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## An Ugly Exploration

*Jonathan Ewing*

ADDIS ABABA, Ethiopia—After the battle he was given the ugly task of counting the bodies and separating them—Ethiopian from Chinese. This wasn't an easy job. Each time he finished the tally, he'd forget the number and have to start again. This happened to Omar Muktar four times. He was shocked by what he had just seen and participated in.

He counted the body of a Chinese oil worker who lay partially covered by a cardboard box. Next, there was the body of a uniformed teenager, one of the Ethiopian guards assigned to protect the Chinese. A group of five bodies lay across a wooden set of stairs near the barracks, where staff from China's Zhongyan Petroleum Exploration Bureau [ZPEB] lived, just outside the town of Abole, in Ethiopia's Ogaden desert.

These are Muktar's recollections. On April 24, 2007, he along with several hundred separatist rebels from the Ogaden

National Liberation Front [ONLF] attacked the Chinese-run oil installation near Abole. They entered the barracks in time to see the Chinese flee. Those who were too slow tried to hide under beds or in closets before they were shot at close range. Sometimes they were shot in the head, Muktar said, which made it very difficult to identify them later.

Survivors were marched outside, lined up and executed by the ONLF. The separatist rebels had warned the foreign oil companies, including ZPEB, against working with a government that was waging war against them. For the ONLF, any oil money to be made would almost certainly go toward buying more of the weapons and ammunition used to suppress them.

The government in Addis Ababa was humiliated by the ONLF attack, which underscored its inability to provide security to international businesses operating in remote parts of the country. Worse still, the attack

occured just as Ethiopia was beginning to attract foreign investment. The oil companies were shaken, and demanded meetings with top officials and security guarantees. The government complied. Within weeks, the military launched a counter-insurgency campaign, which continues today, and is characterized by the destruction of towns and villages, beatings, executions and the forced resettlement of thousands.

Ethiopia's Ogaden is home to a Somali-speaking people—an ethnic extension of the lawless nation to the east—and a profound sense of marginalization exists among them. Their homeland is one of the poorest and most underdeveloped regions of Ethiopia. But while many accuse Ethiopia's Christian-led government of persecuting the Ogadeni because they are Muslim, the real reason likely has more to do with the oil and natural gas that may lie beneath their ancestral land.

Ethiopia remains one of America's most important allies in the Horn of Africa, receiving more than \$1 billion in aid from Washington in 2008 alone. But Ethiopia is quickly becoming a public relations nightmare for the United States. Since 2008, as many as 40 villages have reportedly been destroyed, and many of the people have been displaced. The inhabitants were then ordered to move to larger towns nearby, but many refused, instead becoming refugees in neighboring Kenya and Somaliland—an island of stability since it broke away from Somalia in 1991. The UN High Commission for Refugees reported that an average of nearly 500 Ethiopian Ogadenis arrived in Kenya's Dadaab refugee camps each month throughout 2009. Tens of thousands of Ethiopians now live there, along the remote Somali border in northeastern Kenya. Those with some money, means or connections might live in the nearby towns

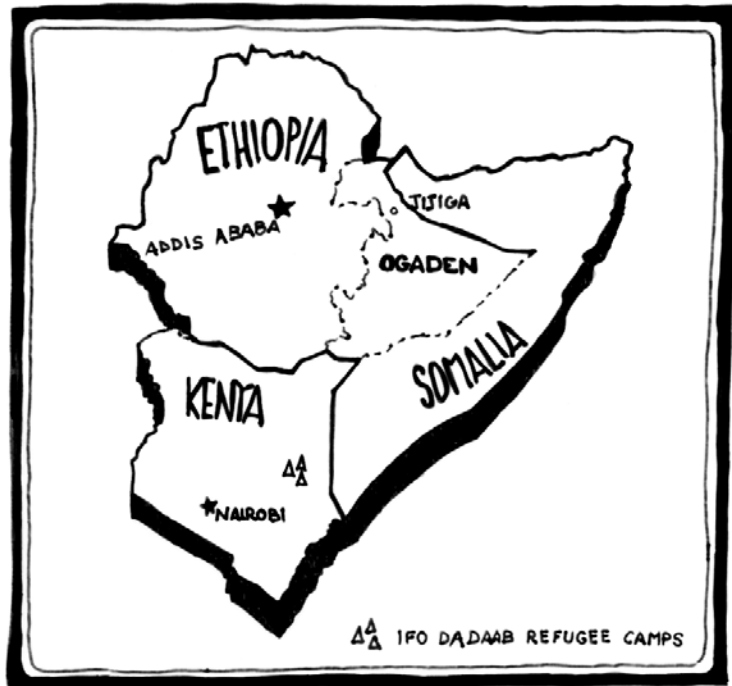
of Garissa or Wajir, or the Eastleigh section of Nairobi—where I met Muktar.

