



Research Article

The Role of Customary Courts in Conflict Resolution Mechanisms: A Case Study of Adama City, Lugo Sub-City Administration, Ethiopia

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Abstract

This study assesses the role of customary courts in conflict resolution mechanisms in Adama City, specifically within the Lugo sub-city administration. It highlights the resurgence of legal pluralism in Ethiopia following the establishment of the Federal Democratic Republic, which allows for the coexistence of formal and customary legal systems. Utilizing qualitative research methods, including semi-structured interviews and non-participant observation, the study explores the effectiveness, accessibility, and cultural significance of customary courts. The findings reveal that customary courts provide a community-based approach to conflict resolution, employing mediation, dialogue, and the restoration of social harmony rather than punitive measures. Key advantages of customary courts include affordability, swift conflict resolution times, and the promotion of community participation, which revitalizes Oromo cultural practices of conflict resolution. Additionally, the research underscores the vital role of women in the conflict resolution process, both as mediators and participants, exemplified by the Siinqee institution. Despite their effectiveness, customary courts face challenges, including limited resources, inadequate support from formal legal institutions, and subjective decision-making. The thesis concludes with recommendations for enhancing the operational capacity of customary courts and fostering their integration with formal judicial systems to improve access to justice for all community members.

Keywords

Customary Court, Conflict Resolution, Legal Pluralism, Gada System, Oromo, Ethiopia

1. Introduction

Conflict is an inevitable phenomenon in human society, arising from incompatible goals or values between parties. While conflict can be constructive, fostering improved relationships, it can also be destructive, hindering organizational and social goals [1, 2]. Long before colonization, African communities possessed indigenous conflict resolution mechanisms rooted in cultural values of peace, tolerance, solidarity,

and respect. These traditional systems employed negotiation, reconciliation, and mediation, and were effective in addressing socio-political and economic conflicts [3].

In Ethiopia, various ethnic groups have long-standing indigenous mechanisms for resolving conflicts based on social traditions, norms, and beliefs. Prominent examples include the Gada system among the Oromo, Yajoka among the Gurage,

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and Shimglina among the Amhara. The 1995 Constitution of the Federal Democratic Republic of Ethiopia (FDRE) provided a legal and constitutional basis for these institutions, recognizing the jurisdiction of customary and religious laws and courts in family and personal matters, with the consent of the disputing parties (Article 34(5) and Article 78(5)) [4].

Following the adoption of the FDRE Constitution, Ethiopia experienced a resurgence of legal pluralism, allowing for the coexistence of formal and customary legal systems. The Oromia regional government pioneered the formal establishment and recognition of customary courts in 2021 through Proclamation No. 240/2021, authorizing them to deal with civil matters, petty offences, and crimes upon complaint, in accordance with local customary laws [5].

Adama City, the second capital of Oromia regional state, is located 99 km southeast of Addis Ababa and has a population of 875,148. It comprises six sub-city administrations, including Lugo sub-city, which has three woredas (Barecha, Dire Nagaya, and Migira) with three first-instance customary courts and one appellate customary court. This study focuses on assessing the role of customary courts in conflict resolution within the Lugo sub-city administration.

2. Literature Review

This study is grounded in three theoretical perspectives that collectively illuminate the role of customary courts in conflict resolution: Emile Durkheim's theory of social solidarity, restorative justice theory, and the Gada system. To begin with, Durkheim [6] distinguished between mechanical solidarity, which is characteristic of traditional societies based on shared values and likeness, and organic solidarity, which is characteristic of modern societies based on interdependence arising from specialization of work. In light of this distinction, customary courts in Oromo society reflect mechanical solidarity, as they are deeply rooted in shared cultural values and community cohesion. Furthermore, restorative justice emphasizes repairing the harm caused by criminal behavior through cooperative processes involving all stakeholders. Rather than focusing on punishment, it prioritizes healing, reparation, and reintegration [7]. Consequently, customary courts in Oromia embody restorative justice principles by promoting reconciliation and social harmony. In addition, the Gada system is an indigenous socio-political and cultural system of the Oromo people, inscribed as UNESCO intangible cultural heritage in 2016. It encompasses an egalitarian governance structure with

executive, legislative, judicial, and religious bodies. Moreover, the Gada justice system favors restorative justice, where offenders remain part of the community, and conflicts are resolved through reconciliation ceremonies like Jaarsummaa for civil cases and Gumaa for criminal cases [8, 9].

