

Traditional pastoralist decision-making processes:  
Lessons for reforms to water resources management in Kenya

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**Abstract**

The purpose of our paper is to consider the vision for public participation in water resources management embedded in Kenya's 2002 Water Act, as it relates to pastoralists. The Act envisions that responsibility for management of water resources at the local level will be devolved to community-level bodies. Our approach was qualitative and included interviews with government officials and Gabra pastoralists, observation of and participation in traditional Gabra korra meetings and focus group discussions. We conclude that the "institutional model" of participation being pursued through the creation of Water Resource User Associations is particularly problematic for mobile pastoralists such as the Gabra and we suggest an alternative strategy that would focus on the fostering of deliberation processes.

**Key words:**

Kenya, community-based water resources management, deliberation, participation, pastoralists

## TRADITIONAL PASTORALIST DECISION-MAKING PROCESSES: LESSONS FOR REFORMS TO WATER RESOURCES MANAGEMENT IN KENYA

### **1. Introduction**

Kenya is in the midst of reforming governance of its water resources under the overall guidance of the 2002 Water Act. The thinking behind the Act and the reforms that follow from it are consistent with the rationale of an institutional model of participation. The Act attempts to establish the foundation for a system in which a significant degree of authority is devolved to the local level and in which civil society organizations and communities rather than the central government bear most of the responsibility for provision of water services and management of water resources. It is the latter of these, the management of water resources, that we focus on in this paper. While the Act recognizes and assigns a role to community organizations and other non-state actors in the management of water resources, it does not explicitly recognize customary law or non-formal mechanisms of resource management, and customary decision-making bodies would seem to have a role only if they can be formally registered, such as by the Registrar of Societies.

Instead, the Water Act and reforms flowing from it envision that the primary institutional mechanism for actualizing management of water resources at the local level will be Water Resource Users Associations (WRUAs), and much of the work of the Water Resources Management Authority (WRMA) at the local level is to be focused on facilitating the formation of WRUAs and providing support to WRUAs. An issue that must be considered is whether this strategy will be the most effective way to ensure meaningful participation by pastoralists. Around eighteen percent of Kenya's population are pastoralists (Musthaq 2008), using a large proportion of the country's land base.

Traditional approaches to collective decision-making among Gabra pastoralists of north-central Kenya represent an egalitarian, inclusive and deliberative model that stands in contrast to some aspects of conventional approaches to participation including those most evident in Kenya's water sector reforms. The purpose of this paper, therefore, is to consider the vision for public participation in water resources management embedded in Kenya's Water Act as it relates to pastoralists and to the endemic forms of deliberation and decision-making used among Gabra nomadic pastoralists of north-central Kenya.

## **2. Deliberative participation**

It has been noted (Cleaver 1999, Cleaver 2005, Lewins 2007) that in participatory approaches to water resources management, participatory development practice generally, and mainstream participatory development literature (e.g., Oakley et al. 1991, Uphoff 1992) a great deal of emphasis is placed on formal structures and how participation can be embedded within these structures. Another concept, one that sheds a different light on participation and decision-making processes, is *deliberation*. There is a small but growing literature that suggests that *deliberation* can be an important complement to the concept of *participation*, and has much to offer to the fields of natural resources management, and particularly water resources management (e.g., Webler & Tuler 1999, Petts 2001, Parkins & Mitchell 2005, Sinclair et al. 2008, Sinclair and Diduck 2009).

While the concepts of *deliberation* and *participation* cover some of the same ground, they are clearly distinct. Deliberation is a process in which people "confer, ponder, exchange views, consider evidence, reflect on matters of mutual interest, negotiate, and attempt to persuade each other" (National Research Council 1996).

Participation, on the other hand, can be thought of as an inclusive process in which stakeholders are involved in, and, more importantly, have some level of control over decisions that affect them, and must be distinguished from mere *involvement* (Arnstein 1969, Pretty et al. 1995, Robinson 2002, Sinclair and Diduck 2009). A participatory process may or may not have deliberation processes within it, and may or may not conform to the deliberative ideal of “democratic self-restraint” (Miller 1992) and processes of reasoned debate being applied to arrive at collective decisions. That is to say, a planning and decision-making process might be fully democratic in the sense of being participatory—a process in which the full range of stakeholders are included as participants and have a high level of control over the process and over the ultimate decisions—yet involve procedures such as voting, aggregating and averaging opinions and positions, and delegating tasks, without basing collective decision-making on reasoned exchange of ideas among stakeholders.

