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### 3 **Institutional Forgiveness in Borana Assemblies**

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In 1986, I had the pleasure of spending one year with the Borana community in Northern Kenya. Bante Abbagala, a *jaallaba abbaa qaa'ee* (a traditional leader), became one of my closest friends. Due to his title, he can organise local meetings. He attends the clan assemblies of his clan in Ethiopia, which are usually held annually. Bante explained to me that offenders are fined, and the amount is determined during the assembly according to traditional law. The penalty can be as high as thirty cows.

The Borana do not impose political decisions by force. Consequently, I found myself intrigued by the following question: why do people willingly agree to pay such substantial fines when there is no mechanism to compel them to do so? I inquired with Bante, asking how he manages to ensure that individuals accept the imposed penalties during the local meetings he organises. He explained that if individuals refused to accept the penalty, he would escalate the matter to the attention of the *hayyuu* (clan leaders with authority higher than

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*jaallaba*). In doing so, the case could then be deliberated upon during the subsequent clan assembly.

All the *hayyu* reside in the Borana homelands, in Ethiopia, and it is exclusively there that the Borana organise their clan assemblies. Consequently, I was eager to have the chance to extend my research in Ethiopia. This opportunity materialised in 1989, when the Institute of Ethiopian Studies of Addis Ababa University granted me the status of Visiting Scholar, and assisted me through a new cycle of research among the Borana of Ethiopia.

The challenge of enforcing assembly decisions continued to intrigue me for a long time. None of the friends and informants I consulted in the field expressed any doubt about the great authority of traditional leaders, by itself a reason for complying with their decision. Even some administrators, whom I would have expected to rather emphasise the role of the state power, openly affirmed that not only did they permit but also encouraged the resolution of conflicts within the traditional system, provided that the matter did not pertain to issues concerning the government, such as taxation, smuggling and so on.

To explore the basis of traditional leadership authority, I pursued inquiries such as: “If you commit an offence, and the assembly imposes a fine that you refuse to pay, what are the consequences?” The common response was, “How could you decline to pay if the assembly demands you to do so?”. However, it was clarified that while it is possible to avoid payment, it would entail severing all ties with the clan. A concluding remark often heard was, “How can you exist without the clan?”. This response aligns with Paul Baxter’s elucidation of authority within the Borana context. Baxter explains it in terms of exclusion from *nagaa Boraanaa*, “The Peace of the Borana”, a fundamental concept carrying both ritual and sociological implications.

Being excluded from the Peace implies exclusion from community cooperation as well. As Baxter notes, in an environment like that of the Borana, “no man nor family can exist for long as a social, herding, or ritual isolate” (1990, 238), precisely echoing what my friends claimed. In this context, the community’s pressure on its members can be highly effective. However, thirty cows represent a substantial amount, particularly at this time when the average availability per family has significantly decreased. I still found it challenging to entirely believe that an offender could be compelled to pay such high fines, even if ordered by a traditional leader during an assembly. Nor was I convinced by the description of the *jinfu* punishment (*jinfu* literally means ‘gut of the spear’) provided by some informants as an enforcing mechanism, which involves forcibly removing cows from the cattle enclosure by individuals designated to do so at

the clan assembly. According to other informants, *jinfu* is only applicable when a man resists delivering a cow to a needy clan-mate.

Over time, I realised that I could not find a single instance of either *jinfu* being carried out or a substantial fine being actually paid. I could only record the payment of small compensations, at most one or two cows. This gap between the statements regarding punishments and reality arose in a paradigmatic way during a visit to Guyyoo Kosuu, an old and active *hayyuu* of the Diigalu clan.

Upon my arrival, Guyyoo was engaged in a conversation, commenting on a case of conflict just settled. Dooyyoo,<sup>1</sup> the brother of Guyyoo's interlocutor, had led his mare and colt to drink at a pond which, at that stage of the dry season, had been designated solely for human consumption. Consequently, he was fined by the leader of the *kebele* (a Peasant Association, the lowest-level state administrative unit in rural areas). Two cows were taken from his cattle enclosure, which the *qebele* leader intended to sell them at the market. Dooyyoo sought assistance from the most prestigious traditional leaders in the area, two *hayyuu*, one of whom was Guyoo Kosuu, and the *qaalluu* of the Gujji lineage. A public meeting was convened, during which it was decided that the *qebele* leader was wrong. Even if Dooyyoo had made a mistake, it was asserted, the issue did not fall under the jurisdiction of the *qebele* (peasant association). Guyyoo explained to me that during the last *Gumii Gaayoo* (the general assembly of the Borana held every eight years) both Borana customary leaders and local state administrators had agreed that the problems of the Borana must first be discussed by the Borana traditional leaders applying customary law.