Empirical studies have increasingly highlighted the effectiveness of customary courts in conflict resolution, particularly in communities where they reflect local traditions and values. Research indicates that customary courts often provide faster and more culturally appropriate resolutions compared to formal judicial systems [10]. In rural Ethiopian settings, for instance, customary courts have been shown to resolve disputes through mediation and dialogue, thereby fostering social cohesion and community participation [11]. Furthermore, the resurgence of legal pluralism in Ethiopia after the 1995 Constitution has allowed for the coexistence of formal and customary legal systems. As a result, this duality has enabled ethnic groups to maintain their indigenous conflict resolution mechanisms, which are often more accessible and affordable for local populations [12]. Consequently, this has led to greater satisfaction among community members as they engage with a system that respects their cultural context [13].

Beyond these structural and legal dimensions, the involvement of women in customary courts has been documented as crucial for effective conflict resolution. Women often serve as mediators and advocates, leveraging their unique perspectives to promote reconciliation [14]. The Siinqee institution among the Oromo women exemplifies this involvement, as it empowers women to influence decision-making processes and uphold community values [15]. However, despite these advantages, customary courts face significant challenges. These include limited resources, subjective decision-making, and inadequate support from formal legal institutions [9, 16]. Moreover, the unwritten nature of customary laws can lead to inconsistencies in rulings, which in turn undermines the perceived legitimacy of these courts.

3. Conceptual Framework

The conceptual framework for this study illustrates the relationship between the role of customary courts in conflict resolution and various factors, including the types of conflicts resolved, the relationship between customary and formal courts, community participation, women's roles, and the challenges faced by customary courts.

CONCEPTUAL FRAMEWORK: ROLE OF CUSTOMARY COURTS IN CONFLICT RESOLUTION

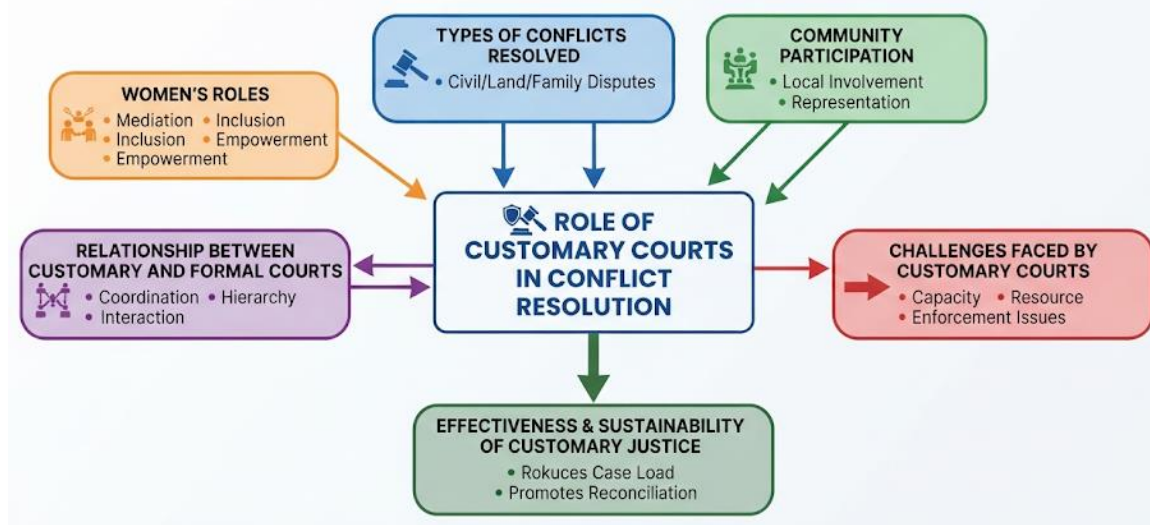


Figure 1. Conceptual Framework.

4. Methods of the Study

Adama City is the second capital of Oromia regional state, established in 1924, and located 99 km southeast of Addis Ababa. It covers an area of 54,301.15 hectares, with a total population of 875,148, at an altitude of 1712 meters above sea level. The city has six sub-city administrations with nineteen Woreda. This study was conducted in Lugo sub-city administration, which has three Wreda: Barecha, Dire Nagaya, and Migira, each with a first-instance customary court, and one appellate customary court at the sub-city level.