The deliberative approach to conceptualizing participation offers a different perspective than most of the academic literature on participation, which emphasizes actors, power relations and structures of participation. Institutional models of participation in particular focus attention on formal structures (Cleaver 1999). Academic literature on participation has perhaps been more comprehensive than most participation *practice*, emphasizing actors and power relations as well as institutionalized structures (e.g., Cooke and Kothari 2001). Literature on deliberation, on the other hand, tends to be at least as concerned with participation and decision-making *processes* as with actors and structures. One element of decision-making processes that is emphasized in the literature on deliberation is the role played by reason. This relates to the primary ideal of

deliberative democracy, that democratic decision-making should be based on collective reasoning and on democratic self-restraint and the willingness to listen to reason and to accept the possibility that through reasoned discussion one's own opinion might be changed (Cunningham 2002, Smith 2003).

An important implication of the emphasis placed on decision-making processes is the problematization of these processes. For policymakers and development programmers, it must be recognized, for instance, that not all deliberation related to particular sets of decisions needs to take place within permanent, standing institutions. Whereas institutional models of participation tend to assume that decisions are made within corporate bodies, a deliberative approach to participation calls for decision-making processes to be conceptually decoupled from corporate actors. Within any particular decision-making regime, decision-taking authority may reside within one particular corporate body, or it may be dispersed among several bodies, or it may reside wholly or partially in non-permanent processes rather than, or in addition to, corporate bodies. Table 1 identifies some of the key elements that must be identified in deconstructing collective decision-making processes.

Literature on deliberation, like much of the literature on participatory development, emphasizes inclusivity (Healey 1996, Innes and Booher 2000, Petts 2001, Smith 2003, Parkins and Mitchell 2005). However, the approach to deconstructing decision-making processes described above suggests that inclusivity has several dimensions. Ensuring that marginalized people are included within a particular corporate body will be insufficient if deliberation takes place, and final decision-taking authority is distributed, across various bodies and processes.

Table 1: Deconstructing decision-making regimes: key elements to be identified

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<ul style="list-style-type: none"> <li>• <i>Actors</i> involved in collective decision-making. (What individuals, groups and organizations are involved?)</li> <li>• Decision-making <i>processes</i>. (How are decisions made?)</li> <li>• The distribution of decision-taking authority. (How are final decisions taken? Which actors and processes have decision-taking authority?)</li> <li>• The relationship between deliberation and other elements of the decision-making regime. (Where does deliberation take place?)</li> <li>• Inclusivity. (Who—which individuals and groups—are included in the above elements of the regime, and in what way?)</li> </ul>
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It is worth exploring whether analysis that is based on the idea of deliberation may provide an antidote to some of the weaknesses inherent in the mainstream, and particularly the institutional models of participation, such as a tendency to formulaic approaches and to treating participation as a technique for implementing projects (Rahman 1995, Cleaver 1999, Cooke and Kothari 2001), and a simplistic understanding of *community* and of *power* (Mosse 1994, Mohan and Stokke 2000, Kumar and Corbridge 2002, and various contributions to Cooke and Kothari 2001). Pastoralist societies, which typically use deliberative processes for managing scarce water and pasture resources, whose devolved form of governance limits any one group's decision-making authority, and the mobility of whose members present challenges for conventional approaches to participation, represent a particularly interesting context for consideration of participation and deliberation.

### **3. Methods and study area**

The field research described in this paper was part of an independent PhD research project. The overall purpose of that research was to examine approaches to public participation used among pastoralists by agencies involved in water resources management, with a particular focus on the Gabra, a predominantly pastoralist ethnic group based in north-central Kenya. Although at the time of the research there was little to observe regarding implementation of the Water Act in this part of Kenya as the process was still in the early stages, we realized that our findings on traditional Gabra approaches to decision-making were relevant to the ongoing implementation of that Act.

The fieldwork had two broad components. The first was essentially conducted at the institutional level, involving semi-structured interviews with personnel from the Water Services Board, Water Resources Management Authority, and other government agencies; and with personnel from the private sector, NGOs, and donor agencies working in the water sector in Kenya. Forty semi-structured interviews with 32 different informants touched on the 2002 Water Act in some way or another. Selection of interviewees was largely based on seeking out people based on the organizations they were working with. Information was also collected through review of Government of Kenya documents and also a number of workshops and meetings. The second component of the research involved investigation into institutions and decision-making processes among the Gabra. Thirty-three semi-structured interviews that included direct discussion of the kinds of issues explored in this paper—water resources management, institutions, and decision-making—were conducted with respondents throughout Gabraland. Some of these interviews were initiated opportunistically and others using a snowball sampling technique and we specifically sought out nomads to interview. Interviews were

conducted with both women and men. In Gabra settlements, we also sought out people of minority ethnic groups, as well as conducting interviews and one community meeting in a Borana settlement situated in the heart of Gabraland.

