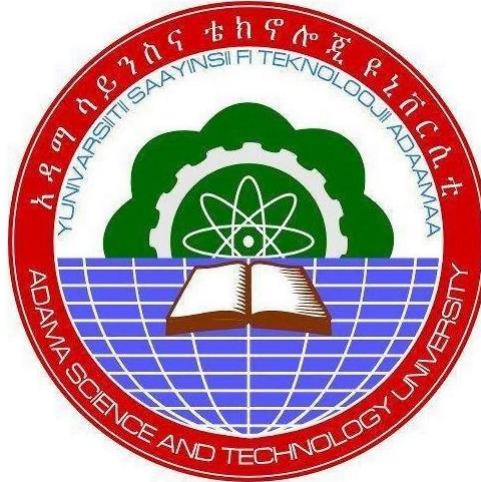


Cooperation and Competition between the Modern Courts and the Re-emerging Gada 'Courts' in the Process of Conflict Resolution: three Zones of Oromia in Focus



By

Dr. Alemu Disassa

A Final Research Report Submitted to Adama Science and Technology
University

Adama, Ethiopia
May, 2024

Acknowledgements

Many people have been involved in making this study possible. First of all, I would like to express my deepest appreciation to Adama Science and Technology University for covering all the expenses of the study. Secondly, my especial thanks go to my the elders of Gada Court and the judges at Arsi Negelle, Yabello, and Liben Chukala districts for providing me with the necessary data for the current study. I am also indebted to the President of Oromia Supreme Court, H.E. Mr. Gezali A/Simal, for providing me with the necessary documents for my study.

Table of Contents

Acknowledgements	ii
List of Tables	iv
Acronyms and Abbreviations	v
Abstract	vi
Background and Justification.....	1
Objectives	4
General Objectives	4
Specific Objectives	4
Significance & Beneficiaries	4
Expected Output	4
CHAPTER TWO	5
Review of Related Literature.....	5
Conceptualizing Conflict and Conflict Resolution.....	5
Conflict	5
Conflict resolution	5
Indigenous methods of conflict resolution.....	6
Indigenous conflict resolution in Ethiopia	7
Indigenous conflict resolution among the Oromo people	8
The Gada Court	8
Modern legal system in Ethiopia	9
Indigenous conflict resolution Vs modern legal System	11
Gaps in utilizing indigenous methods of conflict resolution	12
Establishment of customary court in Oromia	14
CHAPTER THREE.....	16
Research Methodology	16
Positioning theory as a theoretical framework and analytical tool	16
Units of analysis in PT	18
Data acquisition and preparation.....	19
Data collection.....	19
Data transcription	20
Procedures of data analysis.....	21
Ethical Considerations	22
CHAPTER FOUR	23
Results and Discussion	23
Positioning by Elders of Gada Court	23
Elders Positive Self-Positioning	23
Elders as healers of social wound	23
Elders (GC) as capable and self-sufficient	25
Gada Court mediation as institutionalized practice	28
Elders (GC) as legitimate and reliable institution.....	29
Gada Court as more preferred institution	31
Elders as philanthropist.....	32

Elders negative self-positioning	33
Negative other positioning.....	34
MC as mechanical and inefficient	34
MC as unfair and corrupt	36
MC as foreign or intruder.....	37
MC as uncooperative and coun/ter productive	39
Positioning by Judges of Modern Court	40
The judges' positive-other positioning	40
Elders (GC) as more capable and preferred alternative	40
Elders as providers of fair justice.....	43
Elders as healers of social wound	45
Elders (GC) as efficient and effective	45
Elders and caring and philanthropist.....	47
Judges' negative other-positioning.....	47
Gada Court as unstructured institution	47
Elders (GC) as biased and corrupt institution.....	48
GC as unauthorized and unscientific institution.....	51
Judges' negative self-positioning	52
MC as mechanical and incomplete	53
MC as foreign or incompatible	56
MC as less preferred and corrupted	56
CHAPTER FIVE	57
Summary, Conclusion and Implication	57
Summary of major findings.....	57
Positioning by elders of GC.....	57
Positioning by judges of MC.....	59
Conclusion and Implications	60
Limitation of the Study	62
References	63
Annex I: Interview Guides.....	67
Annex II: Transcript of the data	70
Annex III- Code Book	120

List of Tables

Table 1: Summary of the collected data size

Table 2: Data Summary of Positioning in the GC Elders Interview Text

Table 3- : Data Summary of Positioning in the Judges of (MC) Interview Text

Acronyms and Abbreviations

ANE	Arsi Negelle Elders
ANJ	Arsi Negelle Judge
FGD	Focus Group Discussion
GC	Gada Court
IMCR	Indigenous Method of Conflict resolution
LCE	Liben Chukala
MC	Modern Court
NOP	Negative other-positioning
P1	Story line one
POP	Positive other positioning
PSP	Positive self-positioning
PT	Positioning Theory
YE	Yabello Elders
YJ	Yabello Judge
PDRM	Popular Dispute Resolution System

Abstract

The objective of the current study was to examine how actors of two different institutions: elders of the *Gada Court* and judges of Modern Court discursively position each other's practice and institutions. To this end, a total of ten interview texts were collected from three districts, transcribed verbatim and analyzed using Positioning Theory as a theoretical framework and tool of analysis. The analysis of the data reveals that most of the storylines in the elders' interview text are characterized by **positive self-positioning** and **negative other-positioning**. The elders positively described themselves and their institution as healers of social wound, capable and self-sufficient, reliable, socially legitimate, institutionalized, and more preferred while negatively describing the practice of the modern court as mechanical or less flexible, inefficient, corrupt, less preferred, and foreign or intruder. Contrary to this, the storylines in the judges' interview text are predominantly characterized by **positive other-positioning** and **negative self-positioning**. The judges described the elders and the Gada court as efficient, capable and preferred problem solvers whereas describing the modern court as less capable and inefficient. Hence, one can conclude from the above findings that the contribution of the Gada Court in resolving conflicts and maintaining peace and order is very significant as witnessed by both the judges and the elders of the Gada Court. The relationship between the GC and the MC can be described as more of competition rather than cooperation. By the time this study was conducted, there was less formal communication between the two institutions in their practice of resolving the social conflicts. Again, although attempts have been made by Culture and Tourism Offices of some woredas to select and formally organize the elders of the re-emerging Gada Court, there was no legally recognized structure and mandate given to the Gada Courts as indigenous institution of conflict resolution. Regardless of some gaps in their practices, the majority of the study community still considers the elders of Gada Court as their first choice in settling their disputes. The elders legitimized their roles and practices by appealing to religion and the long established cultural norms and values of the Oromo people. In spite of the enormous contributions of the Gada court mentioned above, both the elders themselves and the judges do not deny the growing tendency of malpractices such as dragging cases and seeking unfair benefit from disputants by the elders of the Gada Court. This, according to the elders, mainly emanates from lack of formal support and compensation to the elders for the services they render. The measure that the Oromia Regional Government recently has taken in legalizing and institutionalizing the Gada/Customary Court across the region is a timely and significant step in tapping into this indigenous practice of conflict resolution. The stipulations in the proclamations and directives of the newly established Customary Court of Oromia address almost all loopholes and bottleneck of the Gada Court identified through this study. Hence, the measure could be considered as best lesson for other regional states of the country. Finally, the researchers recommend further study of public satisfaction on the services of the newly re-established Customary Courts, the impacts it has brought on the overall quality of the justice system of the region, and the new dynamic of the interaction between the State Court and the Customary Court.

CHAPTER ONE

Background and Justification

Conflict is a pervasive social phenomenon among all kinds of human society. It ranges from simple verbal debates up to physical confrontations or battles by parties involved. Earlier to the introduction of modern state and its justice system, traditional societies ¹ across the world had been utilizing customary rules, procedures and institutions that resolve conflicts based on the principle of reconciliation and reintegration of disputants (Elechi, 2004). However, these indigenous institutions and practices have been partly or totally replaced by modern state justice system in many countries. With the introduction of the modern legal systems in the 1930s and 1940s, indigenous methods of conflict resolution had been denied government recognition in Ethiopia for a long time although people did not totally stop using them (Pankhurst and Asseffa, 2008). The modern legal system of Ethiopia, which is believed to have been transplanted from the Western culture, has discouraged the use of indigenous institutions of conflict resolution with the pretext of modernization (Fiseha *et al.*, 2011). The following repeal provision in Ethiopian Civil Code indicates the banning of customary conflict resolution in Ethiopia: “Unless otherwise expressly provided, all rules whether written or customary previously in force concerning matters provided for in this code shall be replaced by this code and are hereby repealed (Civil Code of the Empire of Ethiopia 1960: Art. 3347(1))

However, as of 1991, the new government of Ethiopia has given some attention to indigenous institutions of conflict resolution. This has been stipulated in Article 34 (5) of the 1995 Ethiopian constitution which reads, “This Constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws with the consent of the parties to the dispute.” Following the permission for such legal pluralism ² in Ethiopia, several indigenous institutions of conflict resolution have been reinitiated. *Gada* Court is one of such institutions being revitalized and utilized in Oromia region. The GC, which is also

¹ *Traditional society*- a society with an established custom or belief that is handed down from generation to generation that everyone in the community has in common/similar. Read more: http://wiki.answers.com/Q/What_is_a_traditional_society#ixzz1KpZSfq00

² The state of affairs in which the category of social relations is within the field of operation of two or more bodies of legal norms It is the situation by which individuals are subject to more than one body of law (Woodman, 199)

called *Gadaa Murtii*, is one of the several institutions of the *Gada System*³. In some areas, the court has relatively permanent members who represent a certain groups or clans in the society. The judges '*Abbaa Murtii*' in GC sits with several other elders to give verdict based on *Seera Gadaa* 'Gada laws'. According to Asefa (2001), the elders in a GC sometimes use even majority votes to pass decision. Nevertheless, according to the same author, the decision of the elders in GC usually end up with a win-win result and emphasizes on reestablishment of social harmony among disputants unlike that of modern court which end up in win-lose results. The reconciliation in indigenous justice system is often realized through reconciliatory rituals which are conducted as part of the conclusion of the adjudication process.

Gada courts usually handle serious cases such as inter-clan conflicts and conflicts involving homicides. In traditional Oromo society, if these cases cannot be resolved by this court, they are taken to the *Gumii Gaayoo* 'general assembly'. These days, however, disputants also take their case to modern courts if they are not satisfied with adjudication of *Gada* court (Asmarom, 2000).

In the traditional Oromo society which practices *Gada System*, the GC was the major institution of conflict resolution. However, with the weakening of this egalitarian governance system, this indigenous institution has been neglected in most part of Oromia region except in few pocket area of Borana and Gujji zones of Oromia region where the *Gada* system has remained relatively active. Very recently, however, this indigenous institution has been revitalized in several zones of Oromia Regional State. According to my personal observation, in Arsi Nagelle, and some neighboring woredas of West Arsi Zone, the GC, locally called "*Koree Murtii Abbaa Gadaa*" 'decision making committee of *Abba Gada*', have been established. Similar practice has been going on in East Showa zone. The office of *Abba Gadaa Tuulama*, which is located in Bishoftu town, is an independent institution currently providing mediation/ adjudication services to people living in the area.

By the time the current study was initiate, the re-emerging GCs were working under the supervision of woreda and zonal culture and tourism bureaus. They are engaged in resolving serious conflicts that could not be solved by the institution of *Jaarsa biyyaa* 'local community elders' through mediation and reconciliation. The GC work side by side with modern courts.

³ The *Gada system* is an indigenous governance system that organizes and governs the life of every individual in the society [Oromo] from birth to death (Asmarom, 1973)

Individuals take their cases to either of these two institutions (Gemechu, 2002). Nevertheless, there seem to be no clear demarcation of power and responsibility between the two as it has been witnessed by Assefa (2011).

Researches so far conducted in the area of indigenous institutions of conflict resolution among Oromo society have two major perspectives: legal and anthropological. Researches in the first group are predominantly evaluative in nature. They were conducted with the aim of evaluating the qualities of justice served by the mediators in the indigenous institutions of conflict resolution. The evaluations were done by comparing the procedures and the outcomes of these institutions with that of litigation in modern courts (Bizuneh, 2009; Haimanot, 2006; Meseret, 1995; Tullu, 2001). Most of the research works in the anthropological perspective focused on the description or narration of the procedures of indigenous institutions of conflict resolution based on data gathered through interview and observations (Assefa, 2001; Gemechu, 2002; Endalew, 2005; Hebo, 2006; Araba and Berhanu, 2008). The studies conducted in both perspectives seem to be primarily outcome oriented. However, Negewo (2013) tried to address the relationship between formal court and indigenous method of conflict resolution. Negewo assessed the rivalry between formal criminal justice system and the indigenous justice system among Borana Oromo and found out lack of mutual understanding and cooperation which in turn affect the users of the two systems.

Nevertheless, to the best knowledge of the researchers, little attempts have been made to evaluate the competition and collaboration between the two systems in the context of the current study sites. In relation to this, Bahata (2014:118) also states “the interconnection and interdependence of the formal (adjudicative state structures) and the informal (PDRM) systems are neither properly assessed nor documented... the attitude of the practitioners and advocates of PDRMs towards the formal system is not fully investigated”. Negewo (2013) also acknowledged the scarcity of research in this area. Previous researchers also did not address the issue using a discourse analysis approach. Hence, there is little information regarding how these re-emerging GC are established, how they execute their duties, how much they are contributing in this regard, and the nature of relationship they have with the modern courts in providing the justice service for the society. Therefore, this study is aimed at filling the existing knowledge gap in the area by addressing the following general and specific objectives.

Objectives

General Objectives

The general objective of this research is to examine activities of the re-emerging Gada courts in Oromia focusing on how they interact with modern courts in the process of resolving conflict.

Specific Objectives

In line with the above general objective, the study will address the following specific objectives:

- identifying how modern court and the re-emerging Gada court position each other;
- examining how members of the re-emerging Gada court are recruited;
- describing the contribution of the re-emerging Gada courts in resolving conflicts;
- figure out challenges that hamper proper functioning of the Gada courts.

Significance & Beneficiaries

The investigators of this study believe that the results of this study may have several contributions for various bodies. First, it helps publicize the contribution of Gada courts in the process of conflict resolution. Secondly, the findings of this study can help government evaluate the contribution of this indigenous institution and devise mechanisms to strengthen it. If they are strengthened, this indigenous institution may contribute a lot in reducing the workload of modern courts and saving the time of the disputants. The study can also help in the establishment of useful relationship between these re-emerging Gada courts and modern courts in the respective woredas. Last but not least, the study can be taken as one means of recording this indigenous knowledge

Expected Output

- Up-to-date information which informs policy regarding the utilization of indigenous institutions of conflict resolution.
- Publications on Reputable Journal

CHAPTER TWO

Review of Related Literature

Conceptualizing Conflict and Conflict Resolution

Conflict

Conflict is a pervasive social phenomenon which ranges from simple verbal debates up to physical confrontations or battles by parties involved. The causes of human conflict, though various they are, could be generally categorized into two as substantive and relational. The first stands for a kind of conflict caused due to competing interest of parties over material resource while the second type of conflict results from opinion difference of the two parties or due to negative positioning each other's roles and personalities. In terms of scope, conflicts can also be categorized as interpersonal, inter group and inter-ethnic, and even international (Likasa, 2023; Macfarlane, 2007; Enyew and Ayalew, 2023). The mechanisms of resolving conflicts also vary as much as there are conflicts.