### *Harassments*

We were first introduced at the New Hiddig Palace, a small hotel on a dead-end street in Eastleigh, a Nairobi neighborhood run by ethnic-Somalis, who are the majority in this section of Kenya's capital city. Refugees, many living here illegally, feel comfortable and reasonably secure meeting in the New Hiddig—away from police who beat them or Ethiopian intelligence officials, who also cause trouble. Muktar told me that his village was first harassed by the military in the summer of 2006 when the Chinese arrived in Abole. Most of the locals employed by the Chinese were Christians, either Amhara or Tigray, the politically dominant ethnic groups in Ethiopia. His village elders began complaining to local authorities that Ogadenis were not being hired. They were told that the decision was the federal government's, completely out of the hands of local or regional authorities.

At night they heard music from the workers' camp and saw them mingling with soldiers, barbecuing meat behind the barbed wire fences, which separated the oil field workers' camp from the villagers. This pattern continued for several weeks, with workers leaving their camp early each morning and returning at dusk, when they would enjoy a life that was closed-off to the Ogadenis. Then the Chinese cleared the nearby villages for road construction and seismic testing. "We were ordered by the military to abandon our house, and this was without being paid anything in compensation. Within days, Chinese bulldozers, backed by Ethiopian army tanks, began clearing our village," Muktar recalled.

Houses and nearby farms were



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torched, and bulldozers were called in to level the ground. The Chinese bulldozers had been busy: in previous months they had done the same in other villages throughout the region. The ONLF—which is believed to have connections with Hizbul Islam, one of two main Islamist insurgent groups in neighboring Somalia—saw in the destruction an opportunity, and began recruiting young men throughout the region by appealing to their sense of injustice at being colonized by “highlanders” (the Amhara and Tigray ethnic groups from the north) and the Chinese. For months, Muktar said, “we listened to them. But we never believed them until our village was cleared. Then I joined the rebels, and we killed the Chinese and the Christian highlanders too.”

But after the battle, after the ugly task of counting the bodies and separating them, Muktar said he was disgusted

and felt trapped by the rebel and government brutality. With help from his family and money borrowed and saved, he crossed into Kenya illegally and over the course of months, drifted slowly south until he reached Nairobi.

### *Teetering on the Edge*

After the 2007 attack, the conflict between the ONLF and Ethiopian military intensified. The counter-insurgency campaign was re-ignited and featured a crippling cross-border trade embargo and restrictions on the movements and activities of international aid groups—even as the region teetered on the edge of famine.

The fighting continues today, and while accusations of human rights abuses against the Ethiopian military and the ONLF have been reported, scant attention has been paid to the culpability of the oil

companies operating in the Ogaden. Several of these oil companies have, in the past, been condemned for similar activities in neighboring Sudan. In Ethiopia, they have only exacerbated the conflict by accepting the protection of the Ethiopian military, which has killed and destroyed villages in the name of providing regional security for the foreign investors.

Before beginning operations, the oil companies should have conducted a detailed risk assessment. That assessment should have identified potential problems, such as accepting the protection of an armed force engaged in human rights abuses. That assessment should also have identified ways to mitigate the problems, and if they could find no way to mitigate them, then they probably should not operate in the Ogaden.

Details of such risk assessments should have been made publicly available and should have been reported to shareholders or included in annual reports. But an examination of the annual reports of Sweden's Lundin Petroleum, Canada's Africa Oil Corp (a Lundin-backed venture) and Malaysia's Petronas show that none of the companies mentioned the 2007 attack, the hostility of the ONLF to oil exploration or the alleged human rights abuses of the Ethiopian government. Despite repeated requests for comment, the oil companies declined to discuss the details of their involvement in Ethiopia.

The oil companies are mostly engaged in exploration activities, and they are under the very tight protection of the Ethiopian military. In pursuit of the oil and gas believed to be in the Ogaden, they have placed themselves at the center of a protracted conflict between the separatists and the Ethiopian government. The mere presence of the companies and their efforts to find and bring oil to market in a hos-

tile environment has only intensified the conflict. Indeed, in the capital, hundreds of miles to the north at the offices of the Ministry of Mines and Energy, a placard on a stained wall declares that the ministry's job is: "To foresee that minerals and energy development play a major role on the socio-economic development of the country for the benefit of Ethiopians."