The research also included observation of/participation in over forty workshops, meetings and focus group sessions. This included observing a number of traditional Gabra korra meetings, which are discussed below. While these activities were conducted at various places throughout Gabraland, more in-depth research was conducted in three sub-case localities, each of which included a permanent settlement, various nomadic camps around, and the camp of one of the traditional Yaa councils representing one of the Gabra's phratries<sup>1</sup>. The three settlements were Balesa, Kalacha, and Hurri Hills. The research also included participant observation with Gabra herders.

The traditional territory of the Gabra ethnic group is situated in north-central Kenya and extends into southern Ethiopia. The region is extremely dry and has no permanent rivers. Throughout most of the area, precipitation is under 300 mm. per year and is highly variable, with the coefficient of variation ranging from 30% to 50% (National Environment Management Authority 2006). Three highland areas—Hurri Hills, Mt. Marsabit, and Mt. Kulal—are important to the hydrology of the region and to the grazing patterns of pastoralists. Between these three highland areas lies the Chalbi Desert. Many of the most important water points for Gabra and Rendille pastoralists are springs and wells that can be found around the rim of the desert. It is believed that most of the groundwater feeding these springs and wells originates from the highlands.

While in the past two decades many Gabra have established homes in permanent settlements, a significant percentage are still nomadic, and livestock still represents the

foundation of the economy. Movement of herds and households is a key part of survival in this arid region, and even households which have established a permanent residence still rely primarily on livestock for their survival and still send some household members and their livestock long distances in search of water and pasture. Among the Gabra, traditional meetings known as korra play a prominent role in collective decision-making and are at least as important as permanent, standing institutions such as the Yaa councils.

#### **4. The Water Act and WRUA's: implementation issues**

The implementation of the Water Act in north-central Kenya has been slower than in some other parts of the country. Throughout most of 2007 the WRMA office for the Marsabit sub-region had only two staff, and it was only late in 2007 that the sub-regional office started to be equipped and staffed in any kind of serious way. In addition, at the time that the field research concluded, no WRUAs were yet registered or even operational in this sub-region. Furthermore, many respondents, including personnel of WRMA, the Water Services Board, and NGOs working in the water sector, all indicated that knowledge about the 2002 Water Act in the area was very low. For this reason, the discussion of the nature of WRUAs in this section draws on interviews with respondents at various locations in Kenya, as well as on an examination of government documents pertaining to the Act and its implementation in general.

Respondents, as well as some Ministry/WRMA documents (e.g., Ministry of Water and Irrigation 2005), cite developments that took place around Mt. Kenya in the 1990s as providing much of the inspiration for the form that WRUAs might take (Kiteme and Gikonyo 2002). For example, the Ngare Nything River on the northern side of Mt. Kenya runs down the mountain, through an agricultural area, a forest, a conservancy and

into an area used by pastoralists. When the river downstream would dry up, pastoralists would complain about excessive use for irrigation by upstream agriculturalists, and competition over the resource had led to conflict in the past. Numerous consultations were held between the various stakeholders along the river, and eventually an association was formed, in part to reduce conflicts (Thomas 2007). In this model then, a WRUA is a venue for stakeholders with varying interests, but sharing a common water resource, to negotiate how the resource will be protected, managed and shared.

However, in this research, discussions with various WRMA personnel and consultants involved in water resources management made it plain that there is no single, clear vision of how WRUAs in the most arid parts of Kenya might be structured. WRMA personnel whom we interviewed consistently emphasized the importance of being flexible according to local conditions, and some of them also emphasized the importance of local culture and traditional institutions. Nevertheless, the focus of the WRMA strategy for promoting water resources management at the local level is on one particular corporate body: the WRUA. Formation of a WRUA is still viewed as key for implementing the participatory model envisioned, even though in some of Kenya's arid districts, such as Chalbi, Laisimis and Marsabit, the Mt. Kenya model is not directly applicable. These districts have no permanent rivers, and even along seasonal rivers the connection between upstream and downstream users is not necessarily obvious. Where there is conflict over water sources, it tends to be between two or more pastoralist groups over a discrete water *point*. Unlike the situation with the Mt. Kenya cases, even on Mt. Marsabit, which is wetter than its surrounding lowlands, irrigation is extremely limited, and the problem of upstream agriculturalists abstracting water from a river to the

detriment of downstream pastoralists is negligible. In the driest parts of Kenya, the stakeholders are overwhelmingly pastoralists, in some areas even lacking ethnic differences over large geographic areas. So unlike the Mt. Kenya area, conflict between diverse types of stakeholders is not likely to be an effective driver for demand-driven WRUA formation. Ideally, in the coming years, WRMA will allow wide latitude for experimentation as different approaches to WRUA formation in different regions of Kenya are tried.