Conflict resolution

The phrase 'conflict resolution' is often conceived as a process of settling conflicts in a way that optimally satisfies the interest of those parties involved in the conflict. Particularly, the term 'resolution' has meaning 'seeking final and agreed upon solutions through willful and peaceful discussions' (Stobbe, 2011). Hence, the ultimate goal of conflict resolution goes far beyond giving solution to the immediate causes of the conflict. It is a win-win approach which addresses the root causes, and emphasizes on ending violence, repairing the broken social bond and establishing positive and constructive relationship between the conflicting parties (Mayer, 2000; Stobbe, 2011; Yemanebrihan, 2016).

There are various mechanisms of conflict resolution being utilized across almost all cultural groups of human society. These mechanisms of settling conflict are often categorized as traditional or indigenous methods of conflict resolution and modern legal system (Macfarlane, 2007). These mechanisms have been discussed in detail in the subsequent sections.

Indigenous methods of conflict resolution

Indigenous method of conflict resolution (IMCR) is a practice that is carried out based on the belief system and established cultural norms of a given society. Belew (2021: 230) conceives this method of conflict resolution as “a process-oriented practice that aims to address the underlying causes of conflict based on the aged long-established norms and traditions”. Macfarlane (2007:488) on his part defines the same as “the system of resolving conflicts based on the norms and the values of the society that were established for a long period and transferred from one generation to another.” Likewise, Haider (2009) defines IMCR as a community-based judicial decision-making system that functions independent of state-run judicial systems, police, or other external structures. Hence, one can deduce from the conceptualizations of these scholars that IMCR is often considered as the most important social capital that helps in not only resolving the immediate conflicts, but effectively maintaining the sociocultural bonds between the parties. It is a practice which is conducted based on agreed upon rules, norms and ethics of a particular society that shares common culture, language and religious beliefs. Almost every cultural society has its own peculiar methods of conflict resolution which they have established and utilized for generations.

In addressing such methods of conflict resolution, scholars have used various terminologies: “traditional institution of/conflict resolutions” (Macfarlane, 2007; Zeleke 2010), “traditional justice systems” (Slade 2000), “non-state laws” (Assefa 2011), “customary dispute resolution mechanisms” (Yntiso et al., 2011; Pankhurst and Assefa, 2008; Enyew, 2014), “restorative justice” (Macfarlane, 2007), “alternative dispute resolution” (Gowok, 2013), “popular dispute resolution mechanisms” (Likisa, 2023), “indigenous methods of/approaches to conflict resolution” (Enyew and Ayalew, 2023), and “indigenous system of justice” (Gemechu, 2002). According to some scholars, the adjective “indigenous” conveys meanings such as aboriginal, holistic, relational, long lasting spiritual whereas the term ‘traditional’ often conveys negative connotations such as not modern, informal, static, unwritten and belonging to uncivilized society especially from the perspectives of some western scholars. The two adjectives are often interchangeably used to address such type of conflict resolution, but in current study, the researcher opted for “Indigenous methods conflict resolution (IMCR)” which is more descriptive of the inherent qualities and origins of this practice. Such practices are often rooted in the socio-

cultural contexts of the owner community and developed over generations. The term 'indigenous' is also believed to be free of negative positioning of the practice (Keneni, 2013).

Indigenous methods of conflict resolution are still practiced in many parts of the world. Even after the introduction of modern legal systems, IMCR is more preferred among many communities of the world mainly because of its cost effectiveness, efficiency, simplicity of its enactment, and its power in restoring or maintaining social harmony. In relation to this, Macfarlane (2007: 496) states, "The first (and perhaps the only) resort to conflict resolution for many ordinary people in Africa is to their established systems of elderly arbitration and mediation, relying heavily on kinship networks and social authority." The same scholars also assert that such type conflict resolution is quite useful in a collectivist culture where more value is given for social coexistence and wellbeing of the whole community rather than personal needs of individuals. In other words, most African societies are followers of what Kwame Gyekye calls 'communitarian' moral philosophy which is fit for utilization of conflict resolution method that promotes admission, reconciliation and forgiveness rather than witness based confession and punishment (Macfarlane, 2007).

Indigenous conflict resolution in Ethiopia

Being a home to diverse ethnic groups, Ethiopia has rich indigenous systems of conflict resolution. Like many other traditional societies in Africa, several ethnic groups in Ethiopia have been utilizing their own indigenous methods of conflict resolution for centuries. For instance, *Jaarsa Biyyaaaa* of Oromo, *Ye'ager Shimagile* of Amhara, *Songo* or *Gudumale* of Sidama, *dayaad* of Somali, *makaba* of Afar, *Abbo Gereb* of Southern Tigray and others (Pankhurst and Assefa, 2008; Adebo and Tsadik, 2008) are most commonly used types of indigenous methods of conflict resolution. However, following the introduction of the modern legal system in the 1930s and 1940s in Ethiopia, IMCR have been marginalized by the government with pretext of having a unified national legal system (Pankhurst and Assefa, 2008). Nevertheless, IMCR has still wider public acceptance throughout the country particularly in areas far from urban centers. Several researchers affirm that, among several ethnic groups in Ethiopia, local community elders still shares a huge burden in resolving conflicts and maintaining lasting peace in their locality (Pankhurst and Assefa, 2008; Macfarlane, 2007; Yntiso et al. 2011; Kohlhagen, 2005:10).

Indigenous conflict resolution among the Oromo people

Being the largest ethnic group with the largest geographical settlement areas in Ethiopia, the Oromo people have also its own indigenous mechanisms of conflict resolution which have been tested through generations. Among the Oromo people, *Jaarsumma* or ‘community elders mediation’ is the most commonly used method of conflict resolution which is carried out by *Jaarsa Biyya* literally means ‘elders of the community’. It is used to settle almost all kinds of disputes and carried out by local elders selected by their respective community or clan based on their natural wisdom, skills of persuading, genealogical seniority, and the knowledge they have about the cultural norms and values their community (Tarekegn and Hannan, 2008; Stobbe, 2011). Traditionally, *Jaarsumma* is conducted at several hierarchies based on the magnitude of the severity of the cases to be handled. According to Mulleta (2013:107), among Arsi Oromo clan, the hierarchy of *Jaarsa Biyya*, from bottom to top, is put as *Jaarsa Ollaa* also called *Bitimaa* (elders of the neighbor), *Jaarsa Balbalaa* (Elders of the Lineage), *Jaarsa Gosaa* (Elders of one’s clan), *Jaarsa Ambaa* (elders of other clans) and *Bokkuu*⁴ or *Gadaa Murtii*.” The lowest hierarchy of *Jaarsa Biyya* handles minor interpersonal disputes in the neighborhoods while the top one, the Gada Court, deals with serious conflicts which involve homicides and inter-clan conflicts (Mulleta, 2013).

In spite of the restriction from the state not to use them, IMCR have been widely used side-by-side with the state court system in Oromia. Such methods have been widely used especially at grass-roots level where state court systems are less accessible (Keneni, 2013; Dibaba 2012; Zeleke, 2010; Gemechu, 2002).

The Gada Court

As it has been indicated in the preceding section, the GC is the highest structure of *jaarsa biyyaa* that deals with serious conflicts which cannot be easily handled by elders of neighborhood. Though it is the highest hierarchy of *Jaarsa biyya*, the GC has some peculiar features. Like that of the elders in the lower hierarchies of *Jaarsa biyya*, the elders of GC works towards bringing reconciliation or restoring peace between the disputing parties. However, unlike that of the lower

⁴ **Bokkuu**- literally mean 'scepter' but in this context the term refers to the elders who have spiritual power and who mediate disputes.

hierarchies of *jaarsa biyya*, elders of GC pass decision and even sometimes use majority vote according to Asefa (2002).

The GC is among the major institutions of *Gada System*, an indigenous socio-political governance system of the Oromo people. Gada system is a complex and holistic system that the Oromo people have been using for centuries to handle the complexities of their communal lives. The system is often described as indigenous African Democracy which pervades all aspects of human life (Gedafa, 2008; Jalata, 2007, Asmarom, 2000). The GC is mainly known for its handling of homicide cases through *gumaa*⁵. According to Keneni (2013), by using *gumaa*, the elders of GC have managed to restore lasting peace between the conflicting parties unlike that of the modern court which ends up only punishing the wrongdoer. In collectivist societies such as the Oromo people, individual's criminal act is believed to have impact on the whole immediate families and clans of the victim.

Almost all homicide cases that happen among the Oromo people are supposed to undergo the *gumaa* procedure even though they are treated at the modern court. This is true because imprisonment of the victor is not believed to bring lasting peace between the families or clans of the two parties. In other words, a modern legal system which doesn't take the Oromo view of homicide cannot handle such cases to the satisfaction of the people. Hence, this indicate that the GC fills the loophole in the modern justice system by resolving cases in a way that addresses the worries of the conflicting parties and halt possible revenge (Keneni, 2013).

Modern legal system in Ethiopia

The introduction of Fetha Nagast (the Law of the Kings) in the 15th century could be considered as a landmark in the introduction of modern written legal system in Ethiopia. However, the formal modern legal system with extensive codification had been introduced to Ethiopia in the 1950s with the pretext of 'unifying' or 'modernizing' the legal system of the country (Yntiso et al. 2011; Negewo, 2013). The introduction of this 'unified' legal system has led to the marginalization of indigenous methods of conflict resolution in Ethiopia. Almost all kinds of indigenous methods were made to work only under the supervision and recognition of the

⁵ *Gumaa- is a ritualistic procedure of settling homicide or blood feud between individuals and families and clans in Oromo people. It is a practice carried out by elders of Gada Court to cleanse mistrust and animosity between the conflicting parties and restore peace (Dibaba, 2012; Gemechu, 2002)*

modern court. The Civil Code of the Empire of Ethiopia (1960: Art. 3347 (1) stipulates that: ‘Unless otherwise expressly provided, all rules whether written or customary previously in force concerning matters provided for in this code shall be replaced by this code and are hereby replaced’ (Bahta, 2014). According to Negewo (2013), the formal justice system has an exclusive monopoly especially over all criminal matters.

According to several scholars, the modern law of Ethiopia which was introduced by Emperor Haile Silassie was adapted from the western contexts by intentionally disregarding the socio cultural beliefs and life philosophies of almost all ethnic groups in Ethiopia. To use the words of Keneni (2013:47), “Ethiopia’s present legislation appears to have been almost exclusively inspired by western conceptions of law to the neglect of locally available customary laws and institutions.” However, (Tzadua and Strauss 1968:v as cited in Bahta, 2014) claim that ‘No modern legislation which does not have its roots in the customs of those whom it governs can have a strong foundation.’ As a result, this modern law of is found to be less compatible with the life and conflict management philosophies of various ethnic groups in Ethiopia which promotes communal values and social harmony rather than individualistic and punitive approach (Zelege 2010; Yntiso et al. 2011; Koang, 2011). Besides, the modern legal system is less accessible to the wider rural communities of the country. The procedure in this system is not time and cost effective (Bahta, 2014; Keneni, 2013).

Cognizant of the gaps in the modern legal system and the benefits of indigenous methods of conflict resolution, many African countries have begun to reconsider their indigenous methods of conflict resolution as an alternative to the modern legal systems. For instance, the Rwandan government gave legal recognition for Abunzi or local mediators to resolve conflict and crimes in their local community (Mutisi, 2012). As stipulated in Article 34 (5) of the 1995 Constitution of the country, the government of Ethiopia has given recognition for the indigenous method of conflict resolution. Currently, some regional governments in Ethiopia such as Oromia have given legal recognition for IMCR and facilitated the formal establishment of indigenous institutions in almost all zones of the region.

Indigenous conflict resolution Vs modern legal System

Under this sub-section, a comparison of modern legal system and IMCR has been done to explicate the merits and demerits of both systems based on results of previous studies. To start with, IMCR resolution are often rooted in the culture and norms of the owning society while modern state legal system is adapted or constructed in line with the political ideology of the states or governing parties (Mutisi and Sansculotte-Greenidge, 2012; Yemanebrihan, 2016). As a result of the basic nature of their foundation and their use of local actors, IMCR has the power to bring reconciliations and lasting peace among the conflicting parties. It addresses the emotional and cognitive aspects of the conflicting parties and brings psychological healing. The actors of the IMCR who are also mostly respected community elders are believed to have strong power of influencing the disputants psychologically (Koang, 2011; Woubishet, 2011).

On the other hand, the state law focuses on punishing the victors as a final outcome of its procedure. It is carried with the assumption that punitive measures have the power to deter similar crimes and conflicts although such outcome is less realistic in real context. In other words, restoring social bond and establishing social harmony is given less or no attention in the modern legal system. Hence, in practice, punitive approach is less effective in cleansing sense of enmity and possible cycle of revenge (Keneni, 2013; Zeleke, 2010).

The modern legal system could have significant deterring effect in the individualistic western societies where individual rights and values are given more attention. However, in traditional communal societies where communal norms, values and traditions are given more attention, the punitive approach of modern legal system is less effective (Bahta, 2013). Again, unlike that of modern legal system whose service is limited to urban areas, indigenous methods of conflict resolution are more accessible to people at the grassroots level.

Nevertheless, some scholars argue that indigenous methods of conflict resolution do have their own limitations. According to Boege (2006) an indigenous conflict resolution are usually culture specific and hence hardly helps to address conflicts that occur out of the elders' cultural context. This is true mainly because the elders have less recognition and acceptance out of their cultural domain. The presence of mismatch between some universal human right declaration and the underlying principles of IMCR is also another challenge in utilizing such practice. In contexts where the conflicting parties are from different ethnic groups, there are tendencies of up favoring

the dominant ethnic group (Osagahae, 2000). It is also less applicable and efficient in individualistic modern societies. Osagahae also emphasizes that, structures of IMCR are sometimes susceptible to politicization, corruption and gender bias. However, I strongly believe that these weaknesses do not outweigh the enormous contribution that IMCR have in establishing sustainable peace and order among several communities of the world.

Gaps in utilizing indigenous methods of conflict resolution

Although the wider societies still believe in its usefulness, IMCR could not be effectively utilized in many parts of the world. One of the major reasons is the absence of clear national policies which gives legal recognition for such methods or which regulates the interface between IMCR and the state legal system. There seem to be lack of mutual respect and understanding between the two institutions (Mutisi and Sansculotte-Greenidge, 2012).

Secondly, there are tendencies of considering IMCR as ‘primitive’ or ‘unstructured’ among some legal scholars. In several African countries, IMCR have been suppressed by the government especially in the post-colonial periods with the pretext of unifying or modernizing the legal system. Such belief was predominant in Ethiopia especially in the 1960s. Some religions such as Islam and Christianity (particularly Protestants) also seem to have negative attitude towards the reconciliatory rituals that are executed by community elders (Bahata, 2014; Israel, 2011; Yntiso et al., 2011). The presence of unregulated financial transaction and corruption among some practitioners that implement IMCR in Ethiopia is also another growing concern of scholars (Zelege, 2010; Woubishet, 2011). There are also tendencies of politicizing and using IMCR as instruments propagating the political ideology of the ruling party (Mutisi and Sansculotte-Greenidge, 2012).

Results some local studies in Ethiopia also indicate absence proper coordination between between IMCR and the state courts. Negewo (2013) found out that there is no mutual recognition between the government justice system and the indigenous institutions of conflict resolution. He further described the relationship between the two systems as “uneasy and competitive”. For instance, in handling the homicide cases, the modern court imprisons the offender regardless of the reconciliation reached between the disputants through the effort of the Customary/Gada Court. This action positions the GC as less powerful in enforcing their decisions while describing the MC as more powerful in relation to punishing the offender. Negewo (2013) describes the

action as disempowering disempowers the elders of GC. Contrary to this, among the Borena Oromo, imprisonment of the offender will not bring an end to the dispute because the community will not accept the decision of the MC and peace will not prevail between the parties unless it is accompanied by the reconciliatory rituals of the GC (Negewo, 2013). This strikes the power balance between the two systems.