4.1. Research Design and Approach

The study employed a pure qualitative research design. Semi-structured interviews with key informants and non-participant observation were used as primary data collection tools, while written documents, books, and internet sources served as secondary data. The method of the study was descriptive.

4.2. Types and Sources of Data

Both primary and secondary sources of data were used. Primary data was collected from the office of the customary court, while secondary data was collected from books, journals, internet links, and other documents.

4.3. Sampling Techniques and Sample Size

The researcher used purposive sampling techniques from non-probability sampling to obtain deep information from those deemed to have sufficient knowledge of the area under study. The study population included customary court elders

(Abbaa Gadaas), disputants who had used indigenous conflict resolution systems, members of the Adama City Cultural and Tourism Bureau, community elders, and members of the formal court judiciary. A total of 12 key informants were interviewed.

4.4. Methods of Data Collection

Semi-structured interviews with open-ended questions were conducted to gather information related to the causes of conflict, types of conflicts dealt with by customary courts, the role played by customary courts, and the challenges and experiences they faced. Non-participant observation of customary court proceedings was also conducted.

4.5. Data Analysis Technique

Data collected through interviews and observation were analyzed using descriptive analysis.

5. Results

5.1. The Types of Conflicts Most Commonly Addressed by Customary Courts

The customary courts in the study area address a diverse range of conflicts based on local customs and traditions, including family and civil matters, petty offences, and crimes upon complaint, as authorized by Proclamation No. 240/2021, Article 8 [5]. To begin with, common sources of disputes include land disputes, family cases, debt repayment, and renting house issues. These categories of conflict reflect the everyday

concerns of community members and demonstrate the courts' responsiveness to local needs. Furthermore, it is noteworthy that the courts refrain from granting divorce jurisdiction, as it is contrary to Oromo culture. This restriction highlights the cultural boundaries within which customary courts operate and underscores the importance of preserving traditional values. In addition, the courts employ oath-taking rituals involving symbolic objects such as bones, seeds, swords, bullets, knives, ash, chains, water, and food to influence disputants and witnesses to speak the truth. Each of these objects carries deep cultural significance, and their use in oath-taking serves to invoke spiritual and moral consequences for dishonesty, thereby enhancing the truth-seeking function of the courts.

5.2. Factors Contributing to the Effectiveness of Customary Courts

The effectiveness of customary courts in conflict resolution can be attributed to a combination of interrelated factors that collectively distinguish them from formal judicial systems. To begin with, customary courts operate at a very local level through community mediators and decision-makers. Consequently, they are conducted in the local language and involve oral proceedings, which stands in contrast to the more formal procedures of conventional courts. As a result, this localized approach significantly reduces travel and associated costs for disputants, thereby making justice more accessible to community members. Furthermore, customary courts are led by elders who speak the local language and are entrusted with the consent of the parties involved. In addition to this, they provide speedy services free of charge and follow a win-win conflict resolution approach. This approach, moreover, emphasizes mutual satisfaction and the restoration of social harmony, which distinguishes it from the adversarial nature of formal litigation. Thus, the involvement of trusted community figures enhances the legitimacy and acceptance of court decisions.

Another noteworthy factor is that customary courts prioritize time efficiency. Typically, they provide reconciliation judgments within two to three weeks from the initial hearing to the final decision. To expedite their decisions, they often enlist local community elders to mediate cases within their neighborhoods. Consequently, this results in reconciliation agreements that are acceptable to all parties involved, thereby preventing prolonged disputes and fostering community cohesion. Finally, the financial accessibility of customary courts constitutes a significant factor in their effectiveness. They do not charge formal filing fees and often operate on community-based financial models. Moreover, they avoid attorney fees, transportation fees, and other administrative expenses that typically burden litigants in formal courts. An estimated cost analysis revealed that the average cost per case in formal court is 40,000 ETB, while customary courts resolved 264 cases at a total estimated cost of 10,960,000 ETB. Therefore, this demonstrates significant cost savings and underscores the eco-

nomic advantage of customary courts as an accessible alternative for individuals seeking justice.