## **5. Participation and decision-making among nomadic pastoralists**

### ***5.1 The place of occasional meetings in pastoralist decision-making processes***

It seemed to us reasonable that an examination of the way that the Gabra and other mobile pastoralists make collective decisions could be instructive for formal sector actors considering how to structure participation processes and new institutions such as WRUAs. In nomadic pastoralist societies, much of the deliberation and collective decision-making takes place in occasional meetings, scheduled as the need arises. Among the Gabra, important decisions are made by *korra*, meetings that are organized at various levels of social organization, from the olla (nomadic camp), to the cluster of ollas, up to the clan and the phratry, and the entire Gabra nation. Such meetings can appear very informal—any elder in the vicinity is welcome to participate, people will come and go, some of the old men will sleep through much of the meeting, etc.—nevertheless, such meetings are institutionalized in the culture and are expected to be held before key decisions can be made. This kind of meeting appears typical of nomadic pastoralist groups. Maasai *enkiguena* are very similar to Gabra *korra*: both typically begin with the sharing of news; both emphasize consensus, unity and equality; both have

two broad types, meetings to decide on matters of mutual interest, and meetings to arbitrate a dispute or judge a case; and both are *meetings* as opposed to a council of elders or some other permanent, standing institution<sup>2</sup>. Other nomadic pastoralist groups have similar concepts. The Pokot for example, inhabiting western Kenya and eastern Uganda, have *kokwo* meetings at which key decisions such as which pastures should be grazed are made (Moore 1986, Bollig 2006). The Rendille, inhabiting north-central Kenya, have meetings called *ur'uuri mejel*.

Pastoralist groups do have permanent institutionalized bodies, such as clan or phratry councils. There are also permanent institutionalized positions such as the Gabra *jalaab*, judges who preside over cases of wrongdoing and who represent the Yaa. And while both our observations and the assertions of many respondents make it clear that these kinds of institutions are still very much respected by most Gabra and still play an important role in decision-making for Gabra communities, the role of an institutionalized *process*—the korra meeting—is at least as important as these standing institutions (see Box 1). Indeed, one of the functions of the *jalaab* is to convene korra meetings. One Gabra respondent described large korra meetings, held for a large local area involving many nomadic camps, and the role of the Yaa in such meetings, in this way:

Such meetings have been called several times. But never has the meeting been called because of pasture. Always for water. For example, this pan<sup>3</sup>. It has been called several times by the Yaa. And elders from other ollas have also called such meetings and even called the Yaa. And when the Yaa has called such meetings, they don't order people to relocate. It doesn't decide for the people. The people decide together. Most animals are sent for foora<sup>4</sup>, or to other places where there is water, and so few animals are left here. So such meetings are always called.

Respondents indicated that many of the important decisions related to management of water points tend to be made at korra meetings: determining the

Box 1. Examples of decisions being taken in korra meetings rather than by other institutions

*Restocking in the El Gade area.* The NGO the Pastoralist Integrated Support Programme (PISP) provided fifty camels to people who had lost animals during the drought to restock. PISP's main contact and entry point was Yaa Algana (the council for the Algana phratry), which was situated in this area. The Yaa, rather than deciding itself who would benefit from the restocking exercise, called a large korra meeting for all the small settlements and nomadic camps around.

*A new water committee in Hurri Hills.* Upon the completion of two new water sources—a pan and a small reservoir created by damming a narrow gorge—residents from nomadic and settled communities in Hurri Hills selected representatives for a new water committee. PISP held a workshop for the committee and the idea of charging user fees for the water was discussed. There was broad consensus that user fees should be charged, but committee members insisted that they did not have the authority to make such a decision. Instead they decided to organize a large korra meeting for the communities around.