The same study also revealed that both the modern court and the GC positions themselves positively while negatively positioning each other when it comes to the public acceptance they have and their authorities over the wider public. The involvement of the local government in the enforcement of the decision of the GC also indirectly positions the CG as less powerful body whose decisions are not positively accepted by the community. The same study also revealed that, the officers of MC in Borena zone describes the GC as unauthorized and informal group having no legal recognition especially in handling criminal cases. According to Negewo (2013), the creating a legally defined linkage between the two systems can foster their collaboration and facilitate the provision of access to quality justice system at grassroots level. The GC especially fills the missing elements, reconciliation and restoration, from the modern justice system.

Enyew (2019) also revealed that in spite of their immense contribution in restoring lasting peace and reconciliation by resolving almost all kinds of conflicts, indigenous methods of conflict resolution has not given the necessary legal recognition Ethiopia. To use his words, Ethiopia has turned its blind eye to IMCR. Creating the synergy between the MC and the GC could help in bringing lasting solutions between the disputants. He further emphasizes that indigenous mechanism of conflict resolution of Ethiopia is in line with the principles of restorative justice.

According to Enyew (2019), in the traditional and mostly religious society of Ethiopia, the application of IMCR could be easier because such system is incongruence with the life philosophy of the society. The same scholar also believes that the GC has limitation of addressing the contemporary human rights principle.

Hence, in order to ensure the proper utilization of IMCR, governments must put in place clear policies and legislations which indicate the demarcation between the modern legal system and IMCR. Giving legal recognition would also somehow minimize the negative attitude that some religious groups have towards the procedures of IMCR. Of course, allocating some budget as running cost for those involved in the service of delivering IMCR and public awareness creation

activities could also help in curbing the challenges in this regard. The efforts being made by various non-governmental organizations to promote the effective utilization of IMCR in Ethiopia also needs to be strengthened (Bahata, 2014).

In order curb the challenges related to the utilization of IMCR, some regional states in Ethiopia such as Oromia, Afar and Somali have already had included some articles in their regional laws to legitimize the utilization of IMCR (Yntiso et al., 201). However, to the best knowledge of the researcher, so far it is only the Oromia regional state that enacted separate proclamation and regulations that governs the proper utilization IMCR.

Establishment of customary court in Oromia

The Gada/Customary Court locally named “Manneen Murtii Aadaa” has been given legal recognition with Proclamation No. 240/2013 and Regulation No. 10/2014 of the Oromia regional state. Such legal formalities have been formally communicated to supreme courts of all zones of the region by Supreme Court of Oromia 22nd of February 2014 E.C. The preparation of both the proclamation and the regulation could be considered as indicators of the strong commitment of the regional government in ensuring the immediate and effective utilization of the customary court.

The English version of the proclamation reads “A Proclamation to Provide for the Establishment and Recognition of Oromia Region Customary Court, No. 240/2021”. As can be understood from the very name of the proclamation, the regional government has addressed two major issues with this proclamation. One is giving legal recognition to the already functioning system and personalities involved in such practice. The second action is re-establishing the institution of customary court and giving it formal structure. The institutions were there for centuries, but in some areas it is hard to trace them physically and measure their contributions. So, the term ‘establishment’ seems to have been used in the proclamation as formality of legal discourse, but the actual practice is rather re-establishment.

In the provisions of this proclamation, it has been clearly stipulated that among the justifications for giving recognition for the Customary Court are its accessibility, effectiveness in fact finding, cost effectiveness, and dispensation of justice, simplicity of its procedure and capability of restoring social bond (Oromia Region Customary Court Proclamation No. 240/2021). According

to article 7 of this proclamation, the Customary Courts are supposed to carry out the adjudication based on the agreed up on customary laws of the Oromo people in their respective locality.

Though the structuring of the re-established customary court has been made based on the existing government structures (Kebele, District), the proclamation has left room for maintaining the Organic structure of the Customary Court (sub- article 8). The proclamation also gives scope of jurisdiction for all stratum of the Customary Court. It clears from the proclamation that the Customary Court has no jurisdiction over disputants who are not part of the cultural groups. This seems to have been meant to address the weakness of IMCR discussed in the preceding section. The Customary Court elders selection criteria also seem to be aligned with the culturally established organic procedures except for the inclusion of female elder “hadha siinqee” (Article 11, sub-article 4) which is against the established norm of the Oromo people. As stipulated in Article 11, sub-article 9 of the proclamation, the selection of elders for Customary Court can be carried out based on the customary law of the locality. Like that of the cultural procedure of selecting elders, elders of the Customary Court also takes oath before they commence their job. The Customary court is also supposed to enforce its decision by using the structure in Gada System with the support of the state structure. In general, in almost all aspects, The Proclamation of Oromia Region Customary Court, No. 240/2021 has been designed to foster the indigenous practice of the community in utilizing IMCR in efficient and effective manner. It has addressed almost all the previous bottlenecks observed in the proper utilization of IMCR in the region.

CHAPTER THREE

Research Methodology

Positioning theory as a theoretical framework and analytical tool

This study draws on Positioning Theory (PT) as a theoretical framework and analytical tool. Positioning theory is a concept that was developed in the field of social psychology to study identities of people by analyzing their speech or action in an interaction. It is believed to have taken its theoretical input from Foucault's concept of *discourse as social practice* and Austin's *speech act theory* (Harre *et al.*, 2009; Tirado & Gálvez, 2007). For Winslade (2003), positioning theory is all about the way power relationship between individuals or groups is induced in through discourse. The notion *position* in an interaction involves the moral and personal attributes that describe individual's action or behavior. It encompasses roles, descriptors, or traits that positively or negatively represent the identity of a person (Harre and Moghaddam, 2003). In an interaction, individuals assign a certain personal attributes, roles, and rights to themselves and to others. Such a process is called *positioning*. Hence, positioning is a relational and a discursive process that evolves in the course of interactions. It reveals the kind of relationship that is built between speakers in an interaction (Harre *et al.*, 2009; Tirado and Galvez, 2007).

Several researchers from various disciplines have utilized PT as a theoretical framework and analytical tool (Harré & Moghaddam, 2003; Zelle, 2009; Karlsson, 2020; Hirvonen, 2016; McVee, Baldassarre, & Bailey, 2004; Gale, 2010). Zelle (2009) used PT to analyze organizational change scenarios. For what he calls *Micro-level* analysis, Zelle analyzed a total of twenty interviews he conducted with academics and administrators of the university whereas for *Meso-level* analysis he analyzed written discourses such as emails to academics, written documentation of procedures, and documentation of meetings. Karlsson (2020) on his part utilized PT in conjunction with the critical lens of the Heterosexual Matrix to analyze the discourse of two Characters: Frank and April in Richard Yates's novel *Revolutionary Road* and identified how power dynamics and gender identity are entrenched in the social and cultural context of the speakers. Hirvonen (2016) adapted PT in the analysis of small-group dynamics in joint decision-making episodes of management board meeting. Researchers who employ PT as an analytical tool often triangulate their textual analysis with the analysis of the broader social

and cultural context of the speaker to examine the social meanings implicitly conveyed through the text (Karlsson, 2020, Mulleta, 2013).

Most of the above researchers predominantly relied on Harré's "Positioning Triangle" as an analytical framework for their data. This triangle is composed of three interdependent dimensions: *positions*, *storylines*, and *act* which are realized in the unfolding discourse of any sort. The *act* refers to the social meaning that is conveyed through the action or utterance of speakers. The *act* in PT is derived from Austin's Speech Act Theory which deals with the implicit forces or social meanings that words carry in social interaction. *Position* refers to social status, moral attributes, personal attributes, rights, duties, and abilities that a person assigns to himself and others using acts (Hirvonen, 2016; Hirvonen, 2013; Karlsson, 2020). Hirvonen (2016, p.2) understands *position* not only as an attribute of a person, but also that of "institutions, social groupings, organizations, and even cultures". A *storyline* is a cluster of utterances or statements that speakers use to convey the act of positioning. So, the storyline is built while speakers carry on their work of discursive positioning (Karlsson, 2020). In a given storyline, a person can be positioned as "powerful or less, confident or apologetic, dominant or submissive, definitive or tentative, authorized or unauthorized" (Gale, 2010, p. 27).

Any types of text, written or oral, institutional discourses and societal rhetoric constitute different types of positioning and can be analyzed using the analytical framework of PT (Zelle, 2009). Nevertheless, most of the studies that employed PT as a theoretical framework and analytical tool have emphasized two-way interactions which involve the exchange of information between interlocutors (interpersonal or intergroup) focusing on moral rights and duties of interlocutors (Moghaddam, Hanley, and Harré 2003; Harré and Moghaddam, 2003), one-way speeches of individuals, and written texts produced by individuals and intra-group positioning (Hirvonen, 2013).

In interpreting data using PT as an analytical tool, most scholars have adopted the categories of positioning suggested by Harré and van Langenhove (1999). These scholars have generally classified the positioning in all types of texts as *Self* and *Other*. According to the same scholars, "any positioning constitutes the *Self* and the *Others* in certain ways thus any positioning of the *self* implies or requires positioning of *others* and vice versa to be meaningful" (van Langenhove & Harré 1999: 22).

McVee, Baldassarre, & Bailey (2004, p.285) further developed the *Self-other* positioning into four: “*Self-as-Other*, *Self-in-Other*, *Self-Opposed-to-Other*, and *Self-Aligned-with-Other*”. They have also added other categories of positioning: *Intertextual Positioning*, *Role-based Positioning*, *Tacit* positioning, and *Static Positioning*. Hirvonen (2016, p. 2) on his part classified positioning as *first-order*, *second-order*, and *third-order* based on their form and based on the classification by Harré and van Langenhove (1999). *First-order* positioning refers to the practice of accepting positions assigned by others whereas *second-order* positioning refers to a position questioned or rejected by the interlocutor. The *third-order* positioning occurs when a speaker refers to storylines which is not a part of the ongoing discourse.

Citing Harré & Van Langenhove (2010), Hirvonen (2016) also categorizes positioning as *tacit* and *deliberate* and *moral* or *personal*. Tacit positioning is simply assumed in an interaction whereas deliberate one is explicitly told. *Moral* positioning refers to an act a person is supposed to execute to meet the social expectation whereas *personal* positioning occurs when a person explains why he fails to meet the social expectation. Recently, Jones (2013) has come up with another category of positioning called *interactive* and *reflexive* positioning.

In summary, the categorization of positioning is done based on what the positioning is based on (moral and personal positioning), how the positioning is manifested (tacit or intentional positioning), or who is being positioned (self-other positioning) (Zelle, 2009; Hirvonen, 2013). Moral positioning is constituted by any attempt to make reference to one’s role, and the rights and duties that come with it, within a group or society (Zelle, 2009).

Units of analysis in PT

The unit of analysis in PT refers to the smallest chunk or segment of written text, interview, or observation data that researchers use to categorize their data and use as a basis for analysis. Zilber and Meyer (2022, p.8) state “One cannot analyze the data without deciding the unit of data on which to focus”. In qualitative studies, scholars use various units of analysis based on the purpose of their studies and the nature of the data they analyze. However, the size of unit of analysis of a given data can range from a single utterance or sentence to a full transcript of an entire text of an interview or meeting based on the nature of the research question to be addressed (Zilber & Meyer, 2022).

In conducting data analysis using the PT as an analytical tool, scholars have used various types of units of analysis, but a storyline is the most widely used unit of analysis (Hirvonen, 2013, Harré and Moghaddam (2003). A storyline refers to a sequence of utterances or statements that convey the opinion of the speaker on a given topic. For instance, a storyline can be realized in the form of a question-answer conversation between a doctor and a patient or a teacher and a student (Hirvonen, 2013, p.102).

A storyline is given a code name based on its communicative function. The classification of a given text into storylines depends on the purpose of the analysis and the level of detail a researcher would like to investigate. A given text can be categorized into main and sub-storylines (Hirvonen, 2013; Harré and Moghaddam 2003). For instance, Hirvonen (2013) classified the text of a meeting into two broader storylines as “*beginning the meeting and discussion*”. These two storylines were further divided into sub-storylines which are composed of one or two utterances. Gale (2010) on his part proposed segments of talk divided into minutes (10-15) as units of analysis.

In this study, the qualitative data obtained from the elders of Gada court and judges of the modern courts were analyzed following the principle of positioning theory to find out how one group construct its roles, and responsibilities in relation to the other group. The analysis of the interview transcripts of the two sides was done at two levels: *Macro* and *Micro* following the procedure used by Hirvonen (2013) and Harré and Moghaddam (2003).

Data acquisition and preparation

Data collection

This study draws on the analysis of taped transcripts of the key informant interviews and the FGD the researcher made with Elders of Gada Court and Judges of Modern Court. For the current study, a total of 8 elders and 12 judges were interviewed from three woredas of the region: Arsi negelle, Yabello, and Liben Chukala. The elders of Gada court were selected purposively selected considering their roles in the GC whereas the judges were selected using convenience sampling techniques. The interview texts of both the elders and the judges were transcribed into Afan Oromo language and translated into the English language. A total of 115

turns which lasted for seven hours, twenty-one minutes and five seconds were transcribed and analyzed.

Data transcription

In discursive analysis, data transcription is the most important step which allows the researcher to systematically conduct the analysis of sound data (Gale, 2010; Tracy and Mirivel, 2009). According to Mayr and Bastow (2008: 170), “Without a written representation, talk is very difficult to analyze systematically”. Scholars in the field of discourse analysis agree that the approaches of transcription that a researcher use is guided by the nature of research objectives he/she has planned to address. Hence, the same sound data can be transcribed differently by different researchers to address different research objectives (Edward, 2000).

Since, the main objective of the current study is to examine how elders of the GC and judges of MC describe each other’s practice and institutions, the researchers adopted a simplified version of Jeffersonian transcription system to transcribe the recorded interview texts verbatim using mainly standard orthography. This approach has been adapted since this study does not involve detail phonetic analysis. During transcription, the first two letters of the interviewee name have been used to keep the anonymity of the participants. For the simplicity of the analysis, the interview transcripts of each side were grouped under the interview guide questions used by the interviewer and given number that indicate the sequence of turns (see Annex II). Then the analysis of positioning in the transcripts of the two sides was done separately. A quantitative description of the collected data has been indicated in Table 1

Table 1: Summary of the collected data size

Interviewee Category	Number of Interviewee	Number of Turns	Total Duration of the Interview
Arsi Negelle GC Elders	4	30	01:24:08
Liben Chukala GC Elders	2	13	00:39:20
Yabello GC Elders	2	12	00:57:11
Arsi Negelle Judges	5	31	02:01:58
Liben Chukala Judge	4	18	01:37:46
Yebello Judges	3	11	00:41:42
Total	20	115	07:21:05

Procedures of data analysis

The current study focuses on the analysis of positioning at the inter-institutional level. The two institutions are the MC and the indigenous GC both having common duty of resolving conflicts. The analysis of the interview transcripts of the two sides was done at two levels: *Macro* and *Micro* following the procedure used by Hirvonen (2013) and Harré and Moghaddam (2003). First, the researcher has used different colors to code the interview texts for *Macro* level analysis. The *macro* level analysis focused on *positive* and *negative* positioning of *Self* and *Others*. Then the two categories of the interview text have been analyzed in detail to identify the major descriptive adjectives the two sides used to position the roles, identities, duties, the social status of each other's services and institution.