Some, but surely not all Ethiopians are benefiting.

### *Security Demands*

After the 2007 attack, oil and gas companies operating in the Ogaden suspended operations and refused to resume work until they were given security guarantees from the government. Ketsela Tadesse, head of Petroleum Operations Department at the Ministry of Mines and Energy, said that those guarantees were given.

"This oil was meant to help all of Ethiopia; it remains very important to all of us in this country, and if the oil companies wanted security reassurances, then we felt that this was something we must give them," he said. "So, we promised them that security would be improved."

Tadesse refused to discuss the details of any security guarantees made to the oil companies, but within weeks of the ONLF attack, the Ethiopian military's counter-insurgency was in full swing. Much of the fighting during the first few weeks of the counter insurgency, and up until now, has been near the Calub and Hilala oil and gas fields where Petronas, Lundin Petroleum and Africa Oil operate.

By asking for more aggressive security, the oil companies operating in the region at the time may have made themselves complicit in any human rights violations that happened as a result of their request, according to Seema Joshi, a legal advisor

with Global Witness, a London-based non-governmental organization, which investigates natural resource-related conflict.

“This is potentially quite serious. In this particular case if you’ve got a company contracting for security and the security provider, in this case the government, commits a human rights violation while providing security to the company, then the company could be held responsible.” Joshi said.

Refugees in Kenya, as well as several international human rights organizations, have alleged a government-sponsored displacement program, which forced people away from their homes near main roads being built or refurbished with Chinese help, especially near the Calub and Hilala area. The roads are meant to spur development one day by facilitating trade, including the transportation of oil and equipment out of the region and to world markets.

### *Organizing Militias*

Local militia, created by the government had by 2007 also begun to play a greater role in the counter-insurgency. One of their most important tasks was to protect construction crews from attack and the roads from being sabotaged by the ONLF.

At a series of public meetings held in villages and towns throughout the region beginning in 2006, high ranking regional government officials and federal military officers ordered village elders and chiefs to begin organizing militias in their areas. At one such meeting, in the town of Kabridahar, some 250 miles south of the regional capital Jijiga, Col. Gebre Egziebher, said the government was committed to exploiting the oil and natural gas in the region—one of the main reasons for the

construction of the new road leading from Harar to Shilabo.

Clan elders and village chiefs along the route of the planned road, Egziebher said, would be responsible for securing the road where it runs through much of

**Any company operating in an area of social and political tension can never hope to be neutral.**

the exploration area, and for preventing the ONLF from attacking construction crews and vehicles along the route, or from trying to destroy portions of the road. These clan elders and chiefs were then ordered to return to their respective villages and begin organizing and training the militia for the task.

Egziebher repeated his orders at several villages during 2006. One former government administrator, Mohammed Abdirahman, who belonged to a prominent family in the Fik area of the Ogaden, was ordered to return home to organize and help finance a militia in his area. “This was the order of the day, it was the government’s latest plan—using the local militia to help its forces defend the roads,” said Abdirahman.

The militia at this time was unpaid, but from their barracks in larger towns and along roads, they were able to earn money from food aid stolen from the United Nations, according to senior U.S. and UN officials, who spoke on condition of anonymity. The roads were also very important for the movement of food aid through the region. They are expected to be even more important for the oil companies in the future.

As an administrator, Abdirahman remembers attending a meeting in Addis Ababa in 1993 when officials discussed

various options for moving oil and gas out of the region by either road or pipeline. No decision was made during that meeting, and both options are still being discussed by the government, according to Tadesse at the Ministry of Mines and Energy.

But the issue remains vital for many potential corporate investors in the Ogaden. For the oil companies, it's one thing to talk about exploration. But the situation becomes opaque when it comes to figuring out how to get oil out of East Africa and into the world market.

Hanspeter Heinrich, head of Safestainable, a Geneva-based firm that advises companies investing and working in areas of conflict, pointed out, "If you don't have roads, and you don't have a pipeline, you don't have a transport network. You're headed for trouble, because you will need to militarily defend a very long transport route. The big oil companies will probably not be very eager to invest in Ethiopia because getting the oil or gas to market in a safe way will be extremely costly."