*Restrictions on grazing in Hurri Hills.* Elders in Yaa Gara and other communities in Hurri Hills had been discussing the need to limit grazing near the water points in area. In particular, there was general agreement that foora animals (the "dry herds" that are not needed by the household for daily milk consumption) should be sent away, and that pastures within walking distance of the water points should be reserved for the milk herds. However, Yaa Gara would not come to this decision itself. According to one elder of the Yaa, "Once we call the area korra meeting and pass the rules, we don't expect any foora animals around."

*Irib (traditional restocking).* When someone has animals stolen, men of the same miilo (lineage) will organize a korra to decide on restocking. In reply to the question of whether the decisions of that meeting are enforceable, one respondent said, "Yes, the decision is binding. Even if you are not in the meeting, they shall go and inform you and you'll comply." Other respondents expressed similar sentiments.

operational rules for particular water points; at "traditional" water points, assigning slots in the rotational order according to which livestock owners will water their animals; for "modern" water points, deciding whether and how much to charge for water; deciding which animals will be allowed to use certain water points; etc. Decisions about which animals are allowed to use a water point often relate to whether foora animals will be allowed to water there. This issue is important in that it goes beyond mere management

of the water *point*, and touches on pasture management. While this perhaps falls short of the kind of catchment protection and watershed management that it is hoped WRUAs will eventually take on, these elements of traditional water resources management provide a foundation on which to build.

### ***5.2 Equality and inclusivity in relation to traditional Gabra meetings***

Respondents clearly indicated that deliberation and decision-making for Gabra pastoralists have been, and continue to be, highly democratic (at least for the male half of the population). One of the central, overriding principles is *consensus*, and respondents said that meetings will last for several days if necessary so that consensus and mutual understanding can be achieved. People may have disagreements, but the ideal is that discussions in korra should continue until consensus has been reached and a sense of unity established, and people are able to pray together. From our observations, various points of view will be patiently considered during the meetings with participants normally repeating what others have said before offering their own opinions and reasoned arguments. The korra is a deliberative forum: we witnessed examples both of participants making compromises based on the arguments and pleas of others, and of people changing their minds during the course of discussions.

Korra meetings, as well as emphasizing consensus, are very egalitarian. People occupying government positions, such as chiefs, assistant chiefs and councilors, have no special standing at korra meetings unless the issue under discussion touches directly on the mandate of their position. Numerous men whom we interviewed emphasized this point: “When the [government-appointed] Chief comes to the korra he is just another one

of the elders.” Even elders from the highly respected Yaa will have no special status when they participate in korra organized at lower levels of social organization.

Part of the moral force behind korra meetings is inclusivity. When it is a large korra for people from more than one community, the meeting will be planned in advance and messages sent to outlying nomadic camps. Numerous times during the fieldwork among the Gabra we heard comments such as, “We can’t decide that now. People from [some particular olla or cluster of ollas] aren’t here. Let’s wait and organize a proper meeting.” Even the Yaa council, the paramount institution in Gabra society, does not reserve all high level decision-making to itself, but instead often convenes more inclusive meetings to be attended by people from all settlements and nomadic camps in their area. The principle of inclusivity also influences the timing of korra meetings. Because many korra are *ad hoc*, organized when needed, they can be timed according to seasonal grazing patterns and other factors to make it possible for the largest number of people to attend. As one Gabra respondent explained, attention is also given to insuring that all potential participants are informed in advance of the meeting: “There are some decisions that are made, even those who are far can be called. Especially if it is a decision that involves very many people and affects them and a decision has to be made on something.” On another occasion we asked a Gabra elder how the voices of those people who still move far and wide, and are still very nomadic, can be heard in decision-making processes. He said that, “In such cases we usually call a big meeting, a korra. And any issues are discussed while they are present. Even if they are only around [this area] for one month they must attend.”

The importance of korra meetings and of broad inclusivity in korra meetings was made obvious at a workshop that one of us attended. It was organized for a group of communities—both settled and nomadic—by an NGO that had just completed the construction of two water points in the vicinity. Because one of the water points was of a type that these communities had no experience with—a small dam across a gorge with a gravity-driven pipe system to bring water from the dam to a more accessible spot—the question of how to manage the site and allocate access was not straightforward. A number of important decisions had to be made including whether and how much to charge for the water, and how to structure the committee that would manage the water points. However, participants in the workshop, all of whom had been selected to sit on a new committee for the water points, refused to make those decisions, making comments such as, “We are a very small committee to decide on this”, “All the representatives must go home to their respective places to discuss this”, and “We have been selected but it is not only for us to decide. We must call the community and meet.”

