INSTITUTE FOR SECURITY STUDIES

CUSTOMARY CONFLICT RESOLUTION MECHANISMS AND TRANSITIONAL JUSTICE IN ETHIOPIA: OPPORTUNITIES AND CHALLENGES

Customary Conflict Resolution Mechanisms and Transitional Justice in Ethiopia:

Opportunities and Challenges

Client: Institute for Peace and Security Studies

Consultants: Dr. Mamo Hebo (PhD), Department of Social Anthropology, AAU, Ethiopia

Email: mamo.hebo@aau.edu.et

Mr. Zelalem tesfaye (Asst. Prof.), School of Law, SlU, Ethiopia

Email: zelalem_tesfaye@slu.edu.et

Addis Ababa, Ethiopia

29 October 2023

Table of Contents

Abbreviations

ARS	Amhara Regional State
AfRS	Afar Regional State
AUTJP	African Union Transitional Justice Policy
BGRS	Benishangul Gumuz Regional State
CCRM	Customary Conflict Resolution Mechanism
CoHA	Cessation of Hostilities Agreement
EPRDF	Ethiopian Peoples Revolutionary Democratic Front
FDRE	Federal Democratic Republic of Ethiopia
GoE	Government of Ethiopia
ORS	Oromia Regional State
PP	Prosperity Party
RJ	Restorative Justice
TJ	Transitional Justice
TPLF	Tigray Peoples Liberation Front
TRS	Tigray Regional State
US	Unites

INTRODUCTION

Background of the Study

Since the 1990s, the concept of peacebuilding has become the center of scholarly discussion and debate in such areas as peace and conflict studies and global studies. Peacebuilding scholars advocate that sustainable peace can be reached through conflict transformation (Pearce, 1997; Galtung, 1990, 2000; Lederach, 2003; Cravo, 2017). Pearce also argued that 'the most important steps towards a sustainable peace are those which foster and strengthen local capacity to deal with the past, to engage with the present, and to shape the future in ways which do not exclude, oppress, or divide' (1997: 448).

Creating the conditions for sustainable peace means deconstructing structures, situations and relationships that cause conflict while building structures, situations and relationships that are grounded on the cultural ethos of the local community – 'the local turn' (Karbo, 2008; Murithi, 2008; Mayerl, 2017; Omeje, 2019; Ojha, 2020). In this regard, African mothers, religious leaders, local elders, customary court judges, and other local actors are indispensable parties to sustainable peace building (Lederach and Angela, 2010). Socio-cultural values, norms and institutions also have significant roles to play in building sustainable peace.

Scholars and international institutions (e.g., the World Bank) view endogenous knowledge systems, including endogenous conflict resolution mechanism, as significant resources for sustainable peace and development (Agrawal, 1995; Watson, 2003; Gauri, 2009). Endogenous conflict resolution mechanisms are termed in variety of ways, among others; 'the local turn', 'traditional conflict resolution', 'alternative dispute resolution' (ADR), 'Customary Conflict Resolution Mechanisms(CCRMs)'. This work adopts the concept of customary conflict resolution mechanisms (CCRMs), because: first, the concept of 'customary' embraces the cultural dynamics and innovations along the way. Moreover, for 'post-conflict' societies (unlike private disputes), the central tenets of endogenous institutions are meant to restore the peace.[1] Furthermore, CCRMs can facilitate transitional justice in Ethiopia – since it allows conflicts to be resolved not by an authority deciding who is right or wrong or through pre-established rules of law as understood and interpreted by a given judge.

CCRMs promote dialogue and consensus; and the guiding principle is attaining peace and social harmony. CCRMs are based on and contribute to building social solidarity and social capital. Experiences of post-conflict societies indicate that, the success of transitional justice, by and

large, depends on how it engages values and norms of CCRMs. That is, for TJ to be effective, it must be both contextually and culturally appropriate. In particular, 'creativity can come in forms other than allowing for adequate expression of cultural traditions or community values' (Lutz, 2006: 335-336).

Statement of the Problem

Ethiopia is known for recurrent conflicts and civil wars. If, as Walter Rodney argues so forcefully, Europe underdeveloped Africa, how much more was Ethiopia underdeveloped through her own political system. This is Ethiopia's dystopia.

Leaving the past five decades of Ethiopia's political crises for history, the tragic conflict in Ethiopia since 2020 is beyond comprehension. Following the Cessation of Hostilities Agreement (CoHA) between the Federal Government and the TPLF, the peace-building process is in order. However, it has been a top-down conflict resolution mechanism and is devoid of the grass-root peace-building process. Moreover, in Oromia as well as in Amhara regional states there are ongoing conflicts between local insurgents on one hand and the federal and regional governments on the other.

The question of peace building and transitional justice is a long overdue matter that is worth commitment from all stakeholders. Nevertheless, transitional justice not accompanied by grass-root participation could not bring sustainable peace to the country. Hence, this requires rigorous research, which takes into account experiences of the diverse CCRMs in different parts of Ethiopia.

Objectives of the study

This report focuses on the utility of customary dispute resolution mechanisms for an Ethiopian transitional justice policy. Accordingly, this research report is designed to inform the relevant policymakers and direct the Government's Transitional Justice (TJ) initiatives toward a more comprehensive conflict transformation instrument. The research aims to:

- Situate the norms, value systems, adjudication procedures, restorative and reconciliatory aspects integral to CCRMs within the discourse and practice of the Ethiopian transitional justice initiative
- Explore CCRMs opportunities as inputs the Ethiopian TJ initiative

- Delve into the potential challenges of infusing the dispute resolution mechanisms into the TJ framework.

METHODOLOGY

Ethiopia is a home of more than eighty ethno-linguistic groups – all groups having their own CCRMs. The scope of this study is limited to nine ethnic groups residing in five regions (Table 1). Each region is predominantly inhabited by one ethnic group but the Benishangul Gumuz region, which is constituted of five indigenous peoples: Mao, Komo, Shinasha, Gumuz and Berta. These regions cover over 2/3 of the total population of Ethiopia; span over the central, the northern, eastern and western parts of the country – covering the largest portion of the country.

Table 1: List of selected regions, major CCRMs and their features

R. State	Population (2022 est.)[2]	CCRM(s)	Features	Status
Afar	2.2%	*Mada'a*	*Restorative Reconciliatory*	Very Active
Amhara	24.1%	*Irq Shimgilina Abegar*	*Reconciliatory Reparative*	Active
Benishangul Gumuz	1.0%	*Almaburi* (Berta) *Temba/Gafia*(Gumuz) *Shumbu* (Komo) *Tahiyaya* (Mao) *Nemo* (Shinasha)	*Restorative Reparative Reconciliation Truth*	Less active
Oromia	35.8%	*Jaarsummaa Gumaa*	*Restorative Reconciliatory Truth finding Reparative*	Very active
Tigray	5.7%	*Abbo Gereb Erqi-Enderta*	*Reconciliatory Reparative*	Active

Source: Field Data, 2023

Furthermore, these regions have been experiencing conflicts of varying level of scale and intensity. They have been employing their CCRMs to live in relative peace both internally as well as with their neighboring ethnic groups for generations. This study carefully examined these CCRMs for their relevance to the TJ police envisaged in Ethiopia.

Research Approach

This research explores Ethiopia's politically marginalized CCRMs and its for TJ policy. This research is informed by the premise that the solutions to African problems are fundamentally found on the continent. The specific focus of the present research is to examine how the central values, norms and institutions contribute or might contribute to TJ and/or challenge it.

This research adopts a qualitative and exploratory research design. This is necessitated by the research the objective, which is to explore the norms, values and procedures of CCRMs in view of illuminating opportunities and challenges embedded in the customary institutions and values for the TJ process. The research design enabled the researchers to undertake in-depth and close-up analysis of the normative, procedural and practical elements of CCRMs vis-à-vis the Transitional Justice processes.

Given the diversity of Ethiopia's culture (of conflict resolution mechanisms), this research adopted a case study approach, which also entailed comparative analysis. The selection of cases (cultures) is guided by methodological and practical issues such as the focus of the current TJ initiative in Ethiopia. In this regard, the five regional states: Afar (AfRS), Amhara (ARS), Benishangul Gumuz (BGRS) Oromia(ORS), and Tigray (TRS) were selected as study regions due to the fact that all these regions have experienced ,and are still experiencing, violent conflicts. It is also assumed that, if the TJ police oriented by customary justice system is to be implemented in this country, these regions will inevitably need serious attention.

Data Sources and Methods of Data Collection

This research has collected data through content analysis, in-depth interviews and FGDs. First, content analysis of secondary, and some written primary sources are conducted. Prior works on Ethiopia's customary conflict resolution mechanisms were carefully examined in view of identifying the norms, values and procedures embedded in these mechanisms, and the potential opportunities and challenges they present to TJ policy in Ethiopia. At the same time, experiences of other African countries in incorporating values, norms and procedures of customary institutions into the process of transitional justice were closely examined.

Second, in-depth interviews and FGDs were conducted with members of communities, leaders of customary institutions, researchers, Culture and Tourism Bureau representatives of the selected regional states. Semi-structured interview and FGDs guides were used as instruments of data collection.

Table 2: Primary Data Sources and Number of Research Participants from Each Regional State

Regions	FGDs	KIIs	#Participants
AfRS	3*8	5	29
ARS	none	5	5
BGRS	1*6	5	11
ORS	1*6	5	11
TRS	1*6	4	10
Total	42	24	67

Regarding the sampling techniques, majority of the key informants and FGDs participants were purposively selected based on their knowledge of customary values and norms and their participation in customary institutions. However, researchers paid attention to age and gender dimensions of the research participants and included women and youth in the interview and FGDs. Interviews of informants from Amhara region were conducted in Addis Ababa since travel to region was not possible due to security reason. Sampling for this category of informants has adopted opportunistic and snow balling techniques.

Method of Analysis

Qualitative data collected through interviews, and FGD were analyzed from the perspective of CCRMs relevance for TJ policy. The data analysis began with reading transcripts and creating categories of data in line with the major research objectives. Therefore, the research team identified patterns and connections within and between categories, assessed the relative importance of different themes and highlighted similarities and variations, including their comparative significance. Finally, the research finding was summarized by establishing key themes around the main study objectives thematically.

CONCEPTUAL AND THEORETICAL FRAMEWORK

Pluralism: Society, Culture and Neo-traditionalism

Society and culture are inextricably linked; without culture, a group of individuals is not a society but merely an aggregate of individuals. Culture consists of the shared symbols, their meanings and practices within a society. Socially shared meanings provide designs or recipes for our actions in the society. Nevertheless, both societies and cultures are continua; they persist through time and self-perpetuating. Gebre notes that:

> *Social values are interconnected with customary dispute resolution, mechanisms. What we call social values are principles which arise from thoughts and beliefs that people, as members of a society, have cherished for ages. Among such values are telling the truth, showing respect for others, taking responsibility, being forgiving and living in peace with others. (2012: 294)*

According to Cohen and Orbuch, 'values are the deep-seated sentiments or perspectives shared by members of a society that will often dictate the actions and behaviour of its members.' (1990:31) For Marshall, socio-cultural values are 'ideas held by people about ethical behaviour or appropriate behaviour, what is right or wrong, what is desirable or despicable' (1998:689). Values are general standards or guidelines for members of a culture defining what is desirable or undesirable, acceptable or unacceptable, and good or bad. According to Chirayath and colleagues (2005) norms and customs are embedded in the rule systems and institutions that govern everyday life, which in turn serve to maintain and reinforce these systems of meaning.

Law as a normative order is everywhere (Tamanaha, 2028). He further indicates that 'law is in every social arena, from the lowest level to the most expansive global level' (Tamanaha, 2007:375). Socio-legal scholars have argued that there are semi-autonomous social fields that have rule-making capacities, and the means to induce or coerce compliance; but [are] simultaneously set in a larger social matrix which can, and does, affect and invade it (Moore, 1973). However, what makes legal pluralism complex is not only the plurality of legal orders (e.g., official law and unofficial laws), but also the plurality with in specific system. Within CCRMs – there is plurality- and one can term it as unofficial/informal legal pluralism– referring to the diverse legal order within a social group (Woodman, 1998).