### *High Risk, Low Reward?*

Heinrich founded his consulting firm after working in Ethiopia for the International Committee of the Red Cross for several years during the 1990s. From his office in Geneva, a world away from the Ogaden, he charts the security, legal and reputational risks that any company might face if it chooses to invest in an area of conflict such as Ethiopia. Over the past five years, he advised against investing in the region to all companies that have asked him.

"The risks are simply too high, and the potential rewards are too few," he said.

But for companies like Petronas, Lundin and Africa Oil Corp., Dubai-based Ethiopian Exploration and Production and Black Marlin Energy, this is the

political and security environment that they have chosen. With the exception of Petronas, all are small to mid-size companies, which traditionally have specialized in locating the oil and then selling that land for a healthy profit to large, internationally integrated companies.

Privately-run small and mid-size enterprises have traditionally worried less about reputational risks. But larger, publicly-traded companies are often more responsive to pressure from watchdog groups regarding issues related to corporate social responsibility and human rights. Smaller, publicly-traded western companies are even more vulnerable, so several have approached Safestainable to assess the risks of investing in Ethiopia. Lundin Petroleum was one of those companies Heinrich said he has advised. In Ethiopia, however, of all the publicly-traded companies—Lundin and Africa Oil Corp., Petronas and Black Marlin Energy—only Lundin has publicly discussed, in company papers, ways to mitigate some of the problems associated with operating in the Ogaden.

Strikingly, however, Lundin never specifically mentions the civil war or the difficulties of remaining neutral in a hostile environment. In its 2007 annual report, Lundin said that prior to obtaining the three oil exploration licenses, it carried out a review of the country from a cultural, economic, political and social perspective. It undertook a number of field visits and consulted with local as well as international experts in order to understand the country and its challenges. Community and security clauses in the production sharing agreement were drafted with particular attention to Lundin Petroleum's Corporate Responsibility commitment and its support for the Voluntary Principles on Security and Human Rights, an international



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An Ethiopian security guard, protecting country or capital?

standard developed through multi-stakeholder participation from governments, the extractive industry and non-governmental organizations. Comprehensive field surveys were conducted to assess the target regions from social, environmental, security and infrastructure perspectives.

In the end, Heinrich advised Lundin against investing in the region. “My point is very clear,” he told the company’s executives. “You should not invest in the Ogaden because the human rights situation is terrible. Any company is facing an up-hill challenge when trying to manage its reputational risks. If you invest there you have to rely on the army, or you might have to rely on other armed forces such as militia. You might be pressured into supporting them logistically and you might end up, one day, facing very serious legal charges and answering questions about your role in the conflict.”

As for Lundin, they considered the risk of possible litigation, which were considerable in Heinrich’s opinion, and matched those risks against the opportunities. In the end, they decided to minimize any potential damage by not involving their company name, so they sold their concessions in 2009 to a related company—Africa Oil Corp. One of Africa Oil’s major shareholders was Ellegrove Capital Ltd., a private corporation owned by the estate of the late Adolf H. Lundin, founder of the Lundin Group of Companies. Lundin Petroleum loaned Africa Oil money to then pay back Lundin Petroleum \$20 million for the right to explore for oil prospects in the region. Using Africa Oil as a shield, Lundin has essentially retained its control and interest in the region but removed its name from the books.

“At the end of the day it becomes an issue of not having your brand name up-

front. The companies realize that ‘OK, you have the concessions, but you shouldn’t have your name exposed to this kind of reputational risk. You maintain your interests, such as the concessions, and you give yourself time to find other, more durable solutions,” Heinrich says. But Lundin’s bid to conceal the link between the two companies is superficial at best. When a call is placed to Africa Oil’s head office in Vancouver, Canada, the receptionist answers the telephone with the standard greeting: “Lundin family of companies, how may I direct your call.”

It remains unclear if Lundin’s transition to a credit lender will protect it from potential legal or reputational damage. A growing number of cases bearing some similarity to the situation in the Ogaden have been tried in American courts under the Alien Tort Claims Act [ATCA], which grants district courts jurisdiction over civil actions against parties violating U.S. law, even if the conduct took place outside the United States. In Ethiopia’s case, “if a risk analysis was performed and it says that you stand a very high probability of being complicit in the human rights violations that are happening, then that company could be legally complicit,” Joshi from Global Witness says. Indeed, there have been a number of recent efforts to use ATCA to sue transnational corporations for violations of international law in countries outside the United States. If these suits are allowed to proceed, then ATCA could become a powerful tool to increase corporate accountability. Through ATCA, Lundin could be held accountable for complicity in the human rights violations in the Ogaden.