5.3. The Comparison of Customary Courts and Formal Courts

When comparing customary courts and formal courts, several distinguishing features emerge. To begin with, customary courts encourage community involvement in decision-making based on local customs, fostering a sense of ownership and resonance with the community. In contrast, formal courts may impose laws that lack cultural relevance, resulting in disputes over compliance. Furthermore, customary courts are more efficient, resolving cases within days and at minimal cost, unlike formal courts, which often take a long time due to procedural complexities. This efficiency is particularly significant for disputants who cannot afford the time and expense associated with prolonged litigation. Additionally, customary courts employ a win-win approach, while formal courts may result in one party winning at the expense of the other. This adversarial nature of formal litigation can damage relationships and exacerbate conflicts, whereas customary courts prioritize the restoration of social harmony. Finally, customary courts prioritize thorough investigation of facts, utilizing testimonial tools and stressing the consequences of concealing the truth. This holistic approach not only fosters transparency but also reinforces community values, making customary courts an effective alternative for conflict resolution.

5.4. The Role of Women in Conflict Resolution

Women play a significant and multifaceted role in conflict resolution within customary courts, as indicated by Oromia region customary courts proclamation No. 240/2021, Article 10, Sub-article 3, which requires at least one female elder in the customary court [5]. To begin with, women have well-established functions in decision-making, conflict resolution, and peace-building, embedded in the egalitarian Oromo Gada system through the Siinqee institution. The Siinqee institution maintains safuu (ethical and moral code) in Oromo society, enabling women to have control over resources, social status, and respect. Furthermore, women have special skills in settling conflicts by convincing their husbands, sons, brothers, and fathers to stop fighting and settle cases through peaceful negotiation. This influence within the family and community structures positions women as key agents of peace and reconciliation. In addition, the Siinqee stick, held during Irreecha (thanksgiving), conflict resolution, Ateete, ritual, adoption ceremonies, and social and natural problems by only married Oromo women, deserves special respect in Tulama Oromo. Unlike regular sticks, it is not used to keep cattle, and no one could cross women holding Siinqee. This symbolic power underscores the unique authority of women in peace-making processes.

5.5. The Relationship Between Customary Courts and Formal Courts

There exists a supportive relationship between customary courts and formal courts, reflecting the principles of legal pluralism. To begin with, formal courts provide essential support to customary courts, including technical assistance, financial resources, office facilities, training, and administrative guidance. This support enhances the operational capacity of customary courts and ensures that they function effectively within the broader legal framework. Furthermore, customary courts play a vital role in alleviating the caseloads of formal courts by addressing disputes at the grassroots level. This local engagement allows for the integration of traditional practices and cultural experiences, particularly those of the Tulama Oromo community. In addition, the Lugo sub-city woreda court supports customary courts by assigning secretaries and experts, facilitating training sessions, monitoring and reporting on activities, collecting and administering 'Gumaata' donations, and managing finances. This multifaceted support exemplifies the importance of legal pluralism, fostering a collaborative environment where both customary and formal systems can operate harmoniously, enhancing access to justice and reflecting the community's cultural values.

5.6. The Challenges Faced by Customary Courts in Administering Justice

Despite their numerous strengths and contributions to conflict resolution, customary courts encounter a range of significant challenges that hinder their effectiveness and long-term sustainability. To begin with, customary courts often suffer from a lack of adequate budget, which in turn hinders their ability to employ necessary staff, train elders, furnish office facilities, and pay for transport and allowances for the elders. Consequently, this financial constraint limits their operational capacity and undermines the quality of services they provide to the community. Furthermore, the unwritten nature of customary laws presents another formidable challenge. Since these laws are not codified, they can lead to inconsistencies in rulings across different cases and localities. As a result, such inconsistencies may undermine the perceived legitimacy of these courts, thereby reducing public confidence in their decisions and authority.

In addition to these internal challenges, customary courts also face limited recognition and support from formal legal institutions. This lack of institutional backing can significantly undermine their effectiveness, as it restricts their access to resources, training, and legal guidance. Moreover, the absence of formal integration with the state judicial system may create jurisdictional conflicts and confusion among disputants regarding the appropriate forum for their cases. Finally, the requirement of consent from disputing parties can further limit the jurisdiction of customary courts. While this requirement ensures voluntariness and respects the autonomy of the parties

involved, it can also deter individuals from seeking resolution through customary courts, particularly when one party refuses to consent. Consequently, this limitation may restrict the reach of customary courts and prevent them from addressing certain disputes that could otherwise benefit from their community-based approach.