In positioning endogenous justice systems in modern political systems, *neo traditionalists* are committed to pull the peripheral social organizations of indigenous peoples to the centre (Bentley2005, Kidane 2003; Richard 1999). This approach also incorporates such perspectives as the social solidarity and social capital theories, which are often discussed in the literature with regards to restorative justice and its relevance (e.g., Alemie and Mandefro, 2018; Kariuki, 2015).

The *neo traditionalist* school of thought holds the theory of organic democracy construing that traditional institutions have unique features and capacity to build democracy from bellow (Pearl and Mbele, 2008: 10). The theory considers endogenous institutions of conflict resolution as compatible, in principle, with modern/scientific mode of justice system. In this regard, this research has attempted to bring the peripheral CCRMs into the TJ process. Yet, we don't uncritically see customary laws and traditional institutions as panacea for the resolution of all conflict, particularly in the context of legal and cultural diversity in Ethiopia, the complexity and scale of the conflict that the TJ policy intends to address.

Transitional Justice: the concept and theories

The concept of transitional justice is one of the most contested political concepts. A recent understanding of TJ is related to transition from authoritarianism to democracy – especially in a relation to the third wave of democratization in 1980s. Arguably, the concept of TJ was first coined by Teitel (2000) as exploring the function of law in periods of radical political transition..

The notion of 'transition' signifies the passage or journey of a society from violence (be it structural and physical) to non-violent destination, and in that sense it is a process where there is hope at the end of the tunnel. In this context, one can speak of transitional societies on one hand, and transitional justice on the other. According to Lawther and Moffett, societies are transitional when there is 'pervasive structural inequality normalized collective and political wrongdoing, serious existential uncertainty, and fundamental uncertainty about authority. (2017: 41)

The late Secretary General Kofi Annan defined transitional justice as: 'the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.' (United Nations, 2004: 4) Gahima defined TJ as 'the policies, practices and mechanisms with which societies seek to confront and deal with legacies of past violations of human rights and humanitarian law in the context of political transition with a view to restoring or establishing social cohesion and securing durable peace.' (2013: 2) TJ 'is meant to assist societies with legacies of violent conflicts and systemic or gross violations of human and peoples' rights in their effort to achieve transition to the future of justice, equality and dignity.' (AUTJP, 2019: 4) The same policy maintains that TJ refers to 'the journey of societies with legacies of violent conflicts, systemic or gross violations of human and peoples' rights towards a state of sustainable peace, justice and democratic order.' (Ibid)

There are varieties of theories of transitional justice: retributive TJ,[3] corrective TJ, distributive TJ,[4] and restorative TJ (Lawther and Moffett, 2017: 160). *Retributive* justice focuses on perpetrators of wrongdoing, and asks what should be done in response to their actions (Murphy, 2017: 20). *Corrective transitional justice* is mainly concerned with compensating victims of violence – with the aim to 'repair wrongful injuries or losse (Murphy, 2017: 20) Advocates of *restorative transitional justice* argue that TJ has to be context-sensitive since what counts as just in any particular case 'is contingent and informed by prior injustice' (Teitel, 2014). All types of justice are relevant and appealing to the transitional justice and it is difficult to weigh one type of justice over another. Hence, it can be stated that TJ refers to the purpose oriented action the state and society takes in order to address the past grievances or ongoing conflicts and/or human rights violations through judicial and/or non-judicial mechanisms (Kaufman, 2015:2).

Customary Conflict Resolution Mechanisms and Transitional Justice

Socio-cultural value in Africa in general and in Ethiopia in particular play significant roles is the preservation of social peace within the community. Social harmony is a privileged value to be protected for societies that face challenges from the outside. In this regard, African customary laws are important tools allowing the achievement of social harmony. It follows that in the event of conflict, resolution often comes from a conciliatory process of CCRMs conducted by the community in view of promoting harmony. The process is held in public, often takes much time and aims at drawing the community's as well as the disputants' adherence to the solution identified. Such African CCRMs and socio-cultural values embedded in them are slowly getting recognition in recent decades.

Elements of customary CCRMs or customary justice institutions have been employed in Truth and Reconciliation Commissions (TRC) in some African countries. The *Gacaca* court in the post-genocide Rwanda, the Ubuntu notion in post-apartheid South Africa, and *magamba* in Mozambique[5] are among the most well-known cases of customary values and institutions used in place of or in conjunction with criminal laws in the context of transitional justice process. In this context, particularly when a state opts to restorative justice – customary conflict resolution mechanisms become appealing for their reconciliatory, truth seeking and forgiveness centric nature. The former UN Secretary-General, Kofi Annan, recognized that:

…due regard must be given to indigenous and informal traditions for administering justice or settling disputes, to help them to continue their often vital role and to do so in conformity with both international standards and local

tradition. Where these are ignored or overridden, the result can be the exclusion of large sectors of society from accessible justice. (UN, 2004: 12).

The importance of incorporating similar norms and values in the Transitional Justice (TJ) processes of Ethiopia seems obvious. For the TJ initiatives to be successful and sustainable, the process needs to be holistic whereby some fundamental elements of customary justice systems such as establishing accountability as a matter of principle, but focusing on the revelation/recovery of truth followed by reconciliatory processes, use of compensation or forgiveness or a mixture of these, and restoration of broken ties are to be taken into account. Customary values such as telling truth, reconciliations, reparation, reintegration and restoration are fundamentally important not merely to settle the conflict but also prevent future relapse of violence. The relevance of these features of the customary institutions and values for the transitional justice and peace building initiatives and processes cannot be overstated.

The Green Paper on transitional justice in Ethiopia recommends the contextualization of TJ and utilizes the customary justice system. Unlike the retributive transitional justice, restorative transitional justice mechanism favours consensual and participatory healing process – truth telling and forgiveness takes a central place. This is where the state involvement is minimal, while ordinary citizens, religious leaders, cultural leaders, and elders own the process. One of the qualities of that customary conflict resolution mechanisms is that it 'people possess the social tools to correct the moral disintegration caused by the war and, what is more, actively strive to recreate moral order.' (Baines, 2010: 409)

For TJ to succeed in multination state like Ethiopia, it shall be allowed to operate in socially, linguistically and culturally relevant contexts. This calls for recognizing the customary practices of respective ethnic groups in the country. This calls for designing innovative forms of TJ despite diverse views of political actors on sovereignty.

African Philosophy of Justice: What Ethiopia May Offer

For a transitional justice to make sense in multi-cultural societies, it shall take into account the useful cultural ethos – that can fill the moral vacuum. One can see how the 1993 South African constitution attempted to introduce *ubuntu* – which signifies "the need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimization."[6] *Ubuntu* was foundational to the spirit of reconciliation, truth and forgiveness. It also makes the TJ process as a 'cultural enterprise' – not merely a political contestation – and it transcends 'us and dichotomy'. Gade (2017) argues that "*ubuntu* resembles similar narratives such

as "*ujamaa* in Tanzania, *consciencism* in Ghana, *négritude* in Senegal, and *hunhuims* or *ubuntuism* in Zimbabwe" (Gade, 2017: 15). KUWASI Wiredu explains that 'national reconstruction is a cultural enterprise of the highest kind.' (Wiredu, 2008: 332)

Put it differently, the African transitional restorative justice promotes 'not retribution or punishment but, in the spirit of *ubuntu*, the healing of breaches, the redressing of imbalances, the restoration of broken relationships.' (Gade, 2017: 46). One of the peculiar features of African philosophy – is by and large it is 'collective' in nature and thus African scholars tend to regard as "ethno-philosophy". It is this nature of African philosophy that could not be understood by the western thinkers and thus exposed to epistemic violence.[7]

Exploring Ethiopia's cultural treasure from the perspective of 'ethno-philosophy' and discerning positive qualities that can address the political, economic, social and cultural crises is yet to take shape. For instance, the revitalization of pre-colonial ethos such as *ubuntu* ("one is a person through others") allowed the excavation of "African humanism" – an African worldview 'that could assist in rebuilding within and amongst different communities.' (Gade, 2017: 97). For Africa, the importance of an individual is not based on his/her capability, but inherent within a person's 'community, solidarity, caring, and sharing.' (Gade, 2017: 98)

In Ethiopia, there are plenty of cases where its indigenous communities share common features with the *ubuntu*. A close study of among the Oromo, Afar, Amhara, Benishangul Gumuz and Tigray – indicate that the success of 'individualism' rests in the strength of the collective wellbeing of respective communities. For instance, the Oromo's notion of *namummaa* is synonymous with the notion of *ubuntu*. *Namumma* values interdependence over isolation, collective possession than individual ownership, and promotes collective peace and well-being. This is well articulated in Oromo expression which goes: *namni naman nama (ta'a)*, literally means a human being is human being because of other human beings. This shows the veracity of people's interdependence, far and near, and the sheer importance of 'others' in one's life (Mamo 2013:21). It tells the incompleteness (insufficiency) of a person (and by extension of a group) by himself. The Afar concept of *adanle*, also comes in here as it explicitly refers to humanity, fairness and justice.

Now, aligning the unique qualities of CCRM with the transitional justice system forces us to transcend the division. In transitional justice, the outcome of justice (be it western oriented or

African) is sustaining peace and harmony through 'truth and reconciliation'. In this respect, it is not exaggeration but it is a matter of fact that – dozens of Ethiopian ethnic groups lived for centuries long before the formation of the modern Ethiopian state using their own reconciliatory traditional system. The dislocation of Ethiopian indigenous justice, truth and reconciliation system – had not old alienated the Ethiopian political elites from their origins but also breed 'cognitive dissonance'. Sarkin and Daly (2004) interestingly note that:

> *Reconciliation initiatives are appealing because they can respond to the multifarious needs of each nation as it transitions from one dispensation to another. They can simultaneously be legal and political; they can be national or international; they can respond both to public and private needs; they can be moral and pragmatic; they can be transformative, while maintaining connection to the past. Their appeal is broad because their promise is virtually infinite (Sarkin and Daly 2004: 688).*

Unfortunately, what is largely absent in the contemporary political discourse in Ethiopia is trans-ethnic sense of responsibility; 'what injures me is injuring you, what injures us is injuring our clan, what is injuring our clan is injuring the whole community and the nation, is absent (Gade, 2017: 99).

DATA PRESENTATION: THE CASE OF FIVE REGIONAL STATES

The presentation of key findings of this report revolves around major objectives of the study. Accordingly, major institutions for conflict resolution, the central values and norms of CDRMs, their adjudicatory procedures are presented in the following sub-sections. These values, norms and institutions are examined in view of opportunities or challenges they could present to the national or context-based TJ policy in Ethiopia. These elements of the objectives are also examined for their retributive and restorative dimensions, with emphasis on the latter. Such emphasis in turn suggests a general tendency viewing socio-cultural values, norms and procedures of CDRMs as being largely restorative.

In all the five regional states, namely: Afar, Amhara, Benishangul Gumuz, Oromia and Tigray, there are certain common patterns – which can serve as the bedrock for the CCRMs. First, elders play fundamental role in CCRMs operating in all regional states. There is a saying that "*lafa kana kan jaarsi dadhabe kan danada'u takka illee hin jiru*" – meaning 'what elders fail to resolve in this land, no other body can resolve it" (Fekadu, 2012: 211). This perception holds true in all the five regional states. Second, seeking for truth, and working towards reconciliation guides the conflict resolution processes. Third, compensation and reparation (often negotiated) exit in all cultures albeit with some variations. Above all, CCRMs in all regions prioritizes the wellbeing and peaceful co-existence of the local community –the restorative justice dimension.

It, however, is to be noted that the five regions covered by this study vary in the density of cultural values and norms; their specificity or elaboration vis-à-vis diversity of offences, degree of involvement in the everyday life of the people, and their robustness. Differences in the depth of data presented in the succeeding pages are the result of such variations. In this context, CCRMs among the Afar and the Oromo are not only very elaborate but also the most robust ones. CCRMs of these two cultures are also quite similar in terms of values, normative and procedural dimensions. In the subsequent discussions, data are presented based on alphabetical order of the regions.

Afar: Institutions, Values, Norms and Procedures of CCRMs

The Afar have a very elaborate customary laws. The customary law is known as *mada'a*. The law is also called *afare* when it concerns disputes among the Afar, and *adanle* when dealing with disputes between Afar and non-Afar . While there are specific provisions for most of the possible offences in the former, according to informants, there are no known rules for the latter.