Horses hold significant symbolic value for the Borana, and their husbandry is governed by a specific set of traditional norms and laws. This comprehensive body of knowledge is known in its entirety only by experts, particularly among members of the Macchitu clan. The *qebele* lacks competence in matters concerning horses, and as a result, the leader of the Peasant Association was fined thirty cows for each cattle head taken from Dooyyoo.

As Guyyoo recounted the case, he could not conceal his satisfaction at successfully asserting authority over the *qebele* leader. I, too, was surprised that the customary leaders exhibited more influence than the representative of the state. Continuing the conversation, I inquired if they had indeed received the 60 cows as fines. Both Guyyoo Kosuu and Dooyyoo's brother chuckled in response, explaining that only the two cows forcibly taken were returned. It became evident that, although elders continued to talk about relevant fines, these fines were often reduced or even waived. However, the mechanisms

1 Personal name changed.

behind the reduction of penalties remained unclear to me. I had initially assumed that lacking any physical coercive means in the traditional political sphere, the fine might be temporarily suspended or only partially paid until it is eventually forgotten. However, during a clan assembly, later on, I realised that this assumption was incorrect.

During the clan assembly (a significant meeting that can last more than one month) that I had the opportunity to attend later on, the main theme of the discussion was the collection of money or cows for digging a new well. At some point, the eldest *hayyuu* introduced a new issue to the audience. A few months earlier a dispute had arisen over cows between two men named Diida and Boruu.<sup>2</sup> Both of them belonged to the same clan and were attending the meeting. The *hayyuu* had been called to provide a judgment on the matter. His decision was against Diida, but the latter refused to accept it. Consequently, the same *hayyuu* was now presenting the matter to the entire clan in the formal context of the regular clan assembly.

After the *hayyuu*'s introduction, numerous elders, including the two protagonists Diida and Boruu, spoke. The entire situation was elucidated and thoroughly discussed by both sides. As the time for a final judgment neared, Diida declared that this time he was prepared to accept any decision, given that there were three attending *lichó* (literally riding whip, a symbol of authority held by *hayyuu* and other prestigious leaders) instead of only one, implying that there was less room for arbitrary judgments. Following this statement, one of the elders asserted that Diida had behaved wrongly. At this point, the *hayyuu*, whose judgment had been rejected, delivered a highly rhetorical speech, referencing the source of his authority and his knowledge of traditional law. This was in response to Diida's insinuation about 'arbitrary sentences'.

His speech was abruptly interrupted by Diida's action: he grabbed a tuft of grass, rushed to the spot where the speaking *hayyuu* was seated, and, placing the grass near his feet, repeatedly uttered, "*Abbaa na basa, daraara*", loudly and many times. The first part can be translated as 'Father, forgive me', while *daraara* (literally 'to flower' or 'to blossom') is a term associated with certain ritual acts of prayer or blessing. The plea for forgiveness implied an admission of guilt. The entire assembly erupted into laughter as Diida, in a comical manner, continued to gather grass and offer it to Gyyoo, the man who was initially offended, and to other elders, repeating "*daraara*".

At this juncture, the *hayyuu* issued the sentence, clarifying that the offence must be penalised, by the law, with ten cows to be given to the *hayyuu*, five cows to the *jaallaba*, an additional cow for the digging of the well, and one for Boruu, the offended man. The discussion

<sup>2</sup> Personal names have been changed.

continued until – and here enters the phase of penalty reduction – a *jaallaba* proposed that, given Diida’s prior declaration of accepting the assembly decision, the punishment should be reduced to just two cows for the well. However, Boruu insisted on claiming some compensation. The *jaallaba* countered that Boruu could be compensated by retaining the cow he was supposed to contribute to the well digging. The *hayyuu* disagreed with the *jaallaba* and persisted in insisting on at least two cows.