It was beyond the scope of this research to assess *why* and *how* it is that these ideals of decision-making have been maintained in Gabra society when throughout Africa modernization, nation-building and other forces have done much to undermine traditional institutions. Nevertheless, we would suggest that a partial explanation can be found in the social interdependence imposed by the harsh environment—the Gabra rely on each other to survive. This implies relationships, and the importance of relationships is reflected, for example, in the value given to being respectful and civil in meetings. It must also be noted that the ideals of Gabra decision-making are ideals—not all people live up to the ideals, and the above discussion is not meant to suggest that power, prestige

and politics are completely absent from traditional Gabra decision-making. Nevertheless, these are the ideals, and from our observations these ideals prevail in most korra meetings. Gabra decision-making processes are summarized in Table 2.

### ***5.3 Difficulties of using a participatory approach with mobile pastoralists***

The mobility of pastoralists can present difficulties for formal sector agencies using an institutional model of participation. Representative committees in the study area tend to be dominated by people who have left the nomadic lifestyle and have made homes in permanent settlements. NGO and government agency personnel whom we interviewed were essentially unanimous in admitting the difficulties they face in

Table 2: Key elements of Gabra decision-making processes

<b>Key Elements of Decision-Making Processes</b>	<b>Description of These Elements in Traditional Gabra Decision-Making</b>
<i>Actors</i> involved in collective decision-making	Yaa councils Jalaab Chiefs Assistant Chiefs Councilors Herega (the group of livestock owners of having a place in the watering rotation of a particular water point) Elders
Decision-making <i>processes</i>	Korra meetings (held at various levels of social organization)
The distribution of decision-taking authority	Decision-taking authority is distributed between korra meetings and various of the actors listed above. For the most part, the distribution of decision-taking authority is not clearly delineated.
The relationship between deliberation and other elements of the decision-making regime	Deliberation takes place in korra meetings and in various corporate bodies such as the Yaa councils
Inclusivity	Inclusivity is largely catered for by assigning many of the most important decisions to korra, scheduled appropriately to ensure maximum participation

involving mobile pastoralists, sometimes expressing the issue as involving a tension between inclusivity and continuity. When efforts are made to emphasize inclusivity, for example by involving mobile pastoralists at the outset and having them select representatives to serve on a committee, the next time that development agents want to meet with that committee they are likely to find that many of its members have, quite literally, moved to greener pastures. And in the kind of vast territories that many dryland pastoralists inhabit—ultra-rugged terrain poorly served by even the most basic roads—expecting personnel from NGOs or governmental agencies to seek out particular individuals who have been selected as committee members is hardly realistic.

The difficulty of allowing for participation through the usual vehicles, such as representative committees, is sometimes recognized by nomadic people themselves. One NGO officer whom we interviewed cited an example when his organization was helping to construct underground rainwater harvesting tanks. After struggling for over a year to keep the nomadic elders involved, the elders themselves said it was not realistic:

What you are doing is really noble and it will help our community. But due to our nature we are mobile. And if you keep following us wherever we go, we are pretty sure the project will not be implemented.... So please work with the people in town to ensure that this work gets done.<sup>5</sup>

A key strategy for responding to this challenge is to work with and through traditional institutions. Most NGOs that work with pastoralist groups think of themselves as working closely with traditional institutions. Indeed, working with traditional institutions is part of the standard discourse in NGO work in Africa. However, personnel from NGOs and other agencies who were interviewed, when speaking of these traditional institutions, were usually speaking of standing institutions: institutionalized bodies (such as the Gabra Yaa councils) and institutionalized positions (such as the Gabra jalaab).

Few respondents put much emphasis on, or even mentioned, the kinds of ad hoc meetings described above (Gabra *korra*, Maasai *enkiguena*, Pokot *kokwo*). Of fifteen interviews with key informants (NGO and government agency personnel) in which working with traditional structures and institutions was explicitly discussed, only in five of those interviews was the respondent clearly speaking of these kinds of ad hoc meetings with elders, and of those five four were themselves Gabra. Because these kinds of institutions do not fit common notions of what an institution is, how participatory processes work, or how collective decisions are made, it may simply be that they are essentially “invisible” to outsiders.

#### ***5.4 Connections between institutions and between levels of social organization***

Korra are arranged at various levels of social organization—from the individual nomadic camp up to, occasionally, the entire Gabra nation—and these meetings connect levels of social organization to each other such that decisions taken at one level can be informed by discussions and decisions taken at other levels. For example, a korra held for a cluster of nomadic camps is likely to have a representative of one of the five Yaa councils in attendance. In addition, elders serving in the position of *jalaab* are representatives of the Yaa and are a key link between the Yaa and communities. When a large meeting is needed, involving many localities and perhaps one or more towns, the Yaa itself may call for the meeting. Thus, meetings that take place at the local level will almost always have people in attendance who are aware of discussion that are taking place and the decisions that are being made at the level of the Yaa, and vice versa.