However, the literal meaning of *adanle* refers to humanity. It is said to derive from the word 'Adem' 'the Father of human beings.'[8] This refers to the notion that being a human (for the sake of humanity) an offender who doesn't belong to the Afar society needs to get a fair justice based on any available justice system. This not only suggests flexibility of the Afar culture to entrain (give recognition) to non-Afar laws, but also the place it gives to 'humanity' or 'being human'. In this regard, inter-ethnic conflicts are said to be resolved through negotiation based on one or a mixture of justice systems available, where a committee or delegation from neighbouring groups meet Afar elders and resolve conflicts. That is, a case could be negotiated to be handled based on: (1) a precedent of encounters or exiting agreements between Afar and a neighbouring group (e.g., *abbo-gereb* with Tigray); (2) either Afar laws or the laws of a neighbouring group (or a party to the conflict); (3) combination of Afar laws and the laws of a neighbouring group; (4) a third-party law (e.g., state laws)[9] (see also Abdulfetah 2010: 200-201).

Combing back to the functioning of the *mada'a*, the Afar customary law, at the top of the hierarchy of the Afar customary administration and judicial matters is the Sultan. The prominent judicial institution among the Afar, however, is called *Makbon* or *Makaban* (council of clan leaders or judges) at the level of clan confederation. Experienced elders known as *baroh edola*, who are known for their impartiality and wisdom, play a central role in interpreting and applying *mada'a*. At lower levels, sub-clan leader (*dala abba*) and clan leaders (*kedo or meela abba*) play both administrative and judiciary roles with regards to the matters arising within their respective clans or sub-clans. On the other hand, *fima* (youth organization) which cut across clan boundaries and, which is often described as the executive body in the literature (e.g., Abdulefetah 2010; Getachew and Shimelis 2008) plays more diverse roles- including mutual support, the role of conflict resolution among its members, and ensuring peace within the territories of members' clans[10].

Category of criminal act	Name of a 'bench'/ 'court'	Compensation; punishment	Amount of compensation; punishment (normative)
Crime on life (*bilu*)	*Bilu hara or maro*	*diyat*	This seems complex and varies from region to region within Afar territory. The common view is that compensation for homicide go up to 100 cattle for male and 50 for female. There are areas where compensation for women is double the amount for men[12].
Crime related to bodily injuries	*Dikha hara or maro*	*dikha*	Injuries caused to human body parts, particularly sense organs, are seriously taken in Afar *mada'a*. Different parts or a section/fraction of a body part has different compensation in accordance with their significance and symbolic values. The detail is so elaborate that it is far beyond the scope of this report. The following are just some examples: eyes 750; legs 750; Lips: upper 300; lower 300; thumbs 500 etc.
Crime on property (mainly camel-*gali* -theft	*Gali hara or maro*	*ekoyita*	Camel theft is given separate bench of court in Afar law. The Afar give special place to camel next to human beings (life)[13]. Compensations for camel related cases are decided on case by case basis[14].
Crime on honour or insult	*mablo*	*maruuso or doroq*	The Afar resent 'bad words' and being given 'bad name'. They believe that bad words constitute attack on one's honour and dignity, and can lead to violent conflicts. Compensation for insults could go up to 30 goats but such kinds of compensations are forgiven.
adultery & rape	*mablo*		Sex related offences are very complex cases in Afar customary law (*mada'a*). The law considers talking to girls or women or touching them for sexual intent as a crime. Some of the punishment (compensation) include: For instance: touching a female for sexual intent: **10 goats**; if it is consensual (with her interests) **6 goats**; committing rape against married woman: **40** goats; rape of a girl (unmarried) up to 75 **goats etc.**[15]

The Afar have criminal cases processing system called *mablo* that takes place at the *maro* or *hara* setting. *Mablo* refers the process (and act) of case processing based on discussions, deliberations and arguments. *Hara* (lit. tree) and *maro* (lit. circle referring to the sitting arrangement of participants) is the setting of dispute settlement or conflict resolution. [16] The *mablo (*decision making process) at the *hara/maro* set-up is quite similar to the Oromo setting of dispute

processing and decision-making under the shade by people sitting in a circular arrangement (see Mamo, 2006; Bassi, 2005).

The Afar have four general categories of crime: *Eibba* (crime committed through legs), *gabba* (lit. crime committed using hand), *arabba* (lit. crime committed using tongue) and *sammo* (crime committed using sex organs) (Abdulfetah, 2010:2010). These can be summarized as crime on life, crime on body, crime on property (mainly theft of camel) and crime on honour (insult) (Table 1).

The Afar informants insist that the majority of disputes that occur within family, sub-lineages and clan are settled through mediations at appropriate levels; they don't appear before *makbon* for 'court hearings'. Two reasons were mentioned for this: (1) internal affairs should not be exposed to a broader public in the interest of maintaining *social cohesion and solidarity*; (2) since customary 'court hearing' could result in a winner and loser or some compensation or punishment, such an outcome would damage kinship and ritual ties among clan members.

On the other hand, those categories of crime (Table 1) are the ones that require court proceedings particularly when they occur at inter-clan level. Among them is the case of homicide, the most serious crime in Afar culture, which must be handled by *makbon* of neutral (*Eisi*) clans. According to Afar informants, [17]impartiality and neutrality of the third party (*Eisi)* is a matter of utmost importance among the Afar. The neutral clan must not have any kind of kinship relation (including *absuma* marriage) and *afehein* (alliance or ritual relations between Afar clans) with either of the party.

Homicide cases are closely investigated from both the point of view intention and the manner in which the crime was committed. One of the most important aspects of handling homicide case is promptness of justice since delayed handling could lead to revenge killings. Unsettled homicide case is never forgotten in Afar, even when the perpetrators are not clearly identified. The case is kept alive by building a symbolic tomb (heap of stones) called *Waydal* , which is higher than the normal Afar tombs.

> …*death during the conflicts is taken as natural if there is no violation of rules of conflicts. The Afar rule of war or engagement prohibits killing women, children, elders, and humiliating or mistreating prisoners of conflict-captured or surrendered.*

It is in this context that Afar informants lament *Waydal* currently erected at Galikoma, which they said represents mass killing and sacrifices, which have not been avenged or compensated.

This is not just a memorial but a claim for unclosed crime to be opened at any time and closed in some way.

Compensations and punishments listed in Table 1 are normative provisions in the *mada'a*. Elders refer to these provisions and fix punishment or compensations accordingly. A clear winner and loser could emerge in the process of determining compensation or punishment. It is important that the offenders understand the degree of their offence and feel its consequences, including the trouble they have caused to their clan.. Yet, at the level of implementing the compensation or punishment decision, negotiations for compromises, reduction of punishment or forgiveness ensue. The *mada'a* balances the values of *adli* (justice), and revelation of truth one hand, and *de'i* (tolerance, mutual understanding, and mutual support) in the interest of social solidarity and social integration on the other. As a result, a higher compensation or server punishment could be suggested (in view of justice) but significantly lower settlement could be achieved in view reconciliation and restoration of relations.

For the Afar, who boast complex and dense clan and personal networks of relationships, receiving compensation as per the provision in *mada'a* is more theoretical than practical. The injured party may collect only part of the compensation to re-establish good relations with the offender or his clan. It is important to mention here that clans take responsibility for homicide committed by their individual members[18]. That is, both the offence and its settlements are social not individual except for serial offenders, who sometimes are, according to informants, condemned to face the consequence of their action by themselves. Afar informants insist that collective responsibility is more deterrent than individual accountability in that compensation paid to victim's side is more painful to the offender (and his clan) than the offender facing jail terms and; that compensation is more beneficial and healing to the victim's relatives that to have the offender in jail. An informant lamented how individual accountably according to state criminal law doesn't serve purpose in the context of Afar customary law. He narrated about an Afar man currently serving a prison term for a homicide as follows:

> *Let me tell you about an Afar man, who is a trouble maker to his clan. When he was brought to court for killing a person, no one from his clan came to collect him to settle the case according to the Afar mada'a. Now he is in prison in Semera. He is fatter [a sign of better living condition] than when he was taken to the prison. He has become a boss in person and reportedly made a lot of money. If he lived comfortably like this then what could he learn from his crime? What did the victim's relatives got from his imprisonment? It is less troubling for an individual to commit a crime and take responsibility than for a clan to assume responsibility for his action[19].*

The compensation emphasised by this informant, however, has a reciprocal nature; if you collect compensation today, others will also collect compensation from you (your clan) tomorrow[20].

That is, a victim's clan 'deposits' compensations it is awarded with the offender's clan for future use, which helps establish web of reciprocity. Yet, the Afar process criminal case and determine the level of its consequences, even knowing that they will not receive compensation due to existing reciprocity with the offender's clan (see Abdlfetah 2010).

The relationship between the Afar customary structures and the Afar formal state structures is said to be cordial. Informants emphasised that the regional government can't effectively administer the region without full cooperation of clan leaders and other customary institutions. One informant indicated that cases that are brought by disputants before state structures are regularly sent back, without being asked, to clan leaders; and clan leaders and elders appear at government offices and collect cases of their clan members on a regular basis[21]. It may not be difficult to understand the context of such relationship between state structures and customary structures given the power of clan structures among the Afar, collective nature of some criminal offences, and the fact that people who work in the state structures are also clan members with duties and responsibility to their clan connections. In sum, although legal pluralism is now a reality among the Afar, with religious values and the state laws playing roles in people's life and relationships, the Afar social structures and customary law tend to dominate the scene.

Amhara: Institutions, Values and Procedures of CCRMs

In Amhara regional state, *shimgilinna* is the 'most common' CCRMs (Pankhurst and Getachew 2008: 14). In addition to *shimgilinna*, *erq* and *giligil* or *yegiligil shimgilinna* are also used among the Amhara (Dessalegn, 2020; Melaku and Wubshet 2008). The terms *shimgilinna* and *erq* are interchangeably used while *giligil* refers to the process of convincing the two parties to abandon the conflict between them (Dessalegn, 2020). One recent study in Bahir Dar and its surroundings shows that more than 80% of the respondents believed that most of conflicts are resolved by local elders (Girma, 2020). Although *shimgillinna* is an institutions run by male elders, changes are emerging in its composition. Recently, a state sponsored type of *Shimgilinna* known as *dem adreq shimgilinna* (lit. 'to end bloodshed'), also known as *yeselam Committee* (lit. Peace Committee), has been established with the aim of tackling cycle of homicide-related vengeful killings. This type of *shimglinna* is composed of elders, youth, women and priest, thereby representing almost all categories of the community.

In addition to elders, religious institution viz. Orthodox Christianity and Islam play significant role in conflict resolution in the region. A recent survey in Bahir Dar and its surrounding shows that more than 75% of the respondents used religious institutions for conflict resolution (Girma. 2020). Particularly, the Orthodox Church, as an institution of the majority of the population in the region, plays significant role in conflict resolution. However, the local practices relating to *shimgillinna* institution seem to also vary from area to area. For instance, among the Amhara of Wollo, the *abegar* conflict resolution mechanism employs elders who claim to have hereditary divine power (Uthman, 2008; Meron, 2010). Women's institution known as *dubarti* is also reported as having a role in conflict resolution in in the same area.

The *shimgilinna* process makes use of long-established system of beliefs, values, and norms for promoting peace and resolving conflicts. Among the Amhara, the broader normative landscape is known as *'ye'abatader hig'* (lit. 'the laws of the fathers') (Yohannis, 1998 quoted in Dessalegn, 2020:166). Yet, the Amhara don't seem to have elaborate laws with provisions referring to specific offences. Rather, elders reach a consensus and make decisions based on experiences and wisdom. An informant from Amhara region maintained that: 'elders determine the amount of compensation a way that doesn't seriously hurt the parties. Elders deliver what they agree upon as a fair amount of compensation or punishment for an offence, including homicide cases. The same informant noted that compensation and punishment are not meant to fully replace or recover what is lost. Rather restoration of future relationship, breaking cycle of revenge, and

preventing escalation of conflict are always emphasized in *shimgilinna*. A researcher on CCRMs among the Amhara, stressed the importance of *shimgilinna* for its restorative role, and the freedom it provides to the disputants to participate in conflict processing and decision making. Fairness and restoration of future relationship appear to be guiding principles in this regard.