5.7. Analysis of Non-Participant Observation

The researcher observed the working procedures of customary courts, noting that the secretary receives cases orally or in writing and sets a hearing date. To begin with, the elders ask disputing parties for their consent to have their case adjudicated. Upon receiving consent, the elders orient the disputants to speak the truth, referring to the Oromo proverb, "dhugaan ilmo waaqati" (truth is the son of God). Furthermore, the elders provide an opportunity for disputants to explain their perspectives and work towards an agreement, allowing them to call close relatives to take an oath. In addition, the elders inform family members that if the disputant is not truthful, the curse of God will affect them for up to seven generations. This spiritual dimension of oath-taking serves as a powerful deterrent against dishonesty and reinforces the moral authority of the customary court. The observation also revealed that the proceedings are conducted in a manner that is inclusive, participatory, and respectful of cultural norms, thereby enhancing the legitimacy and acceptance of the court's decisions.

5.8. Discussion

The findings of this study reveal that customary courts in Adama City's Lugo sub-city administration play a vital role in conflict resolution, reflecting the cultural values and traditions of the Oromo people. To begin with, the effectiveness of customary courts is attributed to their accessibility, affordability, time-saving nature, and lower costs compared to formal courts. These findings align with previous research highlighting the advantages of customary courts in providing culturally appropriate and accessible justice [10, 12]. Furthermore, the study underscores the significant involvement of women in conflict resolution, both as mediators and participants, exemplified by the Siinqee institution. This finding is consistent with [14] and [15], which documented the crucial role of women in customary courts and the Siinqee institution's empowerment of Oromo women.

In addition, the supportive relationship between customary and formal courts, as observed in this study, reflects the principles of legal pluralism, where multiple legal systems coexist and complement each other [17]. The Lugo sub-city woreda court's support for customary courts, including administrative assistance, training, and financial management, demonstrates the potential for collaboration between formal and customary legal systems. However, the study also identifies significant challenges faced by customary courts, including limited resources, subjective decision-making, and inadequate support

from formal legal institutions. These challenges are consistent with previous research [9, 16] and highlight the need for enhanced operational capacity and integration with formal judicial systems.

The findings of this study have important implications for policy and practice. They suggest that customary courts should be recognized and supported as valuable mechanisms for conflict resolution, with adequate funding, training, and resources. Moreover, the integration of customary and formal legal systems should be fostered to enhance access to justice and ensure that community-based practices are respected within the broader legal framework. By addressing the challenges faced by customary courts and promoting collaborative efforts between customary and formal judicial systems, stakeholders can improve justice accessibility, strengthen communal ties, and uphold the values of the Oromo society.

6. Conclusion

This article an assessment of the role of customary courts in conflict resolution within Adama City, with particular emphasis on the Lugo sub-city administration. The study demonstrates that customary courts serve as vital mechanisms for addressing disputes, deeply reflecting the cultural values and traditions of the Oromo people. Through the use of mediation and active community involvement, these courts facilitate restorative justice, thereby fostering social cohesion and harmony within the community. The findings reveal that customary courts provide a culturally relevant and accessible alternative to formal judicial systems, often resolving conflicts more quickly and at lower costs, while also highlighting the crucial role of women as mediators and participants, exemplified by the Siinqee institution, which empowers women to influence decision-making processes.

However, despite these notable advantages, the study also identifies significant challenges that customary courts continue to face. These include inadequate resources, subjective decision-making, and limited recognition and support from formal legal systems, all of which can undermine their effectiveness and legitimacy. In light of these findings, the research emphasizes the need for better integration between customary and formal legal systems, suggesting that by recognizing the strengths of both, stakeholders can enhance access to justice and ensure that community-based practices are respected within the broader legal framework.

Abbreviations

FDRE	Federal Democratic Republic of Ethiopia
UNESCO	United Nations Educational, Scientific and Cultural Organization
ETB	Ethiopian Birr

Author Contribution

Megersa Tolera Abdi: Conceptualization, Data curation, Formal Analysis, Investigation, Methodology, Project administration, Writing – original draft, Writing – review & editing

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Conflicts of Interest

The author declares no conflicts of interest.

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