For the Gabra, korra also represent one point of linkage between the traditional institutional system and formal sector institutions. For example, “modern” committees in

Gabra settlements such as an Environmental Management Committee often will not try to make a decision, but rather call for a general meeting of community members. However, these kinds of connections between formal institutional processes and the traditional korra meetings are informal and ad hoc; they are not formally recognized by the bylaws and constitutions of such committees.

## **6. Discussion and conclusions**

### ***6.1 Why WRUAs alone are not the answer***

The vision of Kenya's water reform process is that the primary mechanism through which participatory water resources management will take place at the local level is the WRUA. However, an examination of the distinctive nature of pastoralist decision-making processes and the implications of these processes for water resources management in Kenya leads us to conclude that this singular focus on an institutionalized body—which is typical of what has been called an institutional model of participation (Cleaver 1999)—is not appropriate particularly for mobile pastoralists. We summarize the reasons for this in the paragraphs below, and then suggest an alternative strategy for the promotion of pastoralist participation in water resources management.

As noted above, the institutional approach to participation assumes that decisions are made within corporate bodies. A deliberative approach to participation, on the other hand, in emphasizing decision-making processes (Healey 1996, Parkins and Mitchell 2005), implies a need to conceptually decouple these processes from corporate actors and to problematize the relationship between them. Distinguishing between corporate *actors* and decision-making *processes* helps to explain how nomadic pastoralists are able to make collective decisions, apparently in a very participatory way, while formal sector

agencies struggle to make their institutional models of participation work. In traditional Gabra approaches to collective decision-making, decision-making authority is dispersed among institutionalized positions such as the *jalaab*, institutionalized bodies such as *Yaa councils*, and non-permanent institutionalized processes such as *korra*, and deliberation takes place both within institutionalized bodies and within *korra* meetings. An examination of traditional pastoralist decision-making processes also reminds us that not all institutions are organizations and not all collective decisions need to be made by organizations. Whereas outsiders have difficulty involving and including nomads in their structured activities for participatory decision-making, traditionally, the Gabra have been able to at least partially overcome the challenges of inclusivity and continuity by investing at least as much authority in occasional meetings, scheduled according to seasonal movements and according to need, as they invest in standing institutions.

An understanding of pastoralist decision-making processes also highlights the idea that there are more dimensions to decision-making than simply what *body* is making the decision. Decision-making also involves other dimensions such as norms, relationships, personal and institutional goals, and procedures and processes. Indeed, some institutional regimes vest final authority for taking decisions in certain procedures and processes and not in a body at all. An organization whose board of directors answers to and is subservient to an Annual General Meeting is one example. In other words, an approach to institution building that focuses only on bodies runs the risk of being too simplistic, and for mobile pastoralists, being neither effective nor inclusive.

## ***6.2 An alternative approach: the promotion of deliberation***

Programs promoting community-based water resources management among mobile pastoralists are unlikely to be genuinely participatory if they are based on a form of institutional development that is borrowed in a rigid way from work among settled agricultural populations, and in particular if the linchpin of the strategy is the creation of organizations based in the permanent settlements. Our argument is that for the fostering of bottom-up water resources management, agencies such as Kenya's WRMA should remember that deliberation processes are at least as important as permanent bodies such as WUAs and WRUAs. Deliberation processes at various levels should be promoted. The Gabra approach to collective decision-making, with its emphasis on unity and consensus, echoes the claims of those who advocate deliberative participation in natural resources management and argue that deliberation contributes to mutual understanding, to the building of consensus, and to generation of *community* (Innes and Booher 2003, Schusler et al. 2003, Smith 2003). Gabra korra meetings, in the way they create links across levels of social organization as described above, also echo the importance that literature on deliberation accords to linking deliberation processes at one level of social organization to other levels (Fung and Wright 2001, Zachrisson 2005); whenever possible, agencies such as the WRMA should endeavor to ensure that deliberation at one level is linked to deliberation that takes place at other levels.