Shimgilinna among the Amhara, therefore, shares several restorative values, and participatory and deliberative procedures with many other customary conflict resolution mechanisms in Ethiopia. In this regard, Alemie and Mandefro also conclude that following about CCRMs among the Amahra:

> *Principles of social cohesion, social harmony, peaceful coexistence, transparency, respect, tolerance and humility are central elements emphasized in indigenous conflict resolution mechanisms among the local people. The notion of restoration of peace, social solidarity and reconciliation within the community lies at the centre of indigenous conflict resolution mechanisms.* (2018:11)

Similar point was made by an informant on the importance of reconciliation and forgiveness of the *shimgillina* procedure. He said, 'in many cases in rural Amhara, punishment is levied on a wrong doer in kind (e.g., cattle). However, the opponents often forgive the wrongdoers, which is followed by preparing feast such as food and drinks and organizing social get-together by the forgiven person'.

Decisions made by elders are said to be largely accepted by the disputants. In case a disputant refuse to accept elders decisions, intervention of religions leaders may be sought. Moreover, according to an informant, social pressure in the form of threat of exclusion from such major social networks as *equb, edir, senbete, mahayber*, is very powerful mechanism of enforcing decisions.[22]

Despite a positive role of elders in conflict resolution as presented above, some informants are critical of both the formal and CCRMs among the Amhara.

An informant from Dambia, Amhara region, lament:

> *…the elders now days are not trustworthy. Yet, they are still better than the state court which is impartial or not trustworthy. If you want to humiliate and hurt your opponent you can go to the state court. But if you want future peace, still elders are preferred. …Since people don't receive fair and timely service from the formal court, the only option is to use local elders. To insist to have the case handled through court could also have consequence of escalating the conflict…shimgilinnaa is still relatively better, with all its weaknesses.[23]*

This informant contends some elders are becoming partial and are not working for truth or genuine reconciliation, but their material benefit; yet they are still preferred to the state court in the area. This indicates challenges to the legitimacy of *shimgilinna* particularly emerging among the youth and urban residents. On informant blamed the youth as being emotional and showing disregard to cultural values. Others related the decline of youth's loyalty to *shimgilinna* to the latter's attempts to resolve conflicts over resources; particularly land, where structural conflict is apparent. Informants expressed their discontent with the modern education system, which does not teach children enough about respecting their own culture, including *shimgilinna.*

Young students have an incomplete notion that being modern means disrespecting their own culture. In the same vein, elders attributed youth's and educated and urban residents' declining respect for or loyalty to *shimgilinna* and the elders in North Shewa to the 'dilution of culture' (*yebahil meberez*) (Dessalegn 2020: 177). Others, similar to an informant from Dambia cited earlier, accuse the elders as being corrupt and exercising nepotism (Dessalegn 2020). A key informant[24] from Amhara (Bahir Dar) clearly articulated the declining role of elders and respect for them among the youth questioning their partiality and their traditional focus on truth. This is particularly emerging in the context of tensions, and at times open conflicts, between the state structures and young people, and the elders' silence on the issue or being used by the state to silence the youth, or engage in the mediation process the outcome of which favours the power.

In sum, the general attitude towards legal pluralism in the region seems mixed. Views on the relationship between the state structure and customary conflict resolution mechanisms seem gloomy. Informants indicated that state structures sometimes send cases back to elders, but it does this mainly to ease the burden on the state structure. It also appears that the relationship between the state structures and the elders has affected the legitimacy of elders in the eyes of the public in general and youth in particular. On the other hand, religious values and institutions are positively viewed and play central role in the *shimgilinna* institution.

Benishangul Gumuz Region: Diverse institutions yet related values of CCRMs

Benishangul Gumuz Regional State's constitution recognises five indigenous groups of the region: Berta, Gumuz, Mao, Komo, and Shinasha. In addition to these communities, there is large number of "settlers" mainly from the Oromo, Amhara, Agew and Tigraway ethnic groups residing in the towns of the region. All these ethnic groups in region have their own distinct CCRMs in terms of structure, procedures and scope of application. However, they also share some fundamental similarities. Particularly, the Mao and Komo communities have more communality than the other ethnic groups in the region. The conflict between the Mao and Komo communities are resolved by elders through the participation of a religious leader known as *Kallu*. The CCRM of the Mao community has similarity with the CCRM of the Oromo community as well[25].

The Gumuz community has CCRM known as *gafia* which operates through 'witch doctor'. It is believed that *gafia* has a spiritual power to protect the Gumuz community from evil, and thus it has a mandate to reconcile the conflicting parties. The logic here is that conflict is the result of evil thought and deeds. Historically, killing a a stranger to the land, 'is considered as a bravery and appreciated among the Gumuz.' (Donovan and Getachew, 2003) However, following the settlement of the Oromo in the area, a traditional system of friendship known as *michu* (literally 'friendship') was established (details below).

The Shinasha ethnic group has distinct CCRM known as *nemo*. The nemo system is court-like institution and it has five hierarchical judicial levels: the *burra* (1 elder), the *nemma* (2 elders), the *terra/tsera* (3 elders), and *falla* (1 customary leader). Member of the society obey sanctions passed by these institutions; those who refuse to obey would be ostracized. Even when a person underwent the modern criminal justice system, including completion of court sentence in murder, she/he should still go through the traditional conflict resolution mechanism.

Among the Berta community, who are predominantly Muslims, disputes are resolved through Sharia law. Yet, elders play an indispensable role in addressing the disputes. The traditional elders of the Berta community are called *Shiyabe*. Murder happens rarely among the Berta community – and when it happens- the reconciliation process kicks in soon by slaughtering an ox or a goat so that the victim's family would not take revenge against the family of the offender(s).

The Berta has an indigenous conflict resolution mechanism known as *almaburi*. The value of reconciliation and forgiveness known as *hafu lilahi*, which seems to have an Islamic root, is at the center of conflict resolution. The honest forgiveness is marked with the statement *hafu lilahi*. It is believed that no one would say '*hafu lilahi*' unless the person meant it from the bottom of his/her heart. This is because the utterance is made not out of fear of human beings but the almighty God.

One of the qualities of the *almaburi* CCRM is the fact that it bestows the sense of responsibility on the elders of the local community. The *almaburi* tradition sets duty or responsibility at forefront and places rights as corollary to it – not the other way round (Wedisha, 2012: 126). Moreover, truth has special place in the *almaburi* tradition. For instance, the notion of *amana* (also an Islamic term) is the defining denominator for the human-human interaction among the Berta community. *Amana* refers to keeping the property of another person with due respect and returning without any defect to the rightful owner.

Furthermore, any dispute or conflict should be settled within three days. This is the strictest norm the community observes. It is believed that the longer the conflict remains unsettled, the higher the chance of its escalation. Hence the *hafu lilahi* tradition strictly adheres to the three-day maximum limit for conflict resolution. The *hafu lilahi* tradition requires the younger brother has to ask forgiveness for the fault/offense of the senior brother. Besides, the value of listening to one another with due respect is encouraged as it promotes the sense of indulgence and empathy (Wedisha, 2012).

In sum, the common denominator of CCRMs among the Berta, Gumuz, Mao, Komo and Shinasha communities are truth, reconciliation, oath, reparation and restorative justice. Indigenous communities also share some institutions and similarity of CCRMs with communities who moved to the region from other areas (e.g., Komo' use of *Kallu*, similar to the Oromo) or established new institutions to for inter-ethnic relation (e.g., Michu for Gumuz, Oromo and the Amhara).

Oromia: Institutions, Values/norms and Procedures of CCRMs

In Oromia, there is either a full-fledged *gadaa* system shaping the lives of the Oromo, or *gadaa* influenced institutions that regulate the socio-cultural interaction of the Oromo people. Some of the *gadaa* influenced CCRMs employed in different parts of Oromia are *jaarsummaa* and *siinqee or ateetee*. *Gumaa* is also sometimes considered as a separate mechanism for conflict resolution but it could also be seen an extraordinary session of *jaarsummaa* that engages prominent experts *(hayyuu)* of the Oromo customary law (*seera*) and the *gadaa* leaders. Core actors of the *jaarsummaa* (lit. dispute resolution through elders) institution are known as *jaarsa araaraa* (lit. elders of reconciliation) or *jaarsa biyyaa* (lit. elders of the nation). *Jaarsummaa* is a broad-based institution dealing with cases ranging from minor disputes over ordinary values or property to severe conflict related to life, injury. *Jaarsummaa* helps the conflicting parties come to an agreement based on the Oromo *seera* or *seera-aadaa* (norms, values, and rules) (Areba and Berhanu 2008:169). The main guiding values of *jaarsummaa* are revealing the truth (*dhugaa baasuu*), *araara* (reconciliation) and restoring peace (*naga buusuu*).

The literal meaning of *jaarsa* is an elder, referring to chronological age. The term, however, has at least three references in the context of conflict resolution viz. *jaarsa mataa aarrii* (elder with grey hair) referring to old age; *jaarsa garaa aarrii* (elder with grey heart) referring to knowledge or wisdom; and *jaarsa miila aarrii* (elder with grey leg) referring to a rich experience gained through travel and participation in conflict resolution. Therefore, *jaarsa* in this context could refer to a young man who exhibits proven qualities often expected of elders such as knowledge, wisdom, honesty, impartiality, and experiences of Oromo customary law[26] (see Mamo 2006).

Among the Oromo, there is also women's institution for conflict resolution called *Siinqee* or *Ateete* (Mamo 2008; Tolasa 2012). This institution is also known as *Siinqee-hanfalaa* in West Arsii, where *siinqee* refers to a ritual stick carried by married women, and *hanfalaa* refers a leather belt worn by married women. These ritual stuffs are feared when deployed in the event of conflict prevention, de-escalation or cursing disobedient individuals (Mamo 2008). The institution has two fundamental functions: protecting women's rights and maintaining peace (both social and ritual) of the community.

Procedurally, the *jaarsummaa* process is initiated either by a disputant (normally plaintiff) or any other third party who is aware of a simmering dispute or who witnessed conflict between the parties. The *jaarsummaa* takes place in open space often in a shade (*gaaddisaa)* of tree (Abera, 2020; Bassi 2005; Mamo 2006). *Jaarsummaa* is open for anyone to freely join an active session,

request for a brief about the case, progress of the session thus far, and contribute to the resolution of the conflict (see Mamo 2006).

The *jaarsummaa* process always starts with prayers to *Waaqa* – the ultimate reconciler – to help elders speak the truth (*dhugaa*) and truth only. The elders often say, *'dhugaan ilmoo waaqaati'* ('truth is the son of the creator) – to speak the truth and settle the conflict makes the elders the 'sons of *Waaqa'*. The fundamental belief among the Oromo is that – '*aadaan kan namaati, dhugaan kan waaqaati'* (culture belongs to people; truth belongs to God).

The *jaarsummaa* process follows the notion of *ilaaf-ilaamee* (lit. 'look-listen') and that of *kootu-dhufe* (lit. come here-I am there). Both notions signify the deliberative and collaborative nature of the reconciliation process whereby experts of Oromo customary laws manage the process in an orderly manner. Decisions are mostly based on consensus, and influential idea that steers the process towards the final decision could come from any participant of *jaarsummaa.* However, the final decision is pronounced by one of the core elders who led the *jaarsummaa* process. In order to make decisions, elders examine facts presented by disputants making extensive reference to the un-written Oromo customary law (*seera*). Reconciliation (*araara*) marks the end of the *jaarsummaa* process, e

The Oromo *seera* contains a very elaborate provisions referring to diverse areas of life: social, political, economic, natural and spiritual. However, not all people (even elders) know the full range of Oromo customary law. In Oromo areas where *gadaa* system is functioning (e.g., Borana, Guji & Tulama) major aspects of law and some fundamental legal provisions are proclaimed by experts of law during *gadaa* power transfer ceremonies every eight years. Among the articles include '…compensation for killings, injuries, insults and theft…' (Nicolas 2020:287-288).