Last year, Royal Dutch Shell agreed to pay \$15 million to settle several lawsuits alleging it collaborated in the execution of writer Ken Saro-Wiwa in Nigeria. His son, Ken Saro-Wiwa Jr., accused the com-

pany of backing a campaign of repression conducted by Nigeria’s former military government in the oil-rich Niger Delta region in the 1990s. Saro-Wiwa Jr. and the relatives of other victims sued under the ATCA, which left Shell open to the suit.

State-owned companies like Malaysia’s Petronas have proven largely invulnerable to human rights pressures. Petronas’ company papers appear to make little or no mention of their operations in Ethiopia and the war that is quietly being waged there. Since it has few operations in the United States, it could prove immune to ATCA. “Typically, decision making at the larger companies, like Petronas, is dictated by the corporate character and any actual influence often comes from the political pressure of big government,” says Luke Patey, a researcher at the Danish Institute for International Studies.

### *Human Rights in Jeopardy*

There are still quite a lot of companies interested in investing in the region, but all are being quite cautious. Heinrich believes that any company operating in an area of social and political tension can never hope to be neutral actors. Their presence and activities will always have an impact on the host community and society in general. The Ogaden, he says, is a prime example.

Indeed, Paul Hebert, head of the UN Office for the Coordination of Humanitarian Affairs in Ethiopia from 2003-2008, believes the presence of the oil companies and their requirements for increased security following the ONLF attack in 2007 had made it much more difficult for the United Nations and other organizations to provide humanitarian assistance. “The oil companies were not the only force behind these kinds of difficulties, but they played a role almost as significant as the govern-



ment or the ONLF in fueling the conflict,” Hebert says. “Their mere presence aggravated the situation at a critical time because of their de-facto alliance with the government as it continued its counter-insurgency campaign.”

Three months after the ONLF’s attack on Abole in April 2007, Hebert began receiving reports from a growing number of non-governmental organizations and locals in the region. The army, he read, had embarked on a vigorous counter-insurgency campaign against the ONLF. “I think [the government was] humiliated by the attack and that was why it overreacted, striking back so heavily. They wanted to show the oil industry that they had control of the region,” he says. By the middle of July, Hebert and his UN staff were becoming seriously concerned about the humanitarian situation. Food aid was not getting through, livestock markets were being closed, nutrition was a growing problem and people were beginning to suffer tremendously, according to Hebert and a senior western diplomat in Addis Ababa.

In a confidential report to his superiors, Hebert said that news was arriving at the UN mission of allegations of grave human rights violations including rape, arbitrary arrest and detention, extra-judicial execution, denial of rights to food, demolition of houses and disappearances of people. Reports were so extreme that he requested a meeting with the president of the Somali Regional State, Abdullahi Hassan.

“The meeting was cordial, but tense, and Hassan was very, very defensive,” Hebert recalls, adding that “the government was aware of the situation, but that they attributed the problems to drought, not fighting. They also defended the trade embargo which effectively closed cross-border trade with Somalia, Kenya and Somaliland,

which they insisted was needed to stop contraband—meaning weapons for the rebel ONLF—from entering the region.”

Separate discussions with the head of regional security, Abdi Mohammed Omar, suggested that the food shortages

Earlier this year, the ONLF claimed to have strengthened to the point where it was able to take over the Hilala natural gas field, operated by Petronas.

were only a short-term phenomenon, and that they were an “acceptable price” to pay to wean the local population from contraband, Hebert reported. Hebert then requested that the United Nations be allowed to undertake a mission to assess the situation, which got underway near the end of August and ran through the first week of September 2007. UN investigators would examine conditions from the capital of the Somali Regional State to the center of the region.

“Our plan was to run a mission that included a humanitarian as well as a human rights assessment,” he says. But the meeting with Omar was heating-up, and becoming increasingly edgy. “I assured [him] that our mission would merely be about assessing the effect of this fighting on the civilian population and that we weren’t interested in assigning blame,” Hebert recalls. After explaining his objective, Omar stood and calmly accused two of Hebert’s national staff—Ethiopian UN workers who had been hired locally—of being members of the ONLF.