For the first level analysis, the researcher adopted a top-down approach to discourse analysis where the texts contents have been categorized based on the predefined four types of positioning. However, in the second level analysis, the researcher used a bottom-up approach in identify and categorizing the emerging discursive positioning the speakers have used by reading and re-reading the text data line by line. In other words, a grounded theory approach has been adapted for micro level analysis.

The data of the current study is interview transcripts in which respondents react to the questions posed by the interviewer or the researcher. So, for the macro level analysis, **each turn** of an interviewee has been considered a **unit of analysis** or **storyline** and coded with various types of positioning. Then, each storyline has been coded and categorized based on their communicative functions or speech act. The coding has been done in several rounds to refine the categories of positioning conveyed in each storyline. A single storyline has been coded with one or more types of positioning based on their contents. The coded text together with the definition of the codes was given to an expert with a good understanding of critical discourse analysis to guard the analysis of the data against the researcher's potential bias. Once the comments were obtained from the inter-rater and the coding had been agreed upon, the analysis was conducted by citing illustrative quotations from the utterances of the respondents. The broader sociocultural contexts of the study site were also taken into account during the analysis. For the simplicity of citing segments of the interview transcript and cross-referring readers to the main text, the turns in the transcript were given serial numbers as P1, P2 ...(to mean story line one, two).

The macro level analysis focused on positive and negative positioning of *Self* and *Others*. Particularly, the turns in the interview text have been coded as Positive Self-Positioning (PSP), Negative Self-positioning (NSP), Positive Other-positioning (POP) and Negative Other-positioning (NOP). A total of 55 turns of the elders and 60 turns of the judges' interview text have been coded using different color highlighting excluding those turns with off the topic contents (see Annex II). Then the micro level analysis of the above four categories of the interview text have been conducted in detail to identify the major descriptive adjectives that the two sides used to position their own and each other's roles, identities, duties, and institution. Reading and reading have been conducted to identify the discursive acts conveyed through the narration of each interviewee at every turn.

Ethical Considerations

According to Gregory (2003), research that involves human subjects needs to provide pre-eminence to the consent of the person participating in the study. While conducting this research the following ethical considerations were applied in the process of data collection and analysis. First, participants were informed about the purpose of the study to get their consent. Then the respondents' identities were kept confidential by using pseudo names and abbreviations.

CHAPTER FOUR

Results and Discussion

Positioning by Elders of Gada Court

The most of the storylines in the elders' interview text are characterized by *positive self-positioning* (PSP) and *negative other-positioning* (NOP). The elders described themselves and their institution (GC) as healers of social wound, capable and self-sufficient, reliable, legitimate and institutionalized practice, more preferred, and philanthropist. In contrast to this, the elders negatively positioned the MC and the judges as mechanical or less flexible, inefficient, corrupt, less preferred, and foreign or intruder. As indicated in Table 2, there were about 50 instances of positive self-positioning and 39 instances of negative other positioning in the interview text of the elders in the three target wordedas.

Table 2: Data Summary of Positioning in the GC Elders Interview Text

Type of Positioning	Number of Story Lines
Positive self-positioning	50
Negative self-positioning	1
Positive other- Positioning	1
Negative other-positioning	39

Elders Positive Self-Positioning

Elders as healers of social wound

Most of the previous studies in the same topic revealed that IMCR has the power of healing the broken relationship between disputants (Enyew, 2019; Negewo, 2013; Koang 2011; Woubishet, 2011). Likewise, in most of the storylines, the elders claimed identities as healers of social wound. They described the elders' mediation as a through procedure that can clean the feeling of enmity from among the disputants and lead to lasting solution. The following story lines in the interview text of elders of the four wordedas clearly illustrate this:

Elders work on ensuring peace in society by cleaning the feeling of enmity between disputants... (ANE-P1) ...We reconcile the two parties. We make the plaintiff give compensation for the victim. The plaintiff slaughter animal, prepare drinks and prepare a reconciliation ceremony that can heal the wound or clan the enmity between the two sides. (ANE-P1)

In the case of homicide, the relatives/clans of the two sides cannot live in harmony until they carry out the reconciliation ritual with the help of the GC...Otherwise, the possibility

for revenge is out there. The government (MC) also gives orders to the offender to hold the reconciliation ritual when the offender is released from prison. Unless he does so, his life will be at risk. So, once he finishes his prison sentence, the offender directly goes to *Abba Gadaa* [Gada Court] and requests for *araara* 'reconciliation' with the victim (ANE-P14)

Then the elders go through all rituals of reconciliation. They slaughter a sheep and make the two sides eat from each other's hands as a sign of reconciliation. They make the disputants clean their mouths with water from a fresh container made of a gourd (water with sour test) as a symbol of cleaning the enmity between them (LCE-P5)

The preceding storylines taken from the interview of the two worerdas positioned the elders' mediation as a ritualistic process that is meant not only to reconcile the two sides, but bring lasting peace between the two sides. Being a communal society, the ritual of drinking from same container at a time and dining together usually from one plate symbolizes the reunion of the two parties as a community.

In the story lines (ANE-P14) also, the elders' reconciliation was also described as mandatory and conclusive to bring lasting peace between the disputants and their respective families. In such positioning, the elders also identified themselves as a powerful body that can give final blessing to the decisions of the judges in MC and as a supreme body to whom cases are referred to get final resolution. On the contrary, the decision of the MC was positioned as mechanical, incomplete and not giving lasting peace.

In the subsequent story lines (ANE-P22), the elders identified themselves as providers of fair and lasting resolution and capable of resolving even the homicide case which are regarded as the most complicated and serious case to resolve in MC. The phrase "even those who commit homicide" is meant to describe the magnitude of the difficulty of the case and the capability of the elders or GC. The utterance "Let the truth be the winner" in (ANE-P23), positions the elders as fair and impartial body that works to reveal the truth. In the story lines (ANE-P22 and LCE-P1), the elders indirectly positioned the resolution of GC as more human and critical whereas that of MC is described as mechanical and less critical process which possibly leads to revenge.

It is GC that better reconciles based on truth (*Qulqullinaan ka araarsu, Mana Abbaa Gadaati*). GC reconciles even those who commit homicide and makes the two sides kiss each other. However, in MC, those who bring better evidence and witness can win....(ANE-P22) ...Let the truth be the winner (*Rabbi dhugaa haa moosisu*), I tell you, the service quality of Abba Gadaa can score 97 out of 100. GC reconciles the two sides, let them eat and drink together and bring them back to normal life. Abba Gadaa also does not take a long time. It resolves the issues as soon as it occurs (ANE- P23)

To solve the conflict, first of all, the elders investigate/listen to the claimant (*himataa*) and then the defendant (*dachafata*). They check if the complaint is right or wrong...In order to prevent these, the elders carefully scrutinize the issue. Sometimes individuals who give false witnesses at the court reveal the truth here at GC, because the elders carefully warn them (disputant) by saying “telling lie is bad for your health, for your family”. Then those who lied at MC ask for forgiveness here (at GC) (LCE-P1)

First of all, why do we need law? It is to make people learn from their mistakes... The elders question the offender. It is what the offender reveals, the way he admits his action to the elders that determines what punishment to put on the offender and how much to forgive him. (YE-P8)

The story lines (ANE-P23), the elders also described the quality of the services of GC as quick and precise with small margin of error. In the story line of Liben Chukala Elders (LCE-P1), the elders described the procedure in CG as fair, democratic, through and most respected by the disputants. In the above story lines (LCE-P1, YE-P8), the elders were positioned with the duty of moral educators and promoters of forgiveness.

Elders (GC) as capable and self-sufficient

The frequently positioned themselves and the GC as capable and self-sufficient institutions which barely need any support from external body. They claim identities as guardians of their community and resolvers of any kind of conflict that occur in their society. In such positioning, the judges in the MC were described as less knowledgeable and inefficient body with the duty of complicating cases rather than resolving them. The following quotations from the elders' interview can illustrate this.

The elders of GC resolve all kinds of conflicts that occur between individuals, families, and clans. (ANE-P1)...The other point I would like to add here is that we (elders of GC) have decided not to treat those cases that are already taken to the MC. However, we later started to treat such cases when the government (MC) complicated things and fail to settle some of the complicated cases. Because this country has a father/owner (to mean protector God), next to God is these elders (ANE-P2).

We usually settle those cases that the MC couldn't resolve because of a lack of knowledge of the norms of the customs of the society. We never blame disputants for going to MC, never. We just accept their cases and resolve it. There are three different kinds of groups within our society: those who rely on *politics*, those who rely on *Aadaa* (traditional norms and culture), and those who rely on religion...(ANE- P14)...We never send cases to MC. It is the MCs that send us cases when they could not solve an issue. We have rich cultural wisdom and norms (Aadaa)...(ANE-P 15)

Look at the number of our service seekers. The **MC cannot solve the issues of these individuals even in one year.** So, there must be support from the government to the elders. (LCE- P-11)...The two sides must closely work together. Sometimes there are

complicated issues that cannot be easily resolved by the MC. So, the court better calls the elders and work with them. Elders can solve complex issues which could take the MC a year to resolve within two days (LCE- 12).

We largely depend on our culture and norms even though there is the government structure. We resolve all these conflicts except for those conflicts that have political cause or based on political motivation. ... We have our own culture and norms. Previous time, cases are not taken to MC. We have our own experts or scholars (hayyuu)... They are the ones who have expertise and cultural knowledge to make (YE- P-1)...It is not normal to tell somebody to go to MC while these elders are here (YE-p-4)...There are such occasions. These days, things are politicized and sent to government (MC), but Borena never send cases to government [MC] to resolve Borena has its own law (seera ofii itti qaba) (YE-P5)

For instance, whoever comes to Borena, call it President or other officials, there is nothing that he can tell us. So, I recommend to leave cultural practices up to the people and take care of their political issues... The elders are aware of all issues that happen in Borena. Some individuals would like to go to MC and try to win cases by presenting false evidences or politicize some issues. (YE-P9) ...There is noting that the government can do for us. We just want it to stay away. We have our own culture and laws. We are self-sufficient. Government intervention is not good. (YE-P10)

In the above storylines, the elders positioned themselves and GC as better problem solver that can handle difficult cases that are difficult for the MC to handle. The expression “we never send cases to MC” in most of the above story lines and the expression “There is noting that the government can do for us” (YE-P10) clearly positioned the elders as most confident and self-sufficient body that have its own established procedures and cultural foundation. Again, as reflected in the expressions “We never blame disputants for going to MC” (ANE-P14), “Previous time, cases are not taken to MC” (YE- P1), “It is not normal to tell somebody to go to MC while these elders are here” (YE-P4), “Borena never send cases to government [MC] to resolve”... (YE-P5), going to MC is considered as undesirable and abnormal practice which is against the established norm of the society.

The elders also ascribed themselves as a supreme body to which difficult cases are referred. In the expressions “we later started to treat such cases when the government (MC) complicated things and fail to settle” (ANE-P2), “We usually settle those cases that the MC couldn’t resolve...(ANE-P14), Elders can solve complex issues which could take the MC a year to resolve within two days (LCE- 12), the elders were positioned with the duty of resolving most difficult cases that the judges in MC cannot resolve. In such positioning, the MC is positioned as incapable and problem aggravator. In the expression “Because this country has a father/owner

(to mean Protector), next to God is these elders” (ANE-P2), the elders claimed identities as guardians or protectors of the society and their duty as social and moral responsibility that was bestowed upon them by God. The elders also ascribed the duty of MC as politically manipulated and having no cultural base while that of the elders as based on traditions and religion of the society.

In the storyline (ANE-P16), the elders of GC identified themselves as advisor or supporter while describing the judges in the MC as recipient of support or less capable institution that cannot provide fair justice. The expression, “the MC should not reverse the decision of the elders “ (ANE-P18) also described the existing relationship between the MC and that of GC as competing rather than collaborating.

We don’t make official meetings with the MC. I personally go to the President of MC in our woreda. I usually say to him, “Please serve the truth. Give justice based on truth. Sometimes, there is unfairness”. That is what I told him. They (MC) never call us formally and ask us what difficulties we are having. How we are running our activities. They give us no support.(ANE- P16) ...Once dispute cases are settled like this, the MC should not reverse the decision of the elders. This affects the harmonious relationship between the Abba Gadaa and the community (ANE- P18)

In the dialogues of proverb given below, the son described his father as mountain and himself as a tree that grows on the mountain. The father or mountain stands for elders or GC while the son stands for MC or the judges. Hence, through such symbolism, the elders described themselves as a foundation up on which the MC relies. The dialogue of the son and the father also describes the existing competition between the elders (GC) and the judges (MC).

... There is a proverb that goes

“A Son argued with his father saying ‘I am better than you (Aabba natuu sin caalaⁱ⁶)’.

The Father replied, ‘How? It can’t be. I am your father.’

The Son continued, ‘You see that tree on top of that mountain?’

Father replied, ‘Yes’

The Son continued. ‘You are the mountain and I am the tree. That is why I am better/greater (caaluu) than you’

The Father replied, ‘Yes now I understand” (ANE- P29)

⁶ *Caaluu: In this context is not to mean I am taller than you but to mean I am better than you*

Gada Court mediation as institutionalized practice

In several story lines of the elders' interview text, the elders described their services as well structured and institutionalized system that can handle cases hierarchically based on their level of severity. Such claim has been clearly reflected in the following excerpts:

The role of the elders starts at the grassroots level. There are elders that settle disputes at the neighborhood level.,, If these elders cannot resolve the issue, they refer to the elders of the clan (jaarsa gosaa). Again, if the elders of the clan couldn't solve it, they refer the case to this GC (ANE-P3)

Ours is not "mana murti" court. It's is called *Gaaddisa* (shade of a big tree where elders sit and resolve conflicts). This *Gaaddisa* has its own procedure and laws to make decision. The decision makers are hayyuu (individuals with cultural knowledge and wisdom). The society in Borenas has *hayyuu* at different level. There are *hayyuu* that solve minor conflicts in the neighborhood Every sub-clan has its own elders and *Gaaddisa*. ... (YE-P-3)

In Borena, disputants are supposed to present their cases first to the elders of their neighborhood. They cannot go to the next hierarchy of elders without doing so...(YE-P-9).When individuals quarrel, first it will be treated by elders of his neighbor, then by elders of the district [ardaa], then to the elders of the clan [gosa]. Finally, the case will be referred to Hayyuu [Gadaa Court]. For very serious cases, there are Hayyuu of Borena and there are cultural laws that these elders follow to resolve such issues. It is just like government structure (YE-P4)

In these story lines, the elders described the procedure of mediation in GC as a due process through which cases are handled at various levels by the socially recognized group of elders or *hayyuu*. Such positioning of the elders identified the GC as a democratic institution that allows disputants to appeal to next hierarchy if unsatisfied with decisions of the current strata of elders. Previous researchers such as Asefa (2002) and Mulleta (2013) found out the presence of such organic structure of customary conflict resolution among some Oromo groups. In the subsequent excerpts also, the elders described the practice in GC as more critical and established system that is comparable with that of the practice in the MC.

The government (MC) can punish those who commit homicide. We (GC) have also our own procedure to resolve such cases. First, we put restrictions (gadabaa dhaabuu) on the movement of the two sides to avoid possible revenge. Then we scrutinize the issue and order the offender to send his request for reconciliation to the victim through Abba Gadaa. (ANE- P21)

In the following storyline, the elders were described as more knowledgeable and respected individuals in the social structure of the Oromo people. Identifying themselves as such, the elders effectively claimed the legitimacy of their institution and practices. They also positioned the

system of elders' selection as accepted norm in the Gada System which is an established indigenous governance system among the Oromo people.