In other Oromo areas where *gadaa* is not fully functioning (e.g., Arsii Oromo), *seera* passes from generation to generation in practice where aspirant young people attend conflict resolution settings to educate themselves on a wide range of law. In these areas, when conflict results in serious injuries or homicide, senior and notable legal experts known as *hayyuu* are called upon to determine, after a closer examination of the case, and in accordance with the law, the amount of compensation to be paid and the reconciliation rituals to be conducted. Nicolas correctly noted that '…the Oromo *seera*, however, does not cover the full spectrum of disputes and problems that people experience. Particularly in multi-ethnic setting where different legal conceptions are

present, 'custom' (*aadaa*) and situationally *accommodated* practice provide more *flexibility* for individual decision-making' (2020:288, emphasis added).

In Oromo custom (*aadaa*) in general and Oromo customary law (*seera*) in particular, criminal offences such as homicide, injuries to different body parts, insult and theft or destruction of property (e.g., arson) could result in server punishment or compensation. The *gumaa* is 'an indigenous institution that is part of the *gadaa* system.' (Dejene 2007: 59 cited in Abera, 2020: 321) Among the Borana '…every clan collaborates in discovering a killer. With the help of elders, the relatives of the offender approach the relatives of the victim asking for reconciliation, after which the elders may proceed to handling the case through Borana customary law.' (Abera, 2020: 321). According to the Borana, 'if a person kills or spills Borana blood, he makes himself impure (*xuraa'a*), and he will be expelled from the community to which he belongs unless cleansed through a reconciliation ritual.' (Bassi 1994:27 quoted in Abera, 2020: 321)

Among the Arsii Oromo as well, *gumaa* is a collective affair in that the clan of the killer takes full responsibility, and covers the compensation for the life lost. The normative provision in Oromo (e.g., Arsii) *seera* for compensation of intentional killing of a man is 100 cattle while it is 50 for woman. However, intention, kinship relations, and the type of weapon used to commit homicide, the manner in which the weapon was used and many other issues of 'legal' and moral nature are taken into account to determine the final compensation.

Gumaa, however, is not about material compensation for the life lost alone. It involves (1) the purification of the offender and his family, who are believed to have been polluted by spilling the blood of a human being, and (2) the reintegration of the two families who connections have been broken due to the killing. Details of purification and reintegration ceremonies could vary from place to place, and are beyond the scope of this work. But the participation of women as symbol of peace and reconciliation appears conspicuous. Women are believed to have a special power to heal the ruptured peace and restore the damaged *safuu*.

Again quite similar to the case of Afar *mada'a*, damages or injuries to the various body parts are seriously taken in the Oromo *seera,* and serious injuries to some of these body parts are even expressed as *gumaa-fakii* (lit. looks like *gumaa*), and hence require significant compensation in livestock.

The above are just sketches of CCRMs among the Oromo, including institutions, central values, procedures and normative aspects of the Oromo CCRMs including truth (*dhugaa*) and *naga*

(*peace*), reconciliation (*araara*), and forgiveness. These are guided by other layers of values and principles of social relations viz. *safuu*[27] (moral and ethical code) and *namummaa* (being human)- an Oromo relational philosophy referring to life and purpose of living – a knowledge system through which the Oromo people understand, interpret and practice both spiritual (as embedded in a belief in *Waaqa* and fear of *safuu*) and the Oromo customary laws (*seera*). In all types of CCRM in Oromo land, the value of *namumma* occupies a central place.

Namummaa is an all-inclusive worldview in which central elements of Oromo relational philosophy are embedded viz. compassion, solidarity, respect, unity, tolerance, sharing, care, empathy, hospitality, forgiveness, justice, reconciliation and peaceful co-existence. In other words, *namummaa* is a universal bond that connects humanity. Oromo relational philosophy is based on the understanding of unity and connections between the creator (*Waaqa*) and human beings vertically, and among human beings and between human beings and nature horizontally. This, in principle, governs daily lives of the society based on norms and moral principles that maintains peace (*naga)*) and moral balance or respect *(safuu)*.

An Arsii Oromo expression which goes, *kennaan kennata*, lit. 'giving is saving', is a clear essence of the reciprocal nature of such social and spiritual relations. Another expression, which also emerges from the same cultural context goes, *namni namaan nama ta'a*, lit. 'a human being is human being because of other human beings' (see Mamo 2013). This notion expresses many elements of the Oromo relational philosophy outlined above.

In sum, the values, norms, and philosophical notion discussed above constitute 'principles' for life. One would still hear people referring to them, appreciating or praising or saying prayers for them to prevail. Yet, real life is full of challenges, conflicts and competition, particularly in the context of cultural change and prevailing normative and value pluralism. In this regard, informants lament the current situation of Oromo central values and norms as follows:

> *The Oromo practices distance and respect to sustain peace. There is distance and respect between senior and junior; between mother and daughter; between father and son; between heaven and earth. Today, distance and respect (safuu) withered away, men become short of animals. People know not their place, the juniors revere not the seniors and vice versa. Today, we are in crisis because safuu is broken.*[28]

This is not an isolated observation or view. It is common to hear Oromo elders complaining of the declining respect for values and norms; for elders and customary institutions such as eldership. Some blame religion, particularly puritan tendencies, for the challenges traditional values and rituals are facing. Youth and elders are in collision posture, and the legitimacy of the

latter is eroding. The youth see elders who often participate in CCRMs as agents of the state or intermediary between people and the state rather than being genuine mediators. This has emerged in the context frequent cooption of the customary law and elders by state structures. In this context, some informants even talk about two categories of elders viz. 'elders of/for the people' and 'elders of the state'. On the other hand, elders characterize the youth as 'half-cooked' or not well 'cooked' since they are neither well educated (integrated into modern life) nor are they knowledgeable of their culture and integrated into their society.

Yet, situations may not be as dire across Oromia. There are areas where Oromo customary laws and values are still in a better shape. CCRMs still paly the dominant role in dealing with conflicts of various scale and degree of severity, and have a plenty of space for restorative justice. Recently there is also an attempt to incorporate cultural values and norms in the curriculum. Moreover, the Oromia Regional State has taken a bold step in recognizing and establishing *Mana Murtii Aadaa* (Customary Courts) across Oromia – both at *kebele* and *woreda* levels. Reportedly, currently, there are more than 6,900 *Mana Murtii Aadaas* actively serving the local communities across Oromia.[29] These are promising signs that could give some hope for those people who lament the decline in the power of values, institutions, and normative principles. However, it is not yet clear at this point if this apparently positive step leads to the revival and empowerment of customary institutions, there are many lessons to draw therefrom.

Tigray: Institutions and values

The local people of Tigray region have CCRM such as *Abo gereb*, *Erki enderta* (the *enderta* reconciliation) to resolve local conflicts. Especially, the *erki enderta* mainly focuses on forgiveness though compensation is also part of the *erki* process. It is known for its emphasis on compromise where each disputing party is expected to give up nearly half of its expectation for the sake of sustaining peace and restoring broken relationships. In this process, the elders of *enderta* have earned great respect and trust from the community and hence they appear at the fore front of the reconciliation process.

One of the elders from the FGD discussants explained the genesis of '*Erki Enderta*' as follows:

> *There was a pregnant woman divorced from her husband and she married to another man while a pregnant and she gave birth after the second marriage. However, her later husband did not allow his wife to breast-feed her new baby. On the opposite, the former husband urged for his child to breast feed as he did not want to see his baby dying from hunger. Both submitted their case before the shimagles. After a long discussion, the shimagles decided the upper half part of the woman to belong to the baby's father so that the baby will be able to breast-feed whilst the lower half part of the women to belong to the new husband* (FGD, 2013).

The morale of the story is that compromise appears at the heart of '*Erki Enderta*'.

According to key informants, in cases of homicide, the perpetrator's family or his close relatives initiate the process of *Erki* or reconciliation. The *shimagles* (elders) may travel back- and- forth and meet the parties several times until the emotions get calm and the parties show readiness to reconcile. While conversing with each party separately, the elders keep any hostile words used by the parties to themselves and only expressions that fit the context and help cool down emotions (FGD, 2023).

In grave cases, mostly homicide, the *erki* will resume at the victim's home after the mourning process is ended. Nonetheless, sometimes the process of reconciliation may become challenging to easily find terms for reconciliation. In such cases, the elders may call upon the help of the nearby church and the reconciliation will be conducted in the compound of the church. And victim's families (often women) bow down and cry (ምህልላ) (Interview, 2023). Therefore, unlike the formal justice, *erki enderta* primarily aims at restoring broken relations and hence ensuring community peace by emphasising on forgiveness and compromise.

Compensation and restitution are important aspects of the reconciliation in *Erki enderta* though nominal in some aspects. In cases of physical injury, the perpetrator is only expected to cover medical expenses. Otherwise as a culture, anyone who accepts compensation (in Tigrigna '*kasha*') is condemned, and he who accepts compensation is labelled as '*belaei kahsa*' (lit. means "compensation consumer"). This is a derogatory expression and a person who is labelled as such for accepting compensation '*kahsa*' is not even considered fit for marriage. Hence, once a person submits to reconciliation, receiving compensation is a rare phenomenon unless the matter involves theft of property or cattle which is actually restoration than compensation. However, nowadays, there are trends where people accept compensation regarding car accident.

Institutions for Conflict Resolution Cross-cutting Cultural Boundaries

In addition to major CCRMs presented above, there also are customary institutions of conflict resolution (and prevention) cross-cutting cultural boundaries. For instance, a ritualized social relationship called *Michuu* (bond friendship) has been working in Benishangul-Gumuz mediating the Gumuz's interactions with non-Gumuz communities. The *michuu* institution promotes cultural and social tolerance and reconciliation between the Gumuz and such other groups as the Shinasha, Oromo, Agew and Amhara. *Michuu* relationship is invoked for daily interactions and when community members face conflict. *Michuu* bond is established at interpersonal level, which eventually creates web of relations interlinking members of diverse communities. Such network of ritualized friendship plays an important role in conflict prevention. It facilitated ethnic relations, intermarriages and cross-cultural tolerance (Tsega, 2012). Referring to the same institution, Kariuki maintains that 'The aim of traditional dispute resolution by elders in Western Ethiopia, a tribal milieu, is not to punish the wrongdoers but to restore social harmony seeing that different tribes live side by side.' (2015:9)
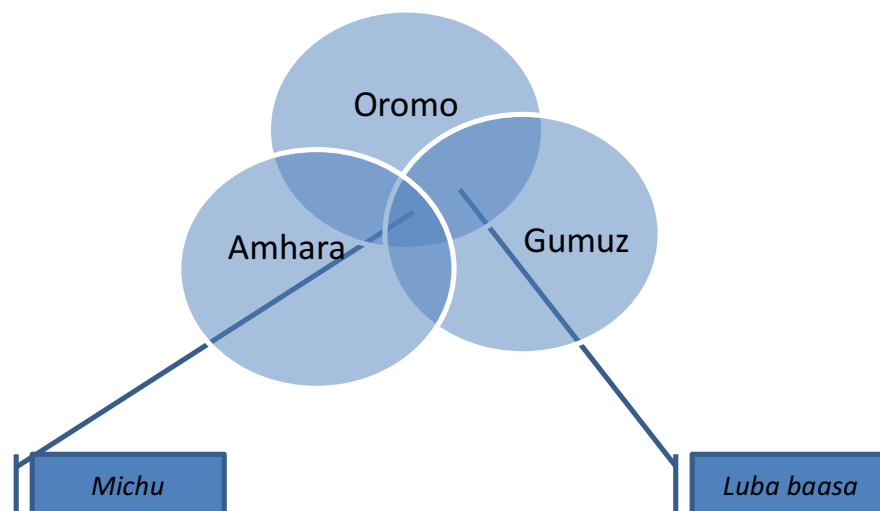

Figure 1: Inter-ethnic customary conflict resolution mechanisms in Ethiopia

Similarly, the Oromo neighbours to the Gumuz have developed a system called *luba baasaa* (lit. to set free or set them free) to manage their conflict with (and perception of) the Gumuz. This involves such rituals as symbolic mixing of blood of conflicting parties or breaking an animal bone 'a symbolic gesture signifying that old conflicts are broken and new friendships formed. They then pledge an oath not to fight each other.' (UNESCO 2013: 13-14).