Practically, this could involve organizing workshops and conferences, as well as piggybacking on pre-existing venues for multi-stakeholder deliberation. To a certain extent this is happening already, especially at District level; however, the promotion of deliberation processes for water resources management must be made systematic and must also include the local level. Currently, systematic attention is given to helping local

stakeholders to form a permanent body—a WRUA; systematic attention is not given to promoting deliberation at the local level or to connecting local level deliberation to deliberation that occurs at higher levels.

The key element of the strategy being suggested here is that, in regions such as northern Kenya, nested deliberation processes promoted by formal sector agencies should connect to and work with traditional pastoralist deliberation processes. The kinds of connections that already exist in many communities between modern, formal institutions, such as Environmental Management Committees, and traditional korra meetings should be strengthened and in some cases formalized. Such a strategy would take advantage of endogenous solutions to the problems of inclusivity and continuity. It must be recognized though, that traditional pastoralist meetings are not necessarily ideal. Among the Gabra, for example, women are not allowed to participate in these meetings. So deliberation can and should also take place in other settings as well, such as the kinds of open community meetings that people are accustomed to from their contact with NGOs. Such deliberation processes would include meetings held, both in the traditional format and other formats, for the purpose of discussing and strategizing questions of water resources management.

### ***6.3 Reconsidering roles for WRUAs***

The purpose of this paper was to consider the vision for water resources management embedded in Kenya's 2002 Water Act as it relates to pastoralists. While we have identified some misgivings about that vision, the above discussion is not meant to suggest that mobile pastoralists in the arid and semi-arid parts of Kenya should never form WRUAs. Rather, what should be primary, both in time and importance, are

ongoing, systematic processes of nested deliberation. WRMA might play a role of facilitating this kind of multi-level deliberation in which various stakeholders, including traditional institutions, elected representatives, NGOs, and pastoralists in general, come together to assess the state of water resources in their area and plan for the future. This need not wait until WRUAs are formed, although where WRUAs do exist they should of course be represented.

WRMA's long-term strategy of gradually devolving some level of authority to grassroots institutions is laudable, but raises thorny questions of how power and authority will be distributed. Merely requiring that WRUAs be multi-stakeholder bodies will not in itself equalize power relationships between settled people and mobile pastoralists. Our argument is that devolved authority does not, and should not, be concentrated solely in corporate bodies such as WRUAs; rather, devolved authority should be distributed among various structures and processes, including institutionalized deliberation processes. If, in a sub-catchment or a District, WRUAs are present, they would be an important, but not the only, standing institution responsible for making decisions about water resources management. Customary law and practices regarding collective decision-making around land and water resources can, furthermore, be clearly recognized within the structure and constitutions of particular WRUAs, including having a clear mandate for the use of deliberative processes. This suggests that there may be a need, as argued by Mumma (2007), for greater recognition and scope to be accorded to pluralistic legal frameworks, so that traditional legal and political systems might be able to play a recognized role without having to be transformed into something that they are not.

The findings of this research also have implications generally for the theory and practice of participation. Consider, for instance, inclusivity, which literature on participation has emphasized. Paying attention to the way that decision-making *processes* take place, and to the relationship between these processes and the structures and actors of participation, adds important nuances to the understanding of inclusivity. The deliberative approach to participation is particularly relevant for a re-examination of what has been called the "institutional model" of participation. This way of conceptualizing participation can, furthermore, highlight alternative avenues for empowerment, as we have tried to show in relation to mobile pastoralists and their participation in water resources management in Kenya. The observation that formal sector agencies focus too narrowly on formal, institutionalized structures in their attempts to promote participation does not apply only to programs carried out among pastoralists. A deliberative approach to participation, by broadening the scope of the kinds of issues that are considered when assessing or designing a strategy for public participation, provides a counterweight to the emphasis on institutionalized bodies. We would suggest that water resources management work needs to apply systematic attention to promoting deliberation, at various levels, among pastoralists *and* among agriculturalists and other settled people.

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## Notes

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<sup>1</sup> The Gabra have five phratries each made up of between nine and nineteen clans. Every Gabra belongs to a clan, and by virtue of that clan, to one of five phratries.

<sup>2</sup> For a description of Maasai enkiguena, see Goldman (2006) and Spencer (2003).

<sup>3</sup> An excavated pond.

<sup>4</sup> *Foora* refers to the practice of some men or boys taking part of a family's livestock holdings far from the household, usually to areas where pasture is available but reliable water perhaps not. The foora herd is sometimes referred to as the "dry herd".

<sup>5</sup> This statement represents the NGO officer's recollection of what the elders said, so it is not verbatim. But subsequent interviews with elders confirmed the gist of the statement.

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