The Oromo people have its social structure. The young respect their elders. There is also the Gada system in which the Oromo people select its leaders every eight years. Age seniority is given especial place in selecting the elders of GC. The other criterion is personal wisdom and cultural knowledge. Hayyuu or individuals having the knowledge of Gada laws, wisdom, patience, and rhetoric skill to manage customary practices of the society are often selected to serve as elders of GC (ANE- P6)

In the subsequent story lines, the elders also described their mediation as long established practice which is neutral or independent of political intervention.

Borenas have their own law which was declared more than five or six hundred years back... The way the MC and the cultural GC investigate dispute cases are quite different.. Our culture (GC) has been before Prosperity Party [current ruling party]and Derg regimes [former ruling party]... We do have our own Abba Gada, Kuraa Jaarsoo...(YE-P8)
Elders cultural institution of conflict resolution is independent of any political party. We [Elders of gada Court] can solve the problems of Borena. We can even give recommendations that help the federal government. (YE-P11)

In these storylines, the elders tried to legitimize their institution and their duties by appealing to the established norms and systems of the Oromo people. They referred to themselves as wise, respected and legal representative of their society or clan. The story lines identified the elders' duty as a practice with firm social and cultural foundation.

Elders (GC) as legitimate and reliable institution

The elders identified themselves as selfless, credible and genuine bodies that provide resolutions based on only truth. As indicated in the subsequent story line, the elders appealed to religion to legitimize their practices. They describe the session of the elders' mediation as God appointed jury where people are expected to speak only the truth.

Gada is all about Truth; Truth is the Son of God (Gadaan dhugaa; dhugaan ilma Waaqati). The Gada (elders of GC) do their work carefully. They never commit sin for the good future of their kids. These elders are like shades of Odaa (tree). (ANE- P28)
Elders speak on truth and reality because this chair, the chair I am sitting on or the jury, belongs to God (wanbarii Waaqati). If I make an unfair decision in favor of someone, I will take the Sin (cubbuu) to my home, to my family....These people will take an oath. There is a special ritual for the oath ceremony ...(LCE-P2)
So, sitting under the shade of God (gaaddisa Waaqaa jala taa'ee), sitting on this land, elders give truth because this shade (gaaddisa) and this place is respected. Both the shade and the land we are sitting on belong to God. This shade (gaddisa) has its own law (seera), this land as well. (LCE-P4)

Usually elders of GC give their service based on the request of the disputants. The disputants come to us and beg us by the name of our ancestors' spirit because they know that we do not distort the truth. (LCE- 8)

In most of these story lines, the elders of GC are positioned as messengers of God who execute only the will of God and refrain from actions that go against the will of God. The place where they sit and carry out their duties “gaaddisa” meaning shade of a big tree, usually sycamore tree (Odaa), was also described as a saccade place where people speak truth and do blessed deeds. The elders also referred to GC as an institution better preferred by the community. In the next story line, “The other world has no such cultural practice (Gada System). I can say that modern democracy has its base in the Gada System” (ANE- P29), the elders positioned the foundation of the GC as the most powerful institution that can serve as a model of world democracy. In such positioning, the elders tried to legitimize their duties and their institution by appealing religion the broader socio-cultural values and norms of the target society. The following story line the elders indemnified themselves as authorities that have better informational power to investigate and reveal the truth. Having such informational power will no doubt help them to stand on firm ground and make fair and implementable decisions.

It is a place where truth (dhugaa) can be revealed because when elders mediate, they carefully investigate the issue on both sides. Since they live with the disputants, nothing will be hidden from them. They know the ins and outs. Elders rely on the customs, and norms of society which have been accepted since earlier times. That is why society prefers to get service from GC. The truth can be revealed only in front of elders. (ANE-P9)

In the following story lines, the elders positioned themselves as ultimate decision makers and the foundation of their decision as due and democratic process. On the other hand, the elders described the MC as a contender that attempts to undermine the established indigenous system of the Oromo people and as a system that is forcefully imposed up on the society.

What I also want to add here is that once Abba Gadaa makes decision means, the issue has been resolved once and for all. It is the final decision one can get from a human being under this sky, below the verdict of God (Waaqaa Gaditti)...Whether they like it or not, the law of Abba Gadaa (GC) overrules. Gadaa is the origin of democracy. It governs the world. They (MC) should not disregard this by force. They should not rely on their force (ANE-P19).

However, Gada Systems is an independent system that does not rely on religion or politics. The Borena doesn't allow cultural practices [elders mediation service] to serve as source of income... YE-p-12

In the story line (ANE-P19), the two institutions were described with the duty of competition rather than cooperation. This finding aligns with the finding of Negewo (2013) and Enyew (2019). Negewo (2013) found out that there is no mutual recognition between the government justice system and the indigenous institutions of conflict resolution. He further described the relationship between the two systems as “uneasy and competitive”.

Gada Court as more preferred institution

In most of the story lines of the elders’ interview, elders’ mediation practice in general was identified as an institution that is better preferred by the community compared to that of MC. Individuals who goes to MC were described as unwise people who wants to debate and confront instead of resolving their problem peacefully.

Those who have to understand good understanding come here (GC), and those who have no good understanding go there (MC). They go there (MC) usually with a sense of competition and defeating one another. They unnecessarily waste a large sum of money extravagantly (birria ofii cufaccafaatuma deema). But they all end up here (GC), and they come back here... (ANE- P10)

Disputants usually take their cases to the elders as soon as they face it. Only those ignorant runs to the MC...Gada Elders are preferred because they work or give verdict sitting on the chair/jury of God (Wanbarii Waaqaa) (LCE- P4). The MC usually orders the local officials to support us. They sometimes send us the police when we need them. The MC also sends us back cases and tells us to mediate. The judges in the MC also advise the disputants to take their cases to the elders of the GC. (LCE- P6)

In these storylines, MC was described with the duty of creating more competition or worsening the conflict between the disputants instead of resolving it. MC was also positioned as destination or preference of the ignorant or foolish disputants and as a bureaucratic institution that unnecessarily waste the disputants’ money and time. On the other hand, the CG was identified as an institution where every difficult problem gets final resolution and the elders as critical and fair investigators who are capable of revealing the truth. It was described as final resort of all disputants who wants to get true justice without any expense.

In the following story lines, the elders also positioned the MC as an institution that is foreign and have no moral or cultural base while describing GC as original or native institution that have good acceptance among the Oromo people. This story line, the MC was also identified as an institution that serves the personal interest of those cheaters or corrupt individuals disregarding

the interest of the wider public. Those individuals who prefer MC were also positioned as sinful, selfish and betrayer of their own identities, as cheaters who want to get unfair justice.

While this cultural law, the law that different Oromo clans and elders had agreed upon is there for them, why do some disputants prefer to take their cases to MC?” So, why do people leave all these values of their ancestors behind and go to MC? Those who prefer to go to MC are those who are born to serve their personal need at the expense of their social value. They are the ones who want to win by cheating and misleading (ANE-P11)... The majority of the people, the rich the poor, the strong and the weak prefer this GC. Only those people who want relief by their power; those who want to win using their power, their financial power; those who want to win by committing sin (cubbuu) go to MC. It is only the need to satisfy the sinful competition that pushes them to go to MC. (ANE-P11)

People [disputants] do not go to court unless they are forced or have especial problem. It is not considered as norm of the society in Borena culture (YE-P3)

In the following story line, the elders were described as spiritually powerful and capable of uncovering the truth and as an authority that the whole society fear and respect. The elders practice was also positioned as blessed and fair. By identifying themselves as such, the elders indirectly positioned their resolution as fair and genuine while describing the duties of the judges in the MC as unfair and unjust.

It is only Abba Gada that refines and thoroughly investigates cases. An Abba Gada has the power. He blesses and curses. The curse of Abba Gadaa is bad. It can destroy. Those who disregard Abba Gadaa and go to MC are sinful ones. If you consider the police station, it doesn't investigate cases and find the truth. The court also does not clean cases and find the truth. (ANE- P12)

Like what has been said, it is only the elders that can find out the truth (Ka dhugaa baasu, Abbaa Gadaati). .. There is a saying which goes “Waakkataan jilba, Amanaan dhibba” and “Those who deny the truth are made to swear, while those who admit the truth are given forgiveness and reconciliation... Those who speak the truth will get the blessing of God. If the witness lies, he/she will be disgraced in front of people and God. (ANE- P13)

In this storyline, the judges in the MC were also identified as less capable and less critical bodies that are not able to investigate and identify the truth and their practice was positioned as sinful, unfair and disgraced. Several previous studies (Macfarlane, 2007) have also revealed similar results.

Elders as philanthropist

Elders also described themselves as philanthropist serving the community fairly for free. They positioned themselves as guardians of the peace and security of their community and as more powerful and capable peacekeepers to which the government resort during hard time. In the

meantime, the elders indirectly described themselves as neglected body that has been given less attention which do not worth their contribution to the wellbeing of their society and their support for the government. The elders also indirectly sent their call for the government to give them proper place and support.

We (GC) summon twice in a week to solve the problems of the community. This is a free service. The elders of GC serve society for free; for the benefit of our sons and daughters. We (GC) summon twice in a week to solve the problems of the community. This is a free service. The elders of GC serve society for free; for the benefit of our sons and daughters. ... (ANE-P 15)

These elders of GC do not request money for the service they render. Only those who are willing would buy them drinks for their service. They don't have shoes; they go without food (garaa duwwaa deemee) and give the mediation service. So, God will sympathize with them. Gad also stands by their side. That is why elders of GC are preferred (LCE-P4)

The only thing we sometimes get is a drink. There is nothing else we take; elders do not take bribes (matta'aa). Nobody plows the land for us. The GC also gives us nothing even a per diem for the services we deliver (LCEP-9)

Our farm work is left undone. Elders engaged in such business is suffering from extreme poverty. Look at the number of our service seekers. The **MC cannot solve the issues of these individuals even in one year.** So, there must be support from the government to the elders. (LCE- P11)

Elders negative self-positioning

Though they mostly described themselves and their roles positively, the elders did not deny the fact that there are emerging behavioral changes among some elders of GC. What the elders described as “seek something” in the second statement of the following story line shows the tendency of the elders to take bribe. The elders also described the change in the inherent practice of resolving conflict through fair and genuine manner. The phrase “the previous one” describes the fair and genuine practice of the elders in the past.

Actually, there are some problems regarding the elders' mediation these days. There are tendencies among the elders to seek something from the disputants. Previously, the Gada elders serve both the rich and the poor equally and fairly. Things have changed from the previous one. It is also impossible to do things as they used to be done in the past. It is natural that a given cultural practice also develops and changes (YEP-12)

In this story line, the elders described the change in the good practice of the elders as inevitable change that has happened due to external pressure such as lack of incentive and support for the elders for the service they render. In so doing, the elders also described the growing tendency of

the elders' desire for taking bribe as a normal phenomenon. This was the only instance of positioning that negatively describes the elders' roles and identities.

Negative other positioning

Throughout the turns of their speech, the elders positioned the practices in MC and the judges negatively. They described the procedures of MC as mechanical or less critical, unfair, and less preferred and the judges as less credible and corrupt.

MC as mechanical and inefficient

When asked about the difference between the GC and MC, most of elders described the practice or procedure in MC as mechanical and less critical procedure in investigating the truth. According to the elders, the information that is obtained from the witness in the MC is less reliable and could lead to wrong conclusions which lead the judges to make unfair decisions. The term 'ragaa' meaning "witness" is described as false and misleading information presented by the disputants. Such positioning has been reflected in several storylines of the elders' speech in the three target wordas (ANE-P2, LCE-P1).

The MC may decide based on false witness... So, the difference between them (MC) and us (GC) is that the MC relies on witnesses (ragaa) whereas we make decisions based on truth. The MC relies only on witnesses. Both sides come with their own witnesses...The court simply listen to the witness of both sides. It doesn't try to identify the one who deserves the truth (dhugaa) (ANE- P2)

For example, if they take their cases to MC, they may organize false witness, and there is the possibility of denying the truth/justice (dhugaa dabsuu). There is the possibility of giving false witnesses (LCE-P1)

The elders also positioned the decisions of the MC as temporary, incomplete and less capable of bringing lasting solution in resolving conflicts. In the expressions 'MC don't have customary knowledge', 'they ask for support', 'this cannot be handled by MC' and 'they request us', the elders positioned themselves as more capable than the judges in the MC. According to the elders, there are missing elements in the procedure of the MC especially in resolving serious conflicts that involve homicide. The elders also describe the MC as less concerned about the coexistence of the society or less capable of restoring peace.

The MCs do not have customary knowledge on how to handle issues related to traditional marriage. That is why they ask for our support... Again, in the case of the homicide, the MC requests us how to reconcile the relatives/clans of the two sides (of the victim and the killer). The MCs do not know how to heal this social wound. ANE-P12

There are traditional rituals that cannot be missed to reconcile the two parties. This cannot be handled by the MCs. No matter how the MC punishes the offender, this will not end the enmity between the two parties. ANE- P14

However, in MC, those who bring better evidence and witness can win. This does not avert the possibility of future revenge because it doesn't reconcile the two sides. ANE- P22

The elders also positioned the practice of the MC as less useful and decision of the judges as harmful to the society. They also described the judges in the MC as less critical and less capable personnel who are not able to scrutinize and identify facts and who simply depend only on written laws and the words of witness. The expression 'a single article' indicates the inadequacy of the law and procedure of the MC in critically investigating the case from different perspectives.

Several previous studies revealed that compared to IMCR, the MC is not cost effective (Bahta, 2014; Keneni, 2013). Likewise, in several of the storylines of the elders' interview, the MC was described as bureaucratically complex and less efficient in terms of resolving conflicts on time. Likewise, the expressions 'several appointments', 'lots of money and time' 'cannot solve the issues even in one year' clearly position the procedure in MC as lengthy and cost ineffective. The expression 'these young university-graduate judges' is used by the elders to position the judges as less capable and efficient in critically investigating cases and giving fair decision.

If you simply give the whole responsibility to these young university-graduate judges who rely only on articles of written law, it will be disastrous for the country. These days, it is false witness that spoils the community (ANE- P25)...However, in MC, there is a practice of giving several appointments. The disputants need to attend several appointments. After several appointments, the disputants finish their money and become poor. They eventually come back to us. You know what? When we informally discuss with judges of MC, they tell us, "We rely on the three witnesses. Whatever sin is committed in the course, it goes to the three witnesses (ANE-P23)

Going to MC may cost them a lot of money and time. They have to go to MC for several appointments. ... For example, in MC, the defendant is requested to compensate for all the expenses of the victim when the verdict is given in favor of the victim or the plaintiff. This will widen the gap between the two parties (LCE-P-12) ...Look at the number of our service seekers. The **MC cannot solve the issues of these individuals even in one year.** So, there must be support from the government [MC] to the elders (LCEP-11)

In these story lines, the elders also positioned the GC as more capable than the MC. In the expression 'there must be support from the government [MC]', the elders positioned themselves as supporter while describing the MC as incapable and support seeker.

MC as unfair and corrupt

The elders also described the MC and the judges as corrupt and unfair. According to the elders' positioning, the MC serves those 'sinful' disputants who seek justice unfairly by bribing the judges. The expressions, '**who usually wins? the one who has more money**', clearly positions the MC and the judges as corrupted and unfair. Similarly, the negative auxiliaries 'does not investigate, does not clean cases' describe the judges in MC as less efficient and less concerned about finding the truth and making fair justice. Disputants who opt for MC to resolve their conflicts were also described as sinful person who tries to get unfair justice by organizing false evidences.