The *gondooro* institution is used to manage relationships, including conflict resolution, between

the Guji Oromo and Gedeo ethnic groups. The term *gondooro* denotes wishes that similar evil deeds (e.g., conflict) never happen again. Similar to the *michuu* institution, *gondooro* relation is invoked both to prevent conflict and to ease efforts of conflict resolution and reconciliation. *Gondooro* is invoked in homicide cases, which are often resolved through the involvement of *Abba Kaallu* (a ritual leader) and *Abba Gadaa* of the Guji Oromo and Gede'o people. The existence of *gondooro* relationship between the two groups strengthens social and ritual ties among their members, and helps rebuild mutual trust between parties involved in homicide or other serious conflict.
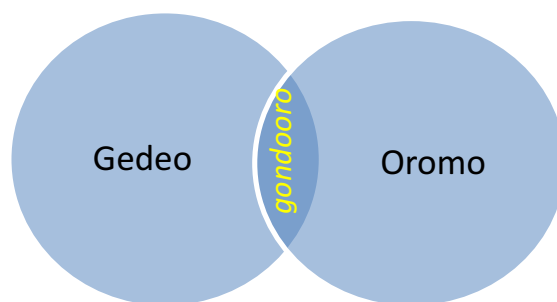
Figure 2: The Gondooro: customary conflict resolution institution between the Guji Oromo and Gedeo

Guraacha is another ritual-based mechanism managing relationship among several groups in central Ethiopia. *Guraacha* is invoked to prevent conflict and promote social harmony peaceful relations among the Oromo, Silte, Halaba and Marako ethnic groups. *Gurraacha* means 'black' in Afaan Oromo, and blackness symbolizes the mystery of *Waaqa* (God). Elders slaughter black cattle for *gurraacha* ritual as a sign of oath and purification on reconciliation process. The *gurrraacha* institution has its own leaders known as *Abbaa Gurraachaa (lit.* the father of black). The elders of *gurraacha* institution are drawn from the ethnic groups mentioned.
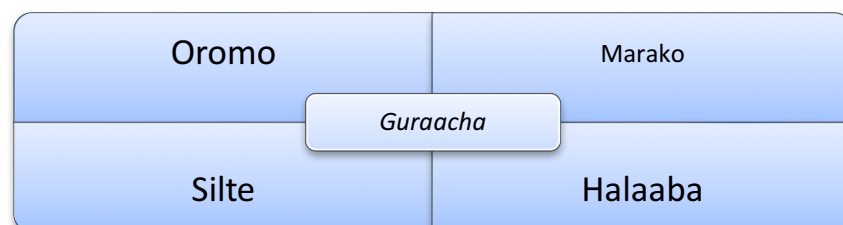
Figure 3: *Gurracha***: Inter-ethnic CCRM**

The *abbo gereb* also serves as an important institution to deal with conflicts between the Afar and their Tigray neighbours to the north. It constitutes elders from both sides and is also said to have written rules on the basis of which elders negotiate the resolution of conflict between the two communities.

Most of these institutions have both social and ritual elements. Some of them may not be strong enough and meaningfully functional today. Even in the past when they strongly functioned, they might not be able to completely prevent conflict. However, they are known by the people involved as helping reduce incidences of conflict or its escalation, and facilitate the resolution of conflict when it occurred. Above all, they constitute important recipe for people to regret the conflict when it happened.

These institutions could help disputants resolve their conflict and pursue the path of re-integration on the basis of solidarity and social capital that have been built among members of the groups. The existence of these institutions, above all, shows flexibility and creativity of customary systems. Such quality of customary system could facilitate collaboration with the TJ process, and that some of the elements of these institutions could also serve as an ingredient to TJ policy for Ethiopia.

DISCUSSIONS: CUSTOMARY CONFLICT RESOLUTION MECHANISMS & TRANSITIONAL JUSTICE- OPPORTUNITIES AND CHALLENGES

This section attempts to present discussions of major findings of the nexus between CCRMs in Ethiopia and goals of transitional justice policies. The section contains three themes viz. (1) discussions of major values, norms and procedures of CCRMs in view of the opportunities they present to the transitional justice-either incorporated into the TJ policy or used to implement TJ policy in a sustainable manner; (2) examination of some features of CCRMs, either inherent in their nature or emerging in the context of changes these mechanisms have been experiencing, which appear to present challenges for their incorporation in TJ policy; and (3) a brief discussion of elements of CCRMs of Ethiopia in view of African philosophy of life and social relation vis-à-vis the essence of transitional justice.

Table 4: Institutions, Norms and Values of CCRMs

Regions	Major institutions	Norms	Values
ARS	*Shimglinna, Erki*; EOTC	*'Yeabat hager hig'*	Reconciliation, truth, justice , honour, respect, harmony
AfRS	*Mablo, maro; Makbon; Kedo abbabot; fi'ima*	*Mada'a Adanle*	Impartiality, honour, solidarity, social cohesion; reconciliation, forgiveness, truth, trustworthiness
BGRS	*Almaburi* (B) *Temba*|Gafia|Siyaha(G) *Shumbu* (K); Tahiyaya (M) *Nemo* (Sh)	*Customary laws*	Truth, reconciliation (*hafu lilahi*), trust (*amana*), friendship (*michu, wadaja*), forgiveness, restorative
ORS	*Gadaa; Jaarsummaa; Siinqee; Gumaa*	*Seera*	Peace; truth, reconciliation, forgiveness, solidarity, impartiality, honour, trustworthiness
TRS	*Erki Enderta; Abo Gareb*; EOTC (priests)	*Traditional law*	Truth, reconciliation, forgiveness, restorative

Customary Conflict Resolution Mechanisms and Transitional Justice: Opportunities

The prevalence of plural and yet shared values and institutions – across Ethiopia

Although the legitimacy of CCRMs – have been declining for different reasons in different parties of Ethiopia – it is still relevant and alive in all regional states this study investigated. The overwhelming majority of the local people still settle their disputes, from civil to criminal cases – through CCRMs. In AfRS, ARS, BGRS, ORS and TRS – the value of truth, reconciliation, reparative and restorative justice is widespread. This is a good opportunity to embrace restorative

justice system as a national treasure and utilize it to resolve on-going conflicts and grievances lingering from the past armed conflicts in the country.

CCRMs are truth-centric and advance a win-win solution, emphasis on the revelation of truth; establishing accountability in the form of remorse, apology; acknowledgement of what actually happened; use of compensation or forgiveness or a mixture of both; ritualized reconciliation of disputants; and restoration of justice or mending the broken ties thereby facilitating reintegration of disputants. They also exhibit restorative and inquisitorial features that advance cooperation and friendship.

Figure 4: Restorative and Retributive Values of CCRMs in Ethiopia

Regions	Revenge/reprisal (self-help)	Compensation; reparation	Forgiveness; reconciliation
ARS	Present	Present with flexibility	Present
AfRS	Discouraged (normative statement)	Present with flexibility	Present
BGRS	Discouraged (normative statement)	Present with flexibility	Present
ORS	Discouraged (normative statement)	Present with flexibility	Present
TRS	Discouraged (normative statement)	Present with flexibility	Present

The existence of legitimate elders who are capable to resolve local conflicts

Impartial, respected and trustworthy elders – who know the custom and aspirations of the people they serve –often play an indispensable role in providing justice to the victims. Local elders have experience, knowledge and skill – to freely serve their community, which earn them trust form the local community. Even under the current context where there are deep ethnic cleavages, there are elders known for standing with truth, and for their impartiality and trustworthiness across ethic-boundaries. Equally important are presence of women's institutions (e.g., *siiniqee*) and leaders of religious institutions for conflict resolution at different levels.

The decisions of the CCRMs – are restorative and often honoured

The decisions passed by the CCRMs are largely honoured both by parties to the conflict as well as the wider community. Failure by any of the parties to respect the decision of the CCRMs could have serious consequences ranging from denial of participation in associations indispensable for everyday life to ostracism.

Open and Participatory Nature of CCRM

CCRMs are fundamentally open, participatory and collaborative. Processing homicide cases follow the principle of collective responsibility for individual acts (Zelalem and Eshetu, 2020). This is particularly conspicuous in societies where clan structures are strong. Moreover, almost all Ethiopian CCRMs see crime not as a mere act of law breaking; rather as 'a problem that causes harm to the society, which requires that members of the society be involved in seeking a solution to the problem.' (Melton 2004:1 quoted in Abera, 2020: 332)

Bridging CCRMs to Transitional Justice Process: Challenges

Women often excluded from the CCRMs

Women don't constitute major actors in CCRMs of most of the cultures this study covered. Hence, utmost care has to be taken not to replicate the 'gentle men's club' in the restorative transitional justice process – in a manner that women's remain voiceless. Thus, if truth and reconciliation committee is established to deal with the TJ in Ethiopia, the inclusion of women and the investigation of sexual and other violence committed against them during violent conflicts needs serious attention. In this regard, there already are some spaces, and flexibility in most cultures to engage women in the process. For instance, in Amahra region, *yeselam committee* (lit. peace committee) as a form of reconstituted *shimgilinna* already involves youth and women in conflict resolution. The Oromo *sinqee/ateetee* is another conspicuous case of women's role in conflict resolution. Other women's institutions related to conflict resolution include *dubarti* in Wollo, Amhara region, and *subla* among Afar.

The state, indigenous leaders and local elders

The expectation of the local people towards the indigenous leaders and elders– is being eroded. Reports that some indigenous leaders are invited to hotels, and open for co-optation by the political elites is a source of concern for their legitimacy. This has the effect of widening the gap between indigenous leaders and the local people they are supposed to serve. For indigenous leaders to serve as bridges and 'peace brokers' – the state shall be cautious not to spoil the positive role of the CCRMs.

The declining respect for CCRMs among the youth

The modern education, religion, modernization and urbanization are contributing to the declining acceptance of CCRMs. Emerging individualism and growing interest in private gains at the expense of communal goals are marginalizing the role of CCRMs in restoring peace and justice to the local communities

Furthermore, generation gap and emerging structural conflict between the youth and elders are also challenging the effectiveness CCRMs. Young people, who are major actors in violent conflicts, are partly detached from customary values being influenced by religion, modern education and other aspects of modernization. Interview with key informants from Afar, Amhara, Oromia, Tigray and Benishangul Gumuz demonstrate that that the respect CCRMs (and elders) used to enjoy among their community has been declining among youth, and that young people don't occupy centre stage or constitute major actors in most of CCRMs.

CCRMs in urban settings

In urban setting where the dwellers speak diverse languages, cultures and follow diverse religions, it would be challenging to implement a monolithic CCRMs model of certain ethnic group. Hence, we suggest that the urban CCRMs – where the religious leaders, urban elders and *edir* association leaders – in each and every sub-cities embrace the principles of CCRM and practice the principle of restorative justice – in their respective areas.

Moreover, customary conflict reconciliation mechanisms employ the symbolic dimension which may not be applicable in cross-cultural settings and in the context of cultural and religious pluralism. That is, with multiplicity of actors, diversity of cultural and religious values, and complexity of conflicts such traditionally effective means of uncovering the truth and enforcing decisions as oath taking, swearing, blessing and curse may lack their potency (effectiveness) that they have in a relatively homogeneous cultural setting. Hence, many of the values, procedures, and institutions of CCRMs can be selectively employed to bring about peace and reconciliation at local level or particular cultural context.

CONCLUSION

For the TJ to contribute to sustainable peace, it needs to move beyond the retributive justice mechanism and emphasize more on community based conciliation, victim participation, reparation and restore the social harmony. In this process, CCRMs which are employed in the diverse cultures of Ethiopia, including the cross-cultural ones, could be approached for their relevance to TJ.

All the culture studied, and many other CCRMS in Ethiopia reviewed for the purpose of this study, have important restorative values of significance for TJ polices. Reconciliation and forgiveness are major preoccupation of CCRMs. However, reconciliation and forgiveness should be genuine and based on the revelation of truth to the satisfaction of the victims. In other words, reconciliation is not only a process but also an achievable goal – and hence TJ practitioners shall gear towards building trust between the conflicting parties and ultimately mend the broken relationship.

Again, all the case study cultures also have dimension of retributive justice where appropriate compensation and punishment are delivered particularly for offences breaching central values such as human life, human body and honour. Yet, most of the punitive decisions are implemented in such a way that they lead to restorative outcome. The decisions are corrective in the process and scale of punishment/compensation recommended. Therefore, the TJ policy should systematically combines retributive and restorative justice is in line with the working of many of CCRMs in Ethiopia.