“This kind of accusation was very serious, and I asked [Omar and his staff]

for proof, which they said they had, but which they declined to share,” he says. “We learned later that other members of the staff were threatened and warned by federal police and security against working for the UN and participating in the mission. It was my feeling at the time that the government was bluffing, but I also knew that I had no way to protect them if push came to shove, because they were national staff—meaning they were citizens of Ethiopia and bound by Ethiopian law.”

The government delayed, and finally, after about 10 days, approved the UN mission. Hebert’s plan at the time, three years ago, was to travel south from Jijiga, and on into the heart of the Somali region of Ethiopia. He would visit a number of villages and towns along the Jijiga-Gode road in an attempt to get an idea of what was happening in the five geographical zones—Degehabur, Fik, Gode, Koraha and Warder—where military activity was ongoing. The convoy did not, however, visit the areas around Shilabo, which included towns and villages that were later found to have been hardest hit in the fighting. In many of the towns, people told the UN assessment team that government soldiers and security had only recently passed through, warning people that they should say nothing negative to the UN team.

“We knew, of course, that this must have stopped some people from talking to us, but others went ahead,” Hebert recalls. “We couldn’t corroborate all of the information. But the pattern held that people were being abused and then coerced by the government into keeping their mouths shut. Food distribution, we later found out, was staged. After we left, authorities went and took all of the food back.”

The mission found large numbers of Ethiopian troops camped in nearly all the towns and villages they visited. In most

of their interviews with civilians, Hebert and his team encountered a pervasive fear for individual security. Many expressed the frustration of being caught between the Ethiopian military and the ONLF. This conflict was bringing their families to the brink of destitution. In the end, Hebert and his team finished the mission and delivered the final report. The Ethiopian government felt it was biased, but agreed to let Hebert publish the report without official opposition.

“We also produced a human rights report on the alleged beatings and torture, which the government asked us not to release publicly. The government said they would accept the humanitarian report, but if we released both the humanitarian and human rights report, they would reject both. So it was basically a threat,” he says. The human rights report was never issued.

### *Improvements... At the Margins*

Some, in the UN and other humanitarian organizations, believe that the situation in the Ogaden has improved—but only marginally, and with progress best characterized as two steps forward, one step back. The poor conditions of refugees arriving in Kenya, and in great numbers, suggest that the fighting continues. Earlier this year, the ONLF claimed to have strengthened to the point where it was able to take over the Hilala natural gas field in eastern Ogaden, operated by Petronas—a claim rejected by the Ethiopian government.

Vincent Lelei took over in Ethiopia after Hebert retired from the United Nations. Humanitarian access to the Ogaden region is granted, he says, on a case-by-case basis after extensive discussions with the government, which all too often says it must consider the entire scope of issues

that need to be managed in a particular area. And most often, the determining issues are security-related.

This “means that we are able to deliver assistance, but not as effectively as we would wish to. We have to reduce our expectations at every stage,” says Lelei. “We continue to work with the government in providing assistance, but fundamentally this is the issue: They want to make sure that humanitarian assistance goes to the individuals who are supposed to receive aid. And they want to make sure that humanitarian assistance in the region is not given to the people that the government is convinced are a problem, which is the people who the government is engaged in armed combat with—and that is the Ogaden National Liberation Front.” As for the oil companies, they do not, indeed have never, provided any meaningful humanitarian assistance to the villages where they are, each day, changing the way of life. The beatings and the killings continue.

### *Situation Impossible*

One 41-year-old father of eight from the Ogaden now lives in the Ifo refugee camp in Kenya, north of the city of Garissa. Back home, he was a goat herder, but later took on odd jobs to support his family. His situ-

ation, he says, was impossible. Like most people, he felt as if he were being used.

In December 2002, he was beaten by the ONLF for not joining the militia to fight the Ethiopian government. In 2006, he was beaten by local militia and police for working with Médecins Sans Frontières. He was beaten again that year, this time by the government, he says, because he worked with members of a U.S. Army detachment, helping to build a watering area for the local herders and their animals. The police arrested him, took him to their barracks and tortured him.

“I was placed between two army trucks and tied—one arm to each truck. A white, shining sword was produced and placed at my neck [and I was asked]: ‘What did you tell the Americans?’” Probably the same story he would tell the oil companies if he could. The only real way to change patterns that are so deeply engraved in the customs and practices of a government or a people is to hurt them profoundly. And the only effective way that may be accomplished is to take away the lubricant that makes it all possible—revenue from the only item of value this poor land has to barter and that the world wants at all: oil. The oil companies, however, remain. And their funds continue to flow. ●