So, in MC who usually wins? It is **the one who has more money** (abbama qarshiitu moo'ataa jira). Those who disregard Abba Gadaa and go to MC are sinful ones. If you consider the police station, it **doesn't investigate** cases and find the truth. The court also **does not clean cases** and find the truth. (ANE-P-12)

For example, if they take their cases to MC, they may organize false witness, and there is the possibility of denying the truth/justice (dhugaa dabsuu). There is the possibility of giving false witnesses. (LCE-P1)

People of these days are not behaving as our society of the olden days used to behave. These days, most people have become brokers (*dallaala*). They simply live by selling their word of mouth (telling lies). These brokers push the disputants to go to MC because they get something (bribes).... There is an Oromo saying which goes "Gubatee hinarginee daa'imni ibiddatti gama" meaning, "**A baby that has never been burnt run to grasp a fire**". They (judges in MC) usually make them (disputants) pay a large sum of money up to thirty-forty thousand as they take their cases from woreda up to the supreme court. After feeding the judges (paying bribes), eventually, the disputants come back to these elders to settle their disputes.- the way I see it, people do not prefer MC. (ANE- P8)

How about in the case of MC? A witness will stand in front of a judge and give false witness or lie. People who know the truth may not go to court. However, in the MC, there are other processes, it is accompanied by money (bribe) though the judges also apply oath in their service. Those who go for the service (MC) take money to the judge. The judges also sit on money (give unfair verdicts by taking bribes). This is it (LCE-P2) However, sometimes when the judges already take the bribe (yoo loon fudhatan), they never agree to give the case to the elders of the GC. Giving and taking the bribe is mainly to distort the truth and give an unfair verdict (LCE-P 6)... People go there [MC] when they want to make trouble, seek unfair justice [dhiphuu barbaaduu]. (YE- P-4)

The elders also described the MC as less preferred institution and going to such institution as unnatural practice. In the proverb "**A baby that has never been burnt run to grasp a fire**" going to MC was described as unknowingly grasping a fire. This negatively positions the MC as harmful place where people unknowingly prefer and eventually suffer.

The following anecdote from the elders' story line also clearly describes the inherent practice of corruption in the MC. In this story line, the MC is positioned as destination of their or criminals who unfairly seek justice.

There is a story or saying about a judge who was serving during the regime of Haile Sillassie (Jaanooy). There was a local governor (*chikaashuumii*) who claims to have eliminated the theft. Then the judge of the same district responded to the governor, "If you did so, that means you have closed a government office (i.e the Court)" LCE-P 13

MC as foreign or intruder

In several storylines of the elders interview text, the MC was described as a foreign or intruder that disturb the longstanding and stable socio-cultural norms and practices of the society. The expression '*leave cultural practices up to the people and take care of their political issues*' describes the MC as unfit for resolving social conflicts in the way that the elders of the MC do. This in turn indicates the presence of mandate overlapping in the practice of resolving social conflict. Similarly, the expression '*sit on different side of the river*' positions the MC and the GC as contenders rather than collaborators. The elders also described the role of the MC as aggravators or creators of social disorder.

In my opinion, we better leave the issue related to cultural norms up to the GC (Waan aadaa aadaa kennuu) and those legal issues to the MC (waan seeraa seeraf kennuu). I also recommend the two bodies fix dates for regular meetings to discuss how to collaborate and give the necessary service to the community side by side. However, if the two bodies (GC and MC) **sit on different sides of the river** and fail to collaborate, it will be bad for the government and the community as well (ANE- P26)

For instance, whoever comes to Borena, call it President or other officials, there is nothing that he can tell us. So, I recommend to leave cultural practices up to the people and take care of their political issues... The elders are aware of all issues that happen in Borena. Some individuals would like to go to MC and try to win cases by presenting false evidences or politicize some issues (YEP-9)

The elders also described the MC as foreign practice imposes on the society against the well-established existing law of the society. The expressions 'there is nothing that the government can do for us' and 'we have our own culture and a law' clearly indicates the unfavourable attitude that the elders have towards the MC. The elders also positioned the law of the MC as unfit or incompatible to the existing norms and practice of the society.

There is nothing that the government can do for us. We just want it [MC] to stay away. We have our own culture and laws. We are self-sufficient. Government intervention is not

good (YE- P10). Finally, what I recommend is to let the elders do their job in resolving disputes that happen in the society (YE- P12)

MC is quite different from Gaaddisa. This MC is not compatible with our culture. These judges and prosecutors have no knowledge of our culture and norms and they can resolve nothing... People run to MC taking minor conflicts that could be solved by a single elder. The women run to MC and share property when they divorce. This is unlike our culture and norm. This modern law has not consulted our hayyuu and considers our culture. It is just enforced by the power of the government. It just follows the structure of the government through kebeles (YE- P3)

The elders also positioned the MC as obstacles to the elders practice and destructors of established norms of and practices of the society. The expression ‘look at what the government [MC] is doing’ to our abba Gadas’ positions the practice of paying per diem for the elders as undesirable practice that could spoil the established norms of the society. The analogy that the elders have drawn between the practice in the church and the practice at GC describes the intervention of the MC in resolving social conflicts as unenvited and wrong practice which is performed by the judges without having sufficient understanding of the socio-cultural background of the customer they serve. The expression ‘There is no more culture if there is government intervention’ in story line (YE-P1) clearly describe the MC as distructor of the established cultural norms of the target society.

You know what, before the last two regimes; Derg and the current government, the Borena people never refer to modern law to warn each other (Adaraa higgii waliin hinjedhu). This is because this law of Ethiopia and the Borena culture and norm are quite different (YE P-8)...**There is no need of sending cabinmate members** to solve conflicts that could be easily solved by the local elders... It is like religious practice. For instance, can a woreda governor go to church or mosque and teach people how to conduct their prayer? No, he cannot do that. Our culture is like that. For instance, whoever comes to Borena, call it President or other officials, there is nothing that he can tell us. Some individuals would like to go to MC and try to win cases by presenting false evidences or politicize some issues. YE-P-9

Let me add some points. Look at what the government [MC] is doing to our Abba Gadas. It is paying them per diem and some other payments. This is what is spoiling our culture and norms. So, what the government Oromia should do is to take its hands off these cultural elders. There is no more culture if there is government intervention. (YE-P-1)...As we all see these days, the number of women applying for divorce is increasing. A wife does not belong to only her husband. She belongs to the whole family and clan of the husband and the whole Borena because she bears children that protect the clan and Borena. Divorce is against our cultural norm (YE- P12)... The court sentences a person to life in prison. Then the whole family will be affected. **That is not how we settle cases.** You cannot heal wound by sentencing the offender to life in prison.... It has no use if you beat an offender as punishment for committing crime of beating another person. That can’t heal the wound and reconcile the two side (YE- P-7)

In the story line (YE- P7 and P12) the elders also described the MC as aggravators of divorce, destructors of social order or creators of social chaos. In the same story line, the expression ‘That is not how we settle cases’ positions the judges in the MC as wrong doer while describing the GC as better institution in resolving conflicts in a sustainable

MC as uncooperative and coun/ter productive

The elders also described the MC as less cooperative and supportive. In several storylines (ANE-P17, P18, P19, P26, LCE-P8), the MC has been described with the duty of counteracting against the interest and the decision of the elders of GC. The expressions ‘the MC should not reverse the decision’ and ‘if we do not communicate and respect each other’s decisions’ and ‘They should not intervene in our work and we (GC) should not do the same’ positions the two institution as competitors. The expressions also clearly indicate the absence of cooperation and clear demarcation of mandate between the institutions.

Sometimes, there is miscommunication between the MC and GC. Last year, there was a homicide case that we settled. We investigated the truth and reconciled the two sides following our traditional healing procedure. We also formally communicated the reconciliation of the two parties to the woreda court. However, later we heard that the victim took the same case to MC and the offender has been sentenced to ten years in jail. This is unfair. This shouldn’t have happened. ANE-P17

Once dispute cases are settled like this, the MC should not reverse the decision of the elders. This affects the harmonious relationship between the Abba Gadaa and the community. The community no more trusts GC if this continues to happen. It would have been better if the MC respect and accept the decisions of the GC. If we go in different directions, if we do not communicate and respect each other’s decisions, the conflicts may be aggravated...Unless this issue is resolved, if those cases that GC has resolved based on established norms are again taken to court, the community will begin to say to us, “If your decision is not the final one, if I have to go to court for the same case, why don’t I take my case directly to MC... What has been brought to Abba Gadaa shall be finalized by Abba Gadaa (GC). What has been taken to MC shall be concluded there. We (MC and GC) should not get into a clash. They should not intervene in our work and we (GC) should not do the same (ANE-P18). Had the elders of GC had been strengthened to provide their services properly, nobody would have gone to the MC (*firdibeetii*). This is why they (MCs) hate elders. They don’t like us really. They come to us only when they face difficulties (LCE-P12)

The expressions ‘Had the elders of GC had been strengthened’ in the story lines (LCE-P12), indicates the absence of proper support for the GC. However, in the expression ‘They come to us

only when they face difficulties’ of the same story line, the elders positioned themselves as advisor while positioning the judges of the MC as support seeker or inefficient.

Positioning by Judges of Modern Court

Unlike that of the storylines in the elders’ interview text, the storylines in the judges’ interview text are predominantly characterized by Positive Other-positioning (POP) and Negative Self-positioning (NSP). The judges described the elders and the GC as efficient, capable and preferred problem solvers whereas they described the practice in MC as less capable and efficient. Yet, the judges also described the weakness in the practice of the elders and the GC in general through negative positioning. In Table 3, there were 50 instances of positive other-positioning and 36 instances of negative other positioning, and 26 negative self-positioning in the interview text of the judges. The positioning in the judges interview text has been analyzed in the subsequent sections using illustrative quotations.

Table 3- : Data Summary of Positioning in the Judges of (MC) Interview Text

Type of Positioning	Number of Story Lines
Positive self-positioning	5
Negative self-positioning	26
Positive other- Positioning	50
Negative other-positioning	36

The judges’ positive-other positioning

In several storylines, the judges positioned the elders and the GC positively as capable and self-sufficient, providers of fair justice, healers of social wounds, efficient and effective, caring and philanthropist. The following subsections present the positive positioning of elders by the judges of MC in the target words.

Elders (GC) as more capable and preferred alternative

In most of their storylines, the judges described the elders’ mediation or the practice of GC as better preferred alternative that can save the disputants money, time and energy. Going to the elders or GC to settle disputes was also described as normal and recommended practice that the disputants are supposed to do. On the other hand the term ‘disadvantage’ in (LCJ-P1), positioned the MC negatively as less useful institution compared to GC. In the story line (YJ-P1), the

judges also described the GC as potential alternatives that could share the burden of the MC. The judges in the other districts also share the same opinion as indicated in story lines (LCJ-P1, ANJ-P1).

Ok, as per the law of the country, our court encourage the society to settle their disputes, especially civil cases, by the local elders and resolve them based on their cultural norms and beliefs. This saves the expense and time of the disputants (YJ - P1)...The main goal of the court [MC] is minimizing the number of cases coming to the court as much as possible. To do this, we encourage disputants to settle their cases using their cultural procedure by elders of the community (YJ-P2)

In our case we just advise the disputants to settle their cases through *Jaarsumma* (mediation) and tell them the benefits of using elders' mediation and the disadvantage of using MC (LCJ-P1)

In the story lines (ANJ-P7, ANJ-P8), the judges described the elders as more capable bodies that can solve difficult cases that are challenging for the judges of the MC to handle. In the same storyline, the judges positioned the elders as promoters of the cultural norms, as more ethical and reliable bodies that keep the secret of the disputants. The expression 'There are issues which are taboo to reveal at MC' indirectly positions the MC as incomplete and unfit institution to deal with social problems of the target society. The elders were also described as better respected institution whose decisions are effective in addressing the urgent challenges of the disputants and as first option to which disputants in the countryside resort to when there are disputes. The ephras 'it is not bad to settle even such cases by the elders' mediation' (YJ-P4) clearly describes the elders or GC as better alternative at resolving even criminal cases which the law of the country does not allow (YJ-P4). Several other story lines (ANJ-P8, ANJ-P11, LCJ-P3, LCJ-P5, ANJ-P19, ANJ-P21, ANJ-P23, ANJ-P24, ANJ-P27, YJ-P3) in the judges' interview text also positioned the elders in similar manner.

Most of the time, we refer cases related to family disputes particularly spousal disputes, to the local elders. The next is cases related to inheritance. It is better to handed such type of cases by elders to save the disputants time and energy and to keep the confidentiality of family secretes. There are issues which are taboo to reveal at MC. Such issues can be told to local elders who are believed to keep the secrets confidential. So, resolving their cases their elders mediation or reconciliation helps to minimize the sufferings of the disputants and to resolve cases in line with the culture and norms of the Oromo people. Elders of GC give solutions which could be effective immediately. For instance, if a husband refuses to provide food for children, the MC may punish the person by sending to court. However, that is not the best decision for the hungry children. However, elders can convince the person to give the food immediately. That is why family cases are often referred to local elders (ANJ-P7)

The disputants also easily accept the resolution given by the elders. There are no significant complaints on the resolution of the elders. This has significant benefit for MC. Their contribution is high especially in handling cases related spousal dispute, inheritance which are complicated and difficult to handle by MC. The elders know the detail background of the case and can easily convince the disputants to settle their cases in fair manner (ANJ-P11)

Normally we do not refer criminal cases to elders because those cases are believed to affect not only the complainants, but also the wider community and the government interest. However, it is not bad to settle even such cases by the elders' mediation (YJ -P4)

In the storylines (LCJ-P8, LCJ-P9, LCJ-P11, ANJ -P2, ANJ-P31), the elders were also positioned as critical and systematic in uncovering the truth and giving fair justice. In such positioning, the judges described the GC as better institution than the MC in investigating the truth and as bodies that have better informational power when it comes to investigating the truth due to their team work and their social proximity to the disputants. The expressions 'give oath or to swear by the name of his/her child' in (LCJ-P8) positions the elders mediation as fair and morally/spiritually legitimate practice.

But, elders of GC can easily find the truth and give the land to the owner. This is possible because they rely on the truth not evidence or information. But ours is a law. We depend on evidence. If there are no evidences, we just let the person free. A person who pleads not guilty in this court, may be found guilty and punished by the elders. There [in Gada Court] since the offender will be asked to give oath or to swear by the name of his/her child, there is less possibility of telling lies (LCJ-P8)

Look, the court could do nothing. However, if the same case were treated by elders, the issue may end up differently. Those witnesses from the victim side could be made to give oath and the elders could have easily found out the truth (LCJ-P9)

In the elders' mediation (jaarsumma), genuine evidences can be easily found out because several relatives of the disputants take part in the process. LCJ P-11

The elders' contributions are too immense. They can help us in resolving those cases troubling us. Secondly, they can establish peace in the society. Third, they can easily investigate and reveal the truth (dhugaa baasu)... Those individuals who organize fake evidences do not want to take their cases to the elders or Abba Gadas because the truth will be easily revealed by the elders during mediation, because the elders know the truth in their locality (ANJ- P29)

In the story lines (LCJ- P12, ANJ-P6), the judges also described the elders' mediation as an organic or indigenous practice that has firm foundation in the existing socio cultural norms of the society. Having such foundation, according to the judges, makes the elders' practice more acceptable and suitable for resolving any kinds of conflict that occurs in the society. The GC is

also positioned as well structured institution (ANJ-P17, LCJ-P18) having complete package that can be used to resolve any kind of dispute that may occur in various stratum of the society.