Almost all CCRMs discussed in this report show significant level of flexibility or adaptation. The report identified, with a varying level of currency, inter-ethnic or inter-cultural mechanisms (or experiences) for the prevention and resolution of conflict and peaceful co-existence. Some of these institutions are established based on the values of justice on one hand, and humanity, solidarity and social harmony on the other. The existence of these institutions, regardless of their current status, could be an important recipe for managing conflicts at the interface of ethnic boundaries, and promoting collaboration and participation. This can be positively appropriated by a TJ policy.

The process of indigenous conflict resolution involves a high level of community participation. There is direct participation, dialogue and opportunity for understanding between conflicting parties and all the constituencies involved in the conflict resolution process. The settings of

CCRMs are open, participatory, and collaborative. Deliberations and consensus constitute central elements although the final decisions are pronounced by a certain individuals as per the norms of the culture.

Perhaps one of the most glaring difference between CCRMs (whether in the form of meditation or adjudication) and formal ones is the former's effort not to single out and fully blame one party to the conflict alone.[30] Such an aspect is what would be need to be integrated in the TJ policy since in the conflict of the scale and complexity Ethiopia has experienced, there could be possibilities where all parts share some blame, either discursive or active/action role in brewing or simmering, triggering, igniting, or escalating the conflict. This is apparent in CCRMs (e.g., Afar and Oromo) where even self-help or countering an offence one encounters is not encouraged. If someone insults you, don't return it; if someone tries to hit you, don't respond with violence…don't respond to violence with violence (verbal or physical), if you do, you will share the blame'.

However, some features of these institutions need to be cautiously approached and creatively approached. These institutions are all male dominated; they also are largely, though not exclusively, 'elders' dominated at least in their traditional sense. The participation and role of youth and women are low, except in few cases. Therefore, the involvement of women and youth needs to be proactively encouraged not simply as a matter of right but also since they are participants and victims of the conflict itself. Furthermore, the TJ processes – shall take victims on board. Especially, the inclusion of IDPs, women and children into the reconciliation process will make the TJ process meaningful and trustworthy. CCRMs oriented TJ insensitive to victims would further jeopardize already fragile social and political relations.

RECOMMENDATIONS

1. The government should empower the CCRMs to deal with conflict induced crimes and adjudicate in accordance with their respective customary laws and procedures. For the CCRMs to be legitimate and effective, the elders to be elected for such a purpose should: (a) pass the legitimacy and impartiality test of the community concerned; (b) their independence from external (e.g. state) influence ensured; (c) the participation of youth & women particularly in investigation of rape or sexual harassment for the sake of establishing accountability, granting forgiveness and reconciliation should be ensured; (d) The the mandate of the CCRM – shall be limited to reconciliation, reparation, stopping revenge killings, restore justice and ensuring social harmony and peace. For instance, the CCRM – can bring the offenders, victims, families of the offenders and victims and the clan – and restore the local peace and harmony.

2. Given the scale and complexity of recent conflicts in different parts of Ethiopia, CCRMs may need some capacity building such as trainings. The non-governmental organizations led trainings should be organized and test their performances.

3. Heinous crimes committed in the context of communal conflict should be investigated and tried by state courts. However, the outcome of such trials should be closely coordinated with CCRMs in the interest of avoiding double jeopardy, which has always been the case (e.g. homicide cases) in Ethiopia. Any offender who is being tried at the court of law shall go through the CCRM process, and its outcome may be cited as a ground for plea bargain and in effect the court may significantly reduce the penalty (in honour of the CCRMs and as a means of ensuring sustainable peace). Nevertheless, there needs to be a directive that warrants this proposal.

4. Promote cross-cultural CCRMs, which are in a better shape dealing with conflicts (e.g., *Gurracha, Abo gereb*), or support communities to establish new CCRMs – across ethnic boundaries to deal with the consequences of conflicts they have experienced. In this regard, some communities reported having experience of dealing with the aftermath of inter-ethnic conflicts by establishing a committee or council of elders representing the concerned groups.

5. The CCRMs shall have leaders (at least three heads – one chairperson and two vices where one of them should be woman; three religious representatives (each representing the Christian, Islam and Indigenous religions); and one literate who can keep the records, plans and reports the performance to concerned bodies.

6. The answerability of the would-be established CCRMs – shall be to the respective regional justice bureaus, and zonal justice offices; and the federal CCRMs representatives shall be answerable to the FDRE ministry of justice. In other words, there needs to be an overarching system where the performance of CCRM at both federal and regional level. In this regard, the House of Peoples Representatives may enact a framework proclamation setting a minimum standard for the establishment of CCRM across Ethiopia; and the Council of Ministers regulation, and followed by a directive from the FDRE Ministry of Justice – which further detail the role of CCRM secretaries and their incentives, plea bargain, and the behaviour of the traditional judges.

REFERENCES

Aberra Degefa, *When parallel justice systems lack mutual recognition Negative impacts on the resolution of criminal cases among the Borana Oromo* In: Epple, S., & Assefa, G. (Eds.). (2020). *Legal Pluralism in Ethiopia: Actors, Challenges and Solutions* (Culture and Social Practice). Bielefeld: transcript Verlag, 2020, https://doi.org/10.14361/9783839450215

Abdulfetah Abdela, *Mada'a: Afar People's Customary Law. Ethiopian Justice Systems Center and Culture and Turism Office of the Afar National Regional State,* (2018 (in Amharic)

Agrawal, Arun, Dismantling the divide between indigenous and scientific knowledge," in: *Development and Change*, 1995, 26, pp. 413-439.

Ajayi, A.T, & Buhari L.O., Methods of Conflict Resolution in African Traditional Society. *African Research Review*, 8(2), Serian 2014, 33, 138-157,

Alemie A. & Mandefro H. Roles of Indigenous Conflict Resolution Mechanisms for Maintaining Social Solidarity and Strengthening Communities in Alefa District, North West of Ethiopia. *Journal of Indigenous Social Development*, 2018, 7: 2, 1-121.

Annie R. Bird, *US Foreign Policy on Transitional Justice*, 2015, Oxford University Press: New York.

Areba A. and Berhanu A. Customary Dispute Resolution Institutions in Oromia Region: The Case of Jaarsa Biyyaa. In Pankhurst and Getachew (eds.) Grass Roots Justice in Ethiopia. 2008, Pp. 169-184. Addis Ababa: French Centre of Ethiopian Studies.

Arthur, Paige, Identities in Transition Challenges for transitional justice in divided societies, PAIGE ARTHUR (ed.), *International Center for Transitional Justice, 2011, Newyork:* Cambridge University Press.

Asmarom Legesse Oromo Democracy. An Indigenous African Plitical System. Trenton, 2006, NJ: Red Sea Press.

AUTJP, Transitional Justice Policy, Adopted February 2019 see: https://au.int/sites/default/files/documents/36541-doc-au_tj_policy_eng_web.pdf

Baines, Erin, *Spirits and Social Reconstruction after Mass Violence: Rethinking Transitional Justice*, 109 African Affairs, 2010, 209-430.

Bassi, M. Decisions in the Shade: Political and Juridical Processes among the Oromo-Borana, by Marco Bassi, Translated by Cynthia Salvadori:Red Sea Press, 2005.

Bayisa Besie and Lemessa Demie, Customary Dispute Resolution in Beni-Shangul Gumuz with Emphasis on Shinasha Society, 2012, 123-131.

Bentley, K.A., Are Powers of Traditional Leaders in South Africa Compatible with Women's Equal Rights? Three Conceptual Arguments. In: Human Rights Review, 2005, 48-68.

Burgess, Patrick, A new approach to restorative justice – East Timor's Community Reconciliation Processes In: Transitional Justice in XXI Century, (ed) Naomi Roht-Arriaza and Javier Mariezcurrena, 2006. Cambridge University Press: Edinburgh. 2006, 177

Chandler, David, The uncritical critique of liberal peace, *Review of International Studies* 36: 1, 2010: 137-155.

Chiba, M. Other Phases of Legal Pluralism In The Contemporary World. *Ratio Juris,* 228, 1998, 11.

Chirayath, Leila and et. al., Customary law and Policy Reform: Engaging with the plurality of Justice Systems, a background paper for the World Development Report 2006: Equity and Development, 2005.

Cohen, Bruce J. & Orbuch, Terri L.. *Introduction to Sociology.* New York: McGraw-Hill Publishing Company, 1990.

Collier, Paul et al., *Breaking the Conflict Trap: Civil War and Development Policy.* New York: Oxford University Press and World Bank, 2003.

Cravo, Teresa Almeida, peacebuilding: Assumptions, Practices and Critiques,"JANUS.NET e-journal of International Relations, (8): 1, 2017.

Dasta Alamayo, Safuu: The indigenous Oromo moral thought Vol.9(1), *Journal of Philosophy and Culture,9*: 1, 2021, 1-10, DOI: 10.5897/JPC2019.0046.

Dejene Gemechu, Some Aspects of Conflict and Conflict Resolution among Waliso Oromo of Eastern Macha, With Particular Emphasis on the Guma. Addis Ababa: United Printers Plc., 2007

Desalegn Alemu, Use and abuse of 'the right to consent' Forum shopping between *shimgilinna* and state courts among the Amhara of Ankober, northcentral Ethiopia In: Epple, S., & Assefa, G. (Eds.). (2020). *Legal Pluralism in Ethiopia: Actors, Challenges and Solutions* (Culture and Social Practice). Bielefeld: transcript Verlag. https://doi.org/10.14361/9783839450215

Gade, Christian B. N., A Discourse on African Philosophy A New Perspective on Ubuntu and Transitional Justice in South Africa, Londonn: Lexington Books, 2017.

Gahima, Gerald, Transitional Justice in Rwanda Accountability for Atrocity, Routledge: Taylor & Francis group: Condon and New York, 2013.

Galtung, J., Conflict Transformation by Peaceful Means (The Transcend Method). New York, 2000.

Galtung, Johan, "Cultural Violence", *Journal of Peace Research*, 27:3, 1990, 291-305.

Gauri, Varun, "How do local-level legal institutions promote development? An exploratory essay," 2009, Justice and Development Paper Series, Legal vice Presidency; The World Bank.

Gebre Yntiso, Understanding customary law is the context of legal pluralism, In: Legal Pluralism in Ethiopia Actors, Challenges and Solutions, 2020.

Getachew T. and Shimelis H.. Customary Dispute Resolution in Afar Society. In Pankhurst and Getachew (eds). Grass Roots Justice in Ethiopia. Addis Ababa: French Centre of Ethiopian Studies, 2008, 93-106.

Girma Belachew, Changes and Continuities in Informal Justice and Conflict Resolution Mechanisms: The Case of Bahir Dar City and Its surrounding Communities. PhD dissertation, Department of Social Anthropology, Addis Ababa University, 2020.

Guembe, Maria Jose and Olea, Helena (2006) No justice, no peace: Discussion of a legal framework regarding the demobilization of non-state armed groups in Colombia In: Transitional Justice in XXI Century, (ed) Naomi Roht-Arriaza and Javier Mariezcurrena, Cambridge University Press: Edinburgh, 2006.

Hassen, Uthman, The role of abegar (divine father) in conflict resolution: The case of north Wollo Zone, in: Tarekegn Adebo and Hannah Tsadik (eds.) *Making peace in Ethiopia: Five cases of traditional mechanisms for conflict resolution*, 78–100. Addis Ababa: Peace and Development Committee, 2008.

Jakobsson, E., Transitional Justice: An Analysis of Restorative and Retributive Mechanisms in Sub-Saharan Africa. Bachelor Thesis in Peace and Development Studies, 2018.

Jorstad, Krista (n.d) Transitional Justice: Customary African Practices, Colombia University Law School.

Kahan, Dan M., *Social Influence, Social Meaning, and Deterrence*, 83 *VA. L. REV*. 1997, 349.

Karbo, Tony, Peace-building in Africa In: David J. Francis (editor) Peace and Conflict in Africa, Zed Books: London and New York, 2008.

Karen, Christensen and Levinson, David,: *Encyclopaedia of Community: From the Village to the Virtual World*, Sage Publications, Vol 1 (A-D),. 2003: 224-228

Kaufman, Zachary D.,United States Law and Policy on Transitional Justice Principles, Politics, and Pragmatics Oxford University Press: New York, 2015.

