economic diversity. Ultimately, actors who have benefited from the new opportunities, or those who stand to gain handsomely from a redefinition of the rules of the game, may wish to campaign for changes in existing institutions. In addition, as was evident in the Orma case, the inability to reach consensus under such conditions may force a "constitutional" change, or a change in rules governing future collective decisions. Depending upon the strength with which local ideology or value systems are able to withstand such pressures, institutional change may or may not be forthcoming. The further the reach of state institutions, however, the greater may be the temptation in times of stress to opt for incorporation, including the legitimization of state force. As Service (1975) and Taylor (1982) have suggested, the same principle applies in the formation of an independent state. A society may for similar reasons opt to grant one of its own leaders the authority to use force.

It is certainly true that many institutional developments resulting from state intervention in recent years have brought benefits to the Orma. Among these one can count famine relief during the 1985 drought, which was on the whole quick and responsive. The state is also largely responsible for the reduction in transaction costs, which has opened up new markets (some of which were formerly too great a security risk). Lower transaction costs have also benefited Orma traders by helping to break the previous monopsony, which in turn has paid off handsomely for producers, who benefit from the higher prices that result from more competition among buyers.

What remains to be seen, of course, is whose interests will determine the state's agenda in Ormaland in the future. While current policies regarding the restricted grazing can be said to have the support of the majority of Orma in the area, it is clear that a small group of elite who own most of the livestock benefit from this policy more than the rest. If the interests of that small minority were at odds with the majority, whose will would prevail? Alternatively, now that the use of force is legitimized, what will happen if the interests of those controlling state power differ significantly from the interests of the Orma? Given the uncertainty of the future, it remains to be seen who has co-opted whom.

Notes

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[1]Quantitative data on the extent of Orma involvement in livestock marketing is available in Ensminger 1984.

[2]Space does not permit a general introduction to the new institutional economics (NIE) here, but anthropologists may find many of the issues addressed in this literature relevant to their interests, among them: transaction cost economics (North 1985; Wallis and North 1986), the theory of property rights (Demsetz 1967), the theory of collective action (Olson 1965), and principal-agent theory (Fama 1980; Fama and Jensen 1983). For a general background in NIE see Coase (1937), North (1981), and Williamson (1975, 1985). Moe (1984) provides a useful short overview of the field, while some of the applications of this approach to the developing world are: Bates (1981, 1983, 1988, 1989b), Nabli and Nugent (1989), and Wade (1988).

Space also does not allow a theoretical discussion of the obvious links between the work of Bailey (especially 1969), Barth (1959 and 1981), and others associated with "transactional approaches," which within anthropology are some of those most compatible with the perspective presented here.

[3]For an interesting discussion of the differences between what institutional economists and sociologists mean by the term "institution," see Bates 1989a.

[4]It is also possible, however, that states can impose institutions that have the opposite effect on transaction costs. Typical examples in Africa, for example, are agricultural marketing boards (cf. Bates 1981), excessive regulation and licensing, bribable courts, and police forces that operate as licensed bandits. While the history of state institutional development in Tana River district has by no means moved unilineally toward decreasing transaction costs for traders, I would hold that on balance the net effect has been in this direction, with the resultant increase in trade one would predict from such a trend. The impact of changing institutions upon social justice and human rights is a far more complicated question to evaluate and measure, and cannot adequately be treated here.

[5]This section reflects the views presented in a previous, coauthored paper (Ensminger and Rutten 1987) and I wish to acknowledge my debt to my coauthor in the development of these ideas.

[6]In his discussion of irrigation management in India, Wade (1988) provides an example to the contrary, and goes a long way toward predicting the conditions under which collective action over common resources will be successful in mitigating tragedy.

[7]Orma tradition follows that of the Boran in favoring milking stock *(hawicha)* over cattle camp or fallow stock *(ureni)* (cf. Hogg 1987:10).

[8]The large increase in population in the towns between 1979 and 1987 was primarily due to in-migration from the surrounding area rather than population growth. Many households that had been nomadic and/or living outside of market towns in 1979 moved into these towns and adopted a sedentary lifestyle over the course of this period. In fact, the overall number of households resident in the 20-by-20-mile area around these towns was remarkably stable during this period.

[9]This argument is very similar to the point made by Bates (1989a, 1989b), who argues that institutions such as lineages help to spread risk. As risks decline, in the Orma case because greater portfolio diversity reduces vulnerability to drought, the need to invest in risk-spreading institutions, such as clans and lineages, also declines.

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