I say alternative dispute resolution is preferable because it relies on the norms and beliefs of the society and hence work towards giving fair and reconciliatory decision. The elders appeal to the norms and cultures of the society to convince the disputants to forget the law and fairly share properties. (LCJ-P12)

Indigenous method of conflict resolution (Jaarsumma) is already there in the tradition and customs of the Oromo People. The Oromo people have established its own customary laws (tumaalee garaa garaa) since its reorganization at Mada Walabu. These customary laws help to handle cases related to economic matters, family matters, social matters, environment and many other... (ANJ-P6).

So, the elders play significant role ... For instance, in this district, of Arsi Negelle, there are 79 sub-clans... All the 79 clans have their own respective structure of elders which starts from heads of family (Abba Manaa) , then elders of the neighbor (Saddeeta Naannoo) ANJ-P17

It would be better if this structure of the GC is given legal base from the grass roots level up to the top...Had the disputants had gone through all the structure of elders' mediation from the lower strata i.e elders of the neighbors to the highest stratum i.e elders of GC, they wouldn't have brought their cases to MC. (LCJ-P18)

There are traditional structures of the elders in the society but they are not given recognition by the government (YJ-P1)

Elders as providers of fair justice

The elders were also positioned as more critical and provider of fair justice that equally satisfies both sides. According to the judges, the elders are in a better position to know the detail cause of the dispute because of the proximity they have with the disputants. Like that of the elder, the judges in the modern court also described disputants who go to MC as seekers of unfair justice while positioning disputants who opt for GC as genuine people who look for fair justice. In such positioning, the MC is indirectly portrayed as providers of unfair verdict or as a destination of those disputants who wants to get unfair justice by misleading the judge. The phrase 'come back to their culture and norms' in (YJ-P8) also describes settling ones dispute through the elders mediation as acceptable normal practice and respecting own identity. Such positioning indirectly depicts the MC as foreign practice which has no base in the socio cultural arena of the Oromo people.

They [disputants] cannot win with fake evidences during the elders' mediation because the elders know everything. So, such type of disputants brings their cases to MC. These disputants do not want their cases referred to elders for mediation. However, those disputants who genuinely seek truth or justice want their cases to be referred to elders (YJ -

P5) ...There is a saying which goes, “Both sides cry in the elders’ mediation” (jaarsummaa irratti gareen lachuu inboo’aa jedhama”. This is because the elders give resolution that equally satisfies the interest of both parties (YJ- P7)...Had the case had been handled by elders, the truth could have been revealed. Therefore, I recommend if people come back to their culture and norms and settle their cases by elder and the MC also push the disputants to go to elders (YJ-P8)

The judges also positioned the elders and their practices as better respected fit to the cultural norms of the society. The elders’ decision is also described as having better deterrent effects.

He counted the elders who mediated the case as witness. Since, the society respects their culture and norms, they do not tell lies to elders (YJ -P8)...If such case is brought to court, it is considered as minor offence punishable by two months imprisonment or three hundred Birr. However, the same case entails a serious fine up to five heads of animals if treated in GC... (YJ - P9). Sometimes, disputants first go to the GC and then come to us [MC]. Here [in the MC], the disputants may not reveal the truth they have told the elders (LCJ-15)

The GC was also positioned by the judges as good alternative that worths collaborating with and strengthening. However, the phrases ‘have to communicate’ ... ‘We have to strengthen...’ on the other hand indicates the absence of such collaboration between the two institutions so far.

I know the government is preparing proclamations and regulations to formally establish and give recognition for the cultural court or mediation of elders. This will bring significant benefit for this society. Until then, we have to communicate with local elders who have respect and recognition among the society and work with them. We have to strengthen them. The law also supports this... (YJ- P11)

In the storyline (LCJ-P16), the judge also described the procedure in GC as more humane and fair which has the capacity to address the interest of innocent people who could have lost their cases in MC if judged only based on the evidences brought to court not the truth. In such positioning, the judge indirectly described the procedure in MC as less flexible in addressing those innocent people who could be victims due to lack of legal knowledge. In the story line (ANJ-P13 and ANJ-P15), the elders are positioned as fair and uncorrupt bodies that give priority for the wellbeing of their society by filling the gaps in the MC.

I know from the outset that she can’t win the case because I realized that the verdict will be made in favor of the brother who already legalized the land by his name. But I was touched by her situation and her innocence. Then I begged the husband to take their case to the elders’ GC (LCJ- P16)

But according to Oromo culture, elders do not request for money. They even don’t accept any kind of invitation before resolving the dispute. They focus on resolving the conflict, (ANJ-P13)

These elders have big role in building the justice system of this country or “Sirna haqaa biyya kanaa ijaaruu keessatti ‘yefitih sire’at ginbata’ gaheee olaanaa qaban”. Elders can easily investigate the problem of both sides and resolve conflict. They can even reduce the problem of impartiality that is observed in MC (Manni murtii alloogummaa keessa akka hingalle godha) (ANJ- P15)

Elders as healers of social wound

In several storylines of the judges’ interview text (YJ-P7, ANJ- P12, ANJ-P21, ANJ-P22, ANJ-P24, ANJ-P26), the elders are positioned as providers of lasting resolution or as healers of social wound. They are described with the capacity of normalizing the disturbed social order. Going to the elders or GC was also described as respecting own cultural norms and practices and respecting own organic identity. The elders’ mediation practice was described as more critical and appealing to the feelings of the disputants (YJ-P12, ANJ- P24) and as cost effective (ANJ-P24,

They [elders] also restore the broken social bond between the two sides. They make the social bond of the two sides even stronger. In general, using elders mediation is like coming back to one’s original and normal way of living (dhimma jaarsummaa jechuun, dhimma waa’ee ofiitti deebi’uuti)... It is when the Oromo go to elders or Gada courts and settle their cases, we say that the Oromos have come back to their original norms and culture. It is beyond winning and losing cases (YJ - P7)

In case of elders’ mediation, however; the elders are supposed to carefully investigate the problem or feeling of both sides. The disputants also speak the truth. They do not tell lies like what they do in MC. The elders handle the case openly. So, the elder reconcile the two sides and bring peace to the family (ANJ-P12)

However, in the case GC, the disputants end up in reconciliation and go through a cleansing ritual called “Mijuu qopheeffachuu” in which the disputants and elders eat and drink together as sign of creating lasting peace between the two parties. The parties are happy because it is a win-win solution. Afterwards, the two parties work together, they don’t hate each other. So, the outcomes of the two systems are incomparable (bu’aan isaa walitti hindhufu) (ANJ-P21)

Elders (GC) as efficient and effective

In several story lines the judges interview text (LCJ-P10, LCJ-P13, ANJ-P2, ANJ-P15) the elders’ mediation has been described as efficient and cost effective tool of conflict resolution. This is true mainly because the decision that the elders make in GC are considered to be final since it is believed to satisfy the interest of both sides.

Alternative dispute resolution is more preferred approach for all types of disputes because it saves money, time, and it has no appeal. The disputant’s agreement or the elders

reconciliatory decision will be taken as final and we close the case based on this. Elders of GC are very powerful. (LCJ-P10)

The resolution given by elders is more preferable. It depends on truth not only witness. Once the elders pass decision, there is no more appeal. The disputants can better solve their disputes in good faith, particularly those issues related to land dispute, if they go to GC... So, GC or elders' mediation can save time and expenses (LCJ-P13)

The court supports and show direction for the local elders to settle various disputes. Doing so, helps to speed up the process and to resolve the issue in time and to save time of the court. The elders also help in giving ultimate decisions (Murtii dhumaa) that do not entail further appeal to the next higher court (ANJ-P2)

Elders mediation (Jaarsumma) in Oromo people has its own norms and cultures, it has mechanism of finding truth. It is different from MC because it does not entail any appeal (komii hinqabu). If they are given recognition at district level, we can refer those cases to them to investigate and settle. The MC can also easily communicate with them and give them support or trainings (ANJ-P15)

In the storyline ANJ-P3, the judges also described the GC as complete and better institution for resolving cases that are not easily handled by MC due to their complex nature. In such positioning, the judges also indirectly positioned the law of the MC as incomplete tool in addressing some of the disputes in the target society.

However, there are unique cases that we refer to Gada Courts. Those cases which cannot be easily handled by the provisions of the modern court or issue which are related to cultural norms Eg. Moral compensation. If there are loop holes in the provision of modern law, we send the cases to Gada Elders (ANJ-P3)

In the storyline ANJ-P7, the GC is positioned as cost and time efficient and suitable institution that can be used to address disputes without violating the norms of the society. The elders were also described as trusted body that do not expose the personal secrets of the disputants' especially when it comes to spousal disputes. The resolutions given by the GC are described as better acceptable and implementable.

It is better to handed such type of cases by elders to save the disputants time and energy and to keep the confidentiality of family secrets. There are issues which are taboo to reveal at MC. Such issues can be told to local elders who are believed to keep the secrets confidential. So, resolving their cases their elders' mediation or reconciliation helps to minimize the sufferings of the disputants and to resolve cases in line with the culture and norms of the Oromo people.... Elders of GC gives solutions which could be effective immediately. (ANJ-P7)

Some people may lose even if they deserve justice only because of lag of duration in bringing their case to court. Such issue can be fairly resolved by elders in GC. So, GC or elders' mediation can save time and expenses. If you take the MC, the process may take five to six years even for the decision to get implemented. But the elders' resolution is effective immediately. LCJ-P13

Elders and caring and philanthropist

In several story lines of the judges' interview text, the elders were described as concerned and caring bodies that are willing to shoulder the social responsibilities of maintaining the peace of their community.

The elders are cooperative in taking cases we refer to them and resolve them. Sometimes, they even come in person to our court and request for time extension when they could not manage it within specified time (ANJ-P11). Since we prefer spousal or family cases to end up in reconciliation, we refer them to elders. When we feel that a given case can be better handled by the reconciliation of the local elder, we send the case to particular elders whose names are indicated in the list. In such cases, they resolve the case with good motivation. ANJ-P12...There are also several occasions of volunteer elders coming to us (MC) and request us to give them cases of family dispute and solve through reconciliation (ANJ-P19)

Judges' negative other-positioning

Regardless of the above mentioned positive positioning of the GC and the elders, there are also several negative positioning of the elders' practices and the GC in the story lines of the judges' interview text. The judges described the elders practice or the GC as *incomplete, unstructured, corrupt or biased, and unauthorized*. Such positioning of the judges has been discussed in the subsequent section using illustrative quotations.

Gada Court as unstructured institution

In several storylines (YJ-P3, YJ-P11, LCJ-P3, LCJ-P 17, LCJ-P 18, ANJ- P14, ANJ- P16, ANJ-P18, ANJ- P20, ANJ- P25, ANJ- P30) of the judges' interview in all the three districts, the practice of the elders in GC has been described as unstructured, informal, and untraceable to formally communicate and collaborate with. The judges also described the GC as informal institution which has no government recognition or authorization to deal with some cases. Nevertheless, the judges did not deny the presence of the traditional structure of the GC (YJ-P11). One can deduce from this that the structure that the judges want to mean is a legally registered system that has been given legal mandate and recognition by the government. In such positioning, the judges seem to indirectly delegitimize the indigenously recognized structure of the elders.

The other challenge is that these elders [GC] are not institutionalized. It has no its own legal structure. We just send cases informally to the elders and the elders try to solve what they can and send back others to us. There are no cases that are formally referred to us

from elders because the elders have no formal structure. With regards to cases that are referred to elder, the court has no right to refer all cases to elders. Especially criminal cases such as homicides are not referred to elders (YJ-P3)... The other issue is, it would be better if the elders [GC] have its own structure (otoo caaseffama mataa isaa qabaatee). I know, there is traditional structure of the elder, but it has not been given recognition (YJ-P11)

The fourth challenge is, even if we have commitment to work with them [elders], we don't know which institution organizes them... (LCJ-P3)...It would be better if this structure of the GC is given legal base from the grass roots level up to the top... (LCJ-P 18)...In the context of our woreda, the contribution of the elders of GC is not that much. I haven't come across organized structure [of elder]... (LCJ-P 17)

Now we don't know who Aba Gada is, who is a proper elder [elders who give mediation service]. They just call them local elder of mediation (jaarsa biyya) but in practice, these elders are not the real elders of who give mediation. So these elders of the community, also called 'Shanacha' need to be properly organized and communicate with MC to make them more productive. ANJ-P16

In this district, there are no properly organized and institutionalized Gada Elders or Gada Court ...ANJ-P18...Our Gada System is just reemerging. There are no strong and organized groups or institutions of Gada Elders who can take cases and solve them. There is no practice of sending cases from Gada Court to MC. There is no such structure in our locality... ANJ-20...We don't know institutionalized or structured system of elders to which we can refer cases Jaarsoleen qindaa'anii jiran hinjiran)...ANJ-P25...We don't have a formally selected and recognized group of elders to whom we refer cases. We simply accept the preference of the disputants.(ANJ-P30)

Elders (GC) as biased and corrupt institution

In several story lines (YJ-P10, ANJ-P12, ANJ-P14, ANJ-P16, ANJ-P17, ANJ-P22, ANJ-P24, ANJ-P25, ANJ-P28, ANJ-P29, ANJ-P30), some of the judges described the elders in GC as partial and provider of unfair or biased decision that favors one side especially male and the rich. Elders were positioned as seekers of unfair benefits, as faceless bureaucrat and violators of gender or human right. In such positioning, the judges indirectly describe the cultural norms of the society as major driving factor of the partiality in the practice of the elders' mediation. This finding is also in agreement with the findings of previous studies (Osagahae, 2000; Zeleke, 2010; Woubishet, 2011).

Contrary to this, in the story line (ANJ-P17), the judges described some of elders as violators of the long established cultural norms of the Oromo people that encourage resolving disputes in genuine and fair manner. The judges also made such positioning of the GC or the elders with

some reservations. This is evident from the expressions “in some cases”, “sometimes”, and “there is tendency” “tend to” of the judges in story line (YJ-P10, ANJ-P12, ANJ- P14).