Kidane Mengisteab, African Traditional Institutions of Governance: The Case of Eritrea's Village Baito. in: Olufemi Vaughan, (ed.) in: Indigenous Political Structures and Governance in Africa. Ibadan: Sefer: 2003, 208-223.

Kariuki, F., Conflict Resolution by Elders in Africa: Successes, Challenges and Opportunities. A Paper Delivered at the Chartered Institute of Arbitrators Centenary Conference 'Learning from Africa' on 15th July 2015 at the Victoria Falls Convention Centre, Livingstone, Zambia.

Kymlicka, Will, Transitional Justice, Federalism, and the Accommodation of Minority Nationalism In: PAIGE ARTHUR (ed.), *International Center for Transitional Justice, Newyork:* Cambridge University Press, 2011.

Lawther, Cheryl and Moffett, Luke, Introduction In: Cheryl Lawther, Luke Moffett and Dov Jacobs (eds.) Research Handbook on Transitional Justice; Massachusetts: Edward Elgar Publishing, 2017

Lederach, J. P., *The Little Book of Conflict Transformation.* Intercourse, PA: Good Books. 2003.

Lederach, John Paul and Angela Jill Lederach (2010) When Blood and Bones Cry Out: Journeys Through the Soundscape of Healing and Reconciliation, St. Lucia: University of Queensland Press.

Lenin Kuto, Ayehu Bacha and GemechuTaye(2018). Gurraacha: An Indigenous Inter-Ethnic Peace Building and Conflict Resolution Institution among the People of South Central Ethiopia. *Journal of Ethnologia Actualis*, 18(2), 78-98. DOI: 10.2478/eas-2019-0004

Longman, Timothy, Justice at the grassroots? Gacaca trials in Rwanda In: Transitional Justice in XXI Century, (ed) Naomi Roht-Arriaza and Javier Mariezcurrena, 2006. Cambridge University Press: Edinburgh, 2006.

Lutz, Ellen, Transitional justice: Lessons learned and the road ahead, In: In: Transitional Justice in XXI Century, (ed) Naomi Roht-Arriaza and Javier Mariezcurrena, 2006. Cambridge University Press: Edinburgh, 2006.

Mamo Hebo. 'Giving is saving': The Essence of Reciprocity as Informal Social Protection System among the Arsi Oromo, Southern Ethiopia. In Devereux, S. and M. Getu (eds*), Informal and Formal Social Protection Systems in Sub-Saharan Africa,* Kampala: Fountain Publishers, 2013a, pp.9-42.

Mamo Hebo, The Role of Elders in Conflict Resolution: the Case of Arsi Oromo with Special Reference to Dodolla District and its Environments, In Tarekegn Adebo and Hannah Tsadik (eds), *Making Peace in Ethiopia: Five Cases of Traditional Mechanisms for Conflict Resolution*, 2008, pp. 48-77.

Mamo Hebo. Mamo Hebo. 2006. *Land, Local Custom and State Policies: The Study of Land Tenure, Land Dispute, and Disputes Settlement among the Arsii Oromo of Southern Ethiopia*, +xiv, Kyoto: Shoukadou Ltd., 2006, 187p.

Mayerl, Clara, The Ambiguous Influence of Social Capital in Securing Sustainable Peace in Post-conflict Societies *Insights from Rwanda and Burundi.* A thesis submitted for the Degree of MSc Conflict Resolution. University of Essex, 2017.

Melaku A. and Wubishet S. Customary Dispute Resolution in Amhara Region: The Case of Wofa Legesse in North Shewa. In Pankhurst A. and Getachew A.(eds.) *Grass Roots Justice in Ethiopia.* Addis Ababa: French Centre of Ethiopian Studies, 2008, Pp. 107-121.

Meron Zeleke () "*Ye shakoch chilot* (the court of the sheikhs): A traditional institution of conflict resolution in Oromiya zone of Amhara Regional State, Ethiopia", *African Journal on Conflict Resolution,* 10: 1, 2010, 63−84.

Moore, S.F., Law and Social Change: The Semi-Autonomous So-cial Field as An Appropriate Subject of Study, in *Law & Society Re-view,* 7 at 1973, 54-56.

Murithi, Tim, African indigenous and endogenous approaches to peace and conflict resolution, In: David J. Francis (editor)Peace and Conflict in Africa, Zed Books: London and New York, 2008.

Murphy, Colleen, The Conceptual Foundations of Transitional Justice, New York: Cambridge University Press, 2017.

Ojha, Abhiruchi, Peacebuilding in contemporary Africa: in search of alternative strategies, Africa Review, 12:2, 2020215-218.

Omeje, Kenneth, Peacebuilding in contemporary Africa: in search of alternative strategies, Routledge: New York, 2019.

Sarkin, Jeremy and Daly, Erin, Too many questions, too few answers: reconciliation in transitional societies, 35 COLUM. HUM. RTS. L. REV. 2003-2004, 661, 712

Schabas, William A. The Sierra Leone Truth and Reconciliation Commission In: Transitional Justice in XXI Century, (ed) Naomi Roht-Arriaza and Javier Mariezcurrena, 2006. Cambridge University Press: Edinburgh, 2006.

Tamanaha, Brian Z. Law, *Oxford International Encyclopedia of Legal History,* 2008*,* p. 397

Tamanaha, Brian Z. Understanding Legal Pluralism: Past to Present, Local to Global Legal Studies Research Paper Sereis, *Sydney Law Review, 29,* 2007, 375

Teitel, Ruti, Globalizing Transitional Justice: Contemporary Essays. New York: Oxford University Press, 2014.

Teitel, Ruti (2000) Transitional Justice. New York: Oxford University Press,

Tenna Dawo (): The Concept of Peace in the Oromo Gadaa System: Its Mechanism and Moral Dimension. African Philosophy in Ethiopia, Ethiopian Philosophical Studies II, 15:2, 2013, 159-184.

Tsega, Etefa (2012): Integration and Peace in East Africa: A History of the Oromo Nation. New York: Palgrave Macmillan.

UNESCO, Peace Education in Africa from a Cultural Perspective: Cases Studies from Kenya, Djibouti, Ethiopia and Somalia. A Study Undertaken for UNESCO by UPEACE AFRICA PROGRAMME, Addis Ababa, Ethiopia, 2013.

U.N. Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* U.N. Doc. S/2004/616 (August 23, 2004).

Warren, D. M.. Linking Scientific and Indigenous Agricultural Systems. In: J. Lin Compton (ed.), The Transformation of International Agricultural Research and Development, Boulder, CO: Lynne Rienner, 1989, 1.

Watson, E., "Examining the Potential of Indigenous Institutions for Development: A perspective from Borana, Ethiopia," *Development and Change*, 34:2, 2003, pp. 287-309.

Williams, Paul Learning Lessons from Peace Operations in Africa. In: Terence McNamee and Monde Muyangwa (eds.), *The State of Peacebuilding in Africa Lessons Learned for Policymakers and Practitioners*, Palgrave Macmillan: Gewerbestrasse, Switzerland, 2021.

Wiredu, Kwasi, Social Philosophy in Postcolonial Africa: Some Preliminaries Concerning Communalism and Communitarianism, *South African Journal of Philosophy* 27:4, 2008, 332.

Wodisha Habte *Alemaburi Yeberta Behereseb Bahilawi Gichit Afetat Serat*, In: Customary Dispute Resolution Mechanism in Ethiopia, Gebre Yntiso, Fekade Azeze and Asefa Fiseha (eds.), 2012, Vol. 2

Woodman, Gordon R. Ideological Combat and Social Observation: Recent Debate About Legal Pluralism. 42Journal of Legal Pluralism 21, 1998.

Yannis, Alexandros "State Collapse and its Implications for Peace-Building and Reconstruction", *Development and Change*, vol.33(5), 2002, pp.817-835.

Zelalem T. and Eshetu Y. Blood Feud in North Shäwa: Exploring the Contradiction between the Customary and State Criminal Justice System in Ethiopia, *Haramaya Law Review*, 2020, 9.

Zelalem T. Sirna, Ethiopia: When Gadaa Rules in a Federal State, Bridging Indigenous Institutions of Governance to Modern Democracy, MPhil Thesis, University of Tromso, Norway, 2012.

NOTES

[11] Endogenous knowledge systems are "local knowledge that is unique to a given culture or society. It is the basis of local level decision-making in agriculture, health care, passed down from generation to generation by words of mouth" (Warren, 1989: 1).

[2] See: Ethiopia – The World Factbook (https://www.cia.gov/the-world-factbook/countries/ethiopia/, Accessed in August, 2023)

[3] There are six TJ options: 'amnesty, lustration, exile, lethal force, prosecution, and indefinite detention' (Kaufman, 2015: 27). Amnesty refers to "a mechanism whereby an authorized entity grants a pardon for alleged past offenses, thus restoring any previously curtailed rights and privileges or preserving those that might have otherwise been restricted" (Kaufman, 2015: 27). *Lustration* or "*épuration*" is a process of "purging from the public sector those who served the repressive regime" (Kaufman, 2015: 29). The third option is *prosecution* – which often regarded as the viable mechanism to promote rule of law, accountability and ultimately helps to deter future atrocities.

[4] *Distributive transitional justice* attempts to answer how should a society deal with an unjust distribution of goods such as land, and "reduce some of the consequences of a historically unjust distributive framework" (Murphy, 2017: 108).

[5] "Divided along existing administrative boundaries, each community elected judges (*inyangamugayo*) to the lowest cell-level, amounting to 255,000 individuals, who then received limited training. These judges needed no formal legalbackground, assuming instead that justice could be "based on the wisdom of basic principles of social justice (Jorstad, 2014: n.d: 23-24

[6] The 1993 Constitution of South Africa, Epilogue.

[7] For example, Hume writes: I am apt to suspect the negroes, and in general all the other species of men (for there are four or five different kinds) to be naturally inferior to the whites. There never was a civilized nation of any other complexion than white, nor even any individual eminent either in action or speculation. No ingenious manufactures amongst them, no arts, no science. On the other hand, the most rude and barbarous of the whites, such as the ancient Germans, the present Tartars, have still something eminent about them, in their valor, form of government, or some other particular (Hume, 1758 quoted in Gade, 2017: 80).

[8] Key informant interviews with Abdu Ali August 2023 (Logiaya); Mahamd Yayu, August 2023 (Semera)

[9] Abdu, Mahamd (KII)

[10] Abdu Ali, KI,

[11] Constructured based on literature (Abdulfetah, 2010 E.C; Getachew and Shimelis 2008 and KIIs)

[12] Abdulefeta, 2010 E.C

[13] Abdulfetah (2010 EC:106-107)

[14] Sadi Abdela, KI

[15] Abdu Ali, KII; Mahamad Yayu, KII

[16] Sadiq, Abdu Ali, Mahamad Yayu (KII), 2023

[17] Abdu Ali, Mahamad Yayu, Sadi Abdala (KII), 2023

[18] Abdu Ali, KII

[19] Informant form the Culture and Tourism Bureau, Semera

[20] Abdu Ali, KII

[21] Mahamad Yau, KI

[22] A male informant, 47 years old, Amhara, interviewed in Addis Ababa, Sep. 14, 2023

[23] A male informant from Dambia, Amhara, interview in Addis Ababa

[24] Telephone interview with a University instructor, July 25, 2023

[25] Interview with Interview with Abdulkadir Ahimed, 2023

[26] Lenin, KII 2003

---

[27] *Safuu* is a moral code – which stems from natural law; only *Waaqa* gives safuu and man only finds out about *sufuu* and abides by it (Dasta, 2021). *Safuu* is the basis of man-made laws, and the latter cannot prevail over the former. *Safuu* is respecting cosmic and social structure, living only according to one's own *ayyaana*, letting others live according to theirs, and keeping the distance between oneself and the others (Dasta, 2021). As God is everywhere, *safuu* is also everywhere – breach of *safuu* is breach of God's order.

[28] Lenin & Asnake, KII, 2023

[29] Oromia Supreme Court 2023 Annual Performance Report (un official).

[30] Although it is well known that one party is at fault, there is a deliberate effort to let the disputant share the blame about what happened. Compromise, win-win, and reciprocity are the essence of CCRMs. Ajayi and Buhari rightly argue that '…the restoration of peace and harmony was always anchored on the principle of give a little, and get a little. This idea buttresses the idea of the disputing parties to give concessions." (2014:150).