At this moment, the entire assembly, addressing the *hayyuu*, chanted in a loud chorus: “*Horaa bula, horaa bula, deebanu*”. This is a customary blessing formula frequently employed in assemblies to exert pressure on individuals, particularly when someone is urged to accept a sacrifice on behalf of the community. In essence, the individual receives a blessing as compensation for his sacrifice. The meaning is roughly, ‘May you live long and prosperous, may your people multiply’. It is a standardised way of expressing the assembly’s will. The *hayyuu* relinquished his claim, thus securing once again the blessing of his clan.

The discussion then turned to the two cows for the well. This time, it was the *abbaa eelaa* (father of the well) who had to decide about them. Lastly, the *abbaa eelaa* renounced one cow and claimed only the other one. At the end, the *hayyuu* spoke again saying that Diida had to give one cow for the well, whereas Boruu was not expected to give any.

This *hayyuu*’s final statement can be regarded as the ultimate decision; indeed, shortly thereafter, the assembly shifted its focus to other topics. Throughout the stages of penalty reduction, Diida remained silent. The overall atmosphere was light-hearted, resembling a collective jest at Diida’s expense.

Following that, I observed numerous similar cases of forgiveness, both within the same meeting and in other assembly settings. Consequently, I could confirm that the process of penalty reduction consistently takes place after the offender admits guilt and always follows the ritual described earlier. The established and nearly automatic nature of the procedure is emphasised by the fact that the ritual formula for seeking forgiveness is, in itself, a way of confessing guilt. Consequently, we can characterise this process as ‘institutional forgiveness’.

The principal objective of the Borana judicial system, much like the village tribunals of the Nyoro described by Beattie (1960, 69), is not primarily focused on punishment but rather on the alleviation of social tension and resentment. When a dispute is deliberated within the framework of an assembly, there is consistently an initial phase of clarification. During this stage, each side’s position is elucidated, and latent tension is gradually attenuated, ultimately fostering mutual understanding. It is essential to conscientiously avoid aggression

and overt anger both in conduct and in verbal expression throughout this process.

The frequent interventions of the participants consistently convey a sense of the opinion being formulated by the audience. This initial phase can span from a few minutes to several days, and it may extend into subsequent assemblies. The culmination of this phase occurs with the pronouncement of judgment by the *hayyuu*, serving as an impartial judge. The *hayyuu*'s legitimacy stems from extensive apprenticeship in ceremonial villages, related to institutions such as the *qalluu* and the *gadaa*.

The phase of penalty reduction ensues, but only if guilt is admitted. The reduction of a fine is contingent on the individual pleading for mercy in a somewhat ridiculous manner. The extent of this behaviour is likely proportional to the resistance demonstrated in the preceding phases. If the aggrieved party refuses to forgive, the entire assembly may demand it through their power of blessing. As a result of this process, the injured party gains public satisfaction, while the offender undergoes a punishment that is not a markedly high fine but rather a form of humiliation. Such situations are not uncommon in stateless societies. Radcliffe-Brown highlighted the use of ridicule as a form of moral coercion, distinguishing "satirical sanctions" from "penal sanctions" (1940, xvi). The peculiar aspect here is that through institutional forgiveness, a penal sanction is transformed into a satirical one.

The true beneficiary of this process is the law itself, which can be proclaimed in all its potent penal potential – a robust warning to everyone – thanks to the subsequent phase of forgiveness. Without this process, it is highly improbable that this potential could be realised, as individuals are often inclined to deny their guilt, and imposing substantial fines would necessitate physical coercion. Therefore, while forgiveness is an institutional and essential element of the judicial process, through the rhetorical mechanism of institutional forgiveness, it seems to be granted only as compensation for the admission of guilt.

It is worth noting that in reporting judicial cases people tend to emphasise the sanction rather than the forgiveness process, omitting to mention the final phase of the judicial process. This aligns perfectly with the objectives achieved through institutional forgiveness and, consequently, with Borana values – specifically, the proclamation of the law and its warning effect.