The gap in the elders mediation is the partiality reflected in some cases especially in spousal dispute settlement case. There is tendency of making decision in favor of the males or husbands. For instance, after the couples get divorced, we select elders to do the property sharing work. In such case, the elders tend to favor the male usually because they look into an issue from cultural norm perspectives. So, we sometimes reject the elders’ resolution because it doesn’t equally respect the rights of the disputants even if both parties agree up on (YJ-P10)

So, this Guta or Gada Court of the district shall not work on politicizing or spoiling the long-standing culture (aadaa kalee), but work according to the aboriginal organic traditional practice of the Oromo people. I suggest them to feel the responsibility of the people they shoulder. I wish those elders speak truth (nammota dhugaa dubbatan) and give true justice. If the family disputes could be handled by the traditional structure of the elders like it used to be, I feel we can get better solution or result. I suggest if they are given awareness and they [elders] work not to meet political demands, but to solve the problem as per the long standing traditional procedures and practices. I wish they genuinely serve and justice is served for the society. That is what I recommend as solution. ANJ-P17

These days, elders’ mediation or reconciliation service has several gaps. In the past, the elders respect the norms and ethics of the Oromo people. They don’t go after benefits. They focus on revealing the Truth. But these days, they tend to give attention only to wealthy people who can give them some benefits. They tend to decide in favor of wealthy people and oppress the poor. Especially they tend to put pressure on women (garee waa qabuuf looguu, isa kaan dhiibbaa irratti godhuu, dubartii keessattuu gadi qabuutu jira). The elders also tend to favor their relatives. ANJ- P14

There is gap among elders in handling cases genuinely by considering the problem as if it is the problem of his own brother or sister or family. There are problems of impartiality based on blood ties (gosummaadhan deeggaru), There is gab in handling cases free from bias ANJ-P22

Things that could be mentioned as gaps of elders’ mediation is the problem of impartiality as I already mentioned. This is very serious (dhimma hamaa). As judges, we don’t know what is there in the community. Sometimes, female complainants strongly criticize some elders as impartial. They say “He [particular elder suggested for mediation] is the one who led my marriage to such trouble (ka gaa’ila kiyya diigaa jiru isa). This means there is problem of impartiality. ANJ –P25

However, sometimes there are problems of lack of trust in these areas. Elders in other places are often neutral and accepted among their society. Disputants often call their own relatives as elders of mediation. So, these elders face problem to balance things. They tend to favor the disputants who invited them. Eventually the elders themselves get into confrontation instead of resolving the issue. Why? Because the person invited as an elder

to mediate the case is a relative of one of the disputants. Both elders argue in favor of their relative (innis kan nama ofiitiif, sunis kan nama ofiitiif falamata waan ta'eef)... It would have been better if those impartial and accepted elders at district level are selected and cases are handled by these elders. ANJ-P28

However, sometime the elders drag cases. They don't complete them on time (calluma jedhanii gangalchu) because of lack of giving attention to the case or sometimes just to force the disputants to invite them or incur some cost. Sometimes, the elders also consider their services as business (akka hojiitti lakka'uun jira). There are some elder who don't want cases to be settled in time. They unreasonably give several appointments for the disputants. Since our target if the final reconciliation of the disputant, we refer cases to them. However, they push the disputants to come to towns instead of settling the case in their locality in the rural villages... They come to town to expose the disputants to expenses [inviting elders who take part in the mediation] and get different benefits (waan adda addaa fayyadmudhaaf). In such cases, we take back the cases to MC and treat them according to the legal procedure (ANJ- P29)

In the storyline (LCJ-P6), the elders were also described as users of coercers' that uses their social power to make the disputants accept their biased decision. Making the disputants to take oath and threatening them with possible social exclusion if they reject the decision of the elders are strategies that the elders use to enforce their unfair decision.

There are elders who are very much willing to help the society and preserve this culture. On the other hand, there are elders who consider this [elders mediation] as business, as source of income, as especial favor. This is manifested in various ways such as giving several appointments, making the disputants to spend a lot on the food and drinks of the elders [every time, the elders sit for mediation, disputants are expected to buy them food and drink]. So, the elders intentionally postponed the cases or give appointments repeatedly to seek such benefit from the disputants. .. They are treating disputants impartially. They make one to give an oath not to refuse the elders decision. They take serious decisions such as social exclusions from local associations such as *Idir* (LCJ-P6)

In the story lines (LCJ-P9, LCJ-P12, LCJ-P14, LCJ-P18, ANJ-P20, ANJ-P31), the judges also described elders as less capable or less knowledgeable about human right and as violators of human right. This has been reflected in the judges' suggestion of giving awareness creation training for the elders on how to respect human right in the course of their service provision. In the meantime, the judges indirectly positioned the MC or judges as guardian and educators of human right. Nevertheless, such positioning of the judges might emanate from the disparity in the underlying philosophies of the modern law and the cultural laws that the elders rely on. In the collective indigenous Oromo culture, collective identity and societal well-being is given more priority than individual rights. This philosophy is quite in contrast with the Western individualistic philosophy up on which the modern law of Ethiopia was founded.

The other support is giving them awareness creation trainings so that they [elders] can do their job without violating human right. The elders also must be careful not to violate the rights of individuals. These days, everyone knows his/her right. So, the elders must implement their indigenous practices without violating human right. I suggest elder to execute their job without violating the norms and cultures of the society (LCJ-P9)...We sometimes dismiss the elders' resolution if it goes against the law of the country or when it violates the rights of people. Yet, if the disputants agree, the court is silent. LCJ-P12... Sometimes the elders' decision is harsh. They exclude the person from social associations such as *Idir*. This is constitutionally unacceptable... (LCJ-P14)

The elders lack legal knowledge and work in harmony. Public awareness has increased. The landlord law doesn't work now. If we deny women the right to inherit land, it is not acceptable these days. LCJ-P18... Sometimes, there are occasions where elders resend the cases back to MC explaining that it is more than their ability ANJ-20.. However, giving awareness raising training is very important for the elder. If they have awareness, they never get into trouble (ANJ-P31)

GC as unauthorized and unscientific institution

In the story lines (LCJ-P3, LCJ-P18, LCJ-P10, YJ-P4), the judges described the elders and the GC as unauthorized institution that provides services without having appropriate and recognized legal mandate especially to handle criminal cases which are believed to have negative impact on the wider community and the government. The judges described such absence of legal framework as an obstacle to the collaboration they intend to make with the GC. The judges also questioned the legality of the elders' decision (LCJ-P3). In the phrase, "We have to train the elders" in (LCJ-P18), the judges clearly position themselves as better knowledgeable whereas the elders as less knowledgeable and needs gap feeling capacity building training.

The fourth challenge is, even if we have commitment to work with them [elders], we don't know which institution organizes them. There is also legal gap on the procedure that we need to follow when we refer cases to the elders of GC. There is no binding law as to whether the decision of the elders shall be taken as final. It just depends on the interest of the disputants' (LCJ-P3). It would be better if this structure of the GC is given legal base from the grass roots level up to the top... We have to train the elders on some legal issues. We need to encourage the elders. (LCJ-P 18)

It [Gada Court] does not exist in formal way. It has no legally recognized structure and codified law. Had we had worked on it [Gada Court service] it would minimized conflict. Several international organizations resolve issues using alternative dispute resolution. However, in the case of our country, there are attempts being made by culture and tourism bureau, but it is not clear (LCJ-P10). The other challenge is that these elders [GC] are not institutionalized. It has no its own legal structure. There are traditional structures of the elders in the society but they are not given recognition by the government (YJ-P1) ...Normally we do not refer criminal cases to elders because those cases are believed to affect not only the complainants, but also the wider community and the government interest.(YJ-P4)

In contrast to what they stated above, the judges categorized cases into two as cases forbidden for GC and as cases allowed for elders. This indirectly indicates the presence of some legal framework which gives recognition for the elder or GC. One can deduce from this that the legal recognition that the judges refer to is the structural aspect of the elders rather than their function or roles. By the time this data was collected, there was no legally recognized structure of elders in the region.

These kinds of cases are forbidden for the elders to handle according to the Criminal law of our country. For example, cases such as rape, theft and homicides cannot be resolved through elders' reconciliation. Elders cannot entertain such type of issues. Even if such cases are handled by the elder, the MC can dismiss the elders' decision if one of the two sides bring the case to MC (ANJ-P9). So, I suggest elders who have good ethics, who have fear of God, those who are impartial were formed in a group and given legal recognition, they could handle cases that MC face difficulty to manage (dhimmoota mana murtii rakkisan) could be referred to them. They can settle many cases. (ANJ-P15)

I believe the elders traditional conflict resolution mechanism will be more productive if it is established as a separate alternative even side by side with MC. The government has to institutionally organize the Gada Elders to provide their services even with in the compound of MC. We should not call them only for blessing ceremony. (ANJ-P16)

All cases including homicide, physical injuries all are treated by elders. There are no case that are not taken to elders (jaarsa bira wanni hingenye hinjiru). However, we never close such criminal cases based on the elders mediation result though the reconciliation of the disputants can help minimize the punishment of the offender., These kinds of elders shall be given recognition by the MC and responsible government bodies so that the feel responsible for what they are doing, so that they do their jobs fairly and get awareness creation trainings, because their contribution in revealing the truth which are often hidden from us is very big. ANJ-P30

However, I still feel that when Aba Gada elders are made to work in the formal context, they may not get benefit (*inkamii mataa isaanii dhabuu danda'u*). They may face logistics problem to go to remote villages and provide their services. So, the government has to solve their challenges and create conducive environment for the GC. If they have to get recognition at district level, their list must be sent to MC and communicated properly. (ANJ-P16)...It is also good to give them some identification symbols or something that indicates their identity, For instance, we the judges have our own peculiar clothe called "kabba". Giving the elders such symbol may make them feel more responsibility. Others may also motivate to follow their footsteps. (ANJ-P31)

Judges' negative self-positioning

In several story lines of their interview text, the judges positioned the practices in the MC negatively. Most commonly, they described the practice in the MC as mechanical or less

flexible, less preferred, corrupt, and incompatible with indigenous norms of the society. Such negative self-positioning of the judges is congruence the elders' negative other-positioning which has been presented in the preceding sections. The details of such positioning have been presented in the subsequent sections using illustrative quotations of story lines from the judges' interview text.

MC as mechanical and incomplete

In several story lines of their interview text (ANJ-P3, P8, P11), the judges described the procedures in the MC as mechanical or less flexible to critically and flexibly investigate cases and give fair decision that could genuinely satisfy disputants. The story lines LCJ-P11 and LCJ-P12 clearly describe the loophole in the procedures of the MC in addressing the gaps of those innocent plaintiffs. As can be understood from the utterance "If there are loop holes in the provision of modern law, we send the cases to Gada elders (ANJ- P3)" the judges also positioned the laws of the MC as incomplete to properly address all cases in the way that can satisfy the cultural norms of the study community. In such positioning, the elders also indirectly positioned the GC as fillers of the gaps in the MC.

Those cases which cannot be easily handled by the provisions of the modern court or issue which are related to cultural norms such as moral compensation are sent to GC. If *there are loop holes in the provision of modern law, we send the cases to Gada elders* (ANJ- P3). But some disputants are smart. If they think the law is in favor of them *regardless of the truth on the ground*, they don't want to go to the elders. This is supported especially by their lawyers. The lawyers don't want them to quit and take their cases to elders, because the lawyers don't want to lose their benefits. (LCJ-P11)... However, law is law. Innocence of the person cannot be considered in the due process. So, such kind of cases could be fairly solved by the elders (LCJ-P12)

I remember a family dispute case on inheritance of land. The brother and sister lost their parents several years back, but the sister did not ask for property sharing on time before the legally allowed gestation period of limitation is over. I think she has some mental problem. Then after the legal period of limitation was over, she filed a case for property sharing. I know from the outset that she could not win the case because. I realized that the verdict will be made in favor of the brother who already legalized the land by his name ... This wouldn't have happened in MC procedure. LCJ-P16

I can't say that all truth are accepted in front of the law. Some truth could be denied justice due to various reasons such as time, lack of evidence...But, elders of GC can easily find the truth and give the land to the owner. This is possible because they rely on the truth not evidence or information. But ours is a law. We depend on evidence. If there are no evidences, we just let the person free.(LCJ-P7)...However, in the case of MC, we depend only on the evidence brought to our court and the words of the witnesses. We

refer several cases to the local elders and this has helped us a lot (ANJ-P11). But the court [MC] decide in favor of one side. In such cases, the social bond of the two sides may be worsened (YJ-P2). However, law is law. Innocence of the person cannot be considered in the due process. So, such kind of cases could be fairly solved by the elders (LCJ-P12)

In story lines (ANJ-P 21, ANJ-P24) the judges also described the procedures of the MC as long, costly and dissatisfying for the disputants. According to the judges, the procedure in the MC creates sense of enmity and competition between disputants to win rather than resolving their disagreement. The term 'bare decision' has been used to express the inflexibility of the MC in considering the facts on the ground.

The two are incomparable because, the MC reads decision, bare decision (murtii gogaadha). The procedure/process also troubles the disputants a lot and usually they are not satisfied with the decisions and hence appeals to the next higher courts up to the highest court of the nation called "dhadacha ijibbaataa" meaning 'supreme court'. To go through all these, they spend a lot (ANJ-P21)...For instance, in the case of decision of MC, the disputants start to threaten each other even before the judge finishes reading his/her decision. Some request for appeal immediately. There are people who could not stand upright or start to shiver when the judge starts to read decision. Some even threatens to disqualify the decision at the next court. Several things happen in the process of MC (ANJ-P24)

However, the decision of the judges in MC is just a decision. It gives no attention to the reconciliation of the two sides. MC just listens to witnesses, gather evidences through various means and eventually decide in favor of one of the two sides... However, if things end up in court punishment, there is possibility of appealing to the next higher court (ANJ- P26)

I encountered an experience with regards to fake news. The case is dispute on house. A person married two wives. He married his second wife after he got divorced with the first one. He built a house after he married his second wife. The first wife had several supporters and relatives in the government structure. She organized fake evidences and brought to court to claim the house. Since we had suspicion on the case, we did our best to search for the evidences. We checked the genuineness of every pieces of evidence. Finally, we discovered that the evidences she brought to court were all fake they have legal stamps and every formality... That is not true in the case of MC. The verdict in the MC makes only one of the two sides to cry. One of the two sides will be loser. The two parties remain enemies and prepare for revenge for the rest of their life (YJ-P 7)

The judges also positioned the procedures of MC as less critical or less capable to thoroughly investigate the truth and differentiate the fake witnesses or evidences presented by some unethical disputants. In the story line (YJ-P5), the MC has been described as a destination of cheaters who come up with fake evidences and witnesses to win by misleading the judges in the MC.

There is another case I know from media. It happened in the Amhara region. The story goes like this, “A women was found guilty of killing her daughter-in-law and sentenced to life in prison. Five years later, the daughter who was supposed to be dead reappeared.” Look, the court could do nothing...(LCJ-P9).

These days, most of the cases brought to court are not genuine. There are attempts of seeking justice based on fake evidence. They cannot win with fake evidences during the elders’ mediation because the elders know everything. So, such type disputants bring their cases to MC. These kinds of disputants do not want their cases referred to elders for mediation. However, those disputants who genuinely seek truth or justice want their cases to be referred to elders. In general, there are attempts, very sophisticated attempts of cheating by some disputants who come to court (YJ-P5). There is a saying which goes “Manni murtii haqa hojjata malee dhugaa hinhajatu” meaning, “the modern court can give verdict, but cannot give the truth [it relies only on evidence brought to it and hence may not be fair]. For us verdict (haqa) is the resolution that we arrive at based on what the disputants brought to us as evidence or based on the witness. But the truth could be different. So, there are possibilities of giving verdict wrongly to someone based on fake evidence. Fake evidences are very common problem these days (YJ-P 6)

However, in MC, presenting fake evidence or lies is simple... These day’s people are disregarding their culture and norms. It is very easy to organize fake evidences especially for those people living in towns. He/she swears holding holly Bible or Quran to tell the truth, but tells lies. It is true that had the case had been handled by elders, the truth could have been revealed. But the judge gives verdict based on only evidences presented in court hearing. He she cannot give verdict against the evidence even if your conscious tells you that the evidences are not genuine or true. So, a victim could be denied justice only because of lack of evidence or due to organized fake evidences. (YJ-P8)

In the story line (YJ-P9), the judges described the verdict of the MC as lose and less effective in deterring people from further crime. On the other hand, the punishment of the elders in the GC has been described as more effective in protecting the social norms and coexistence of the target people.

Sometimes the modern law contradicts with norms and beliefs of the society. For instance, in Borena Culture, if a person makes sexual intercourse with domestic animal, the case is considered as taboo (dirma) and both the person and the animal will be killed. But in MC, this is considered as a minor offence that entails three months imprisonment. The same is true in the case of insulting a person. If such case is brought to court, it is considered as minor offence punishable by two months imprisonment or three hundred Birr. However, the same case entails a serious fine up to five heads of animals if treated in GC, In such cases, the elders decision has better deterrent effect. I know a case in which the complainant refused to take her case to elders and brought to MC in spite of the efforts made by the offender to settle the case by elders. Eventually, the offender was punished only by two hundred birr and the complainant regretted very much for bringing the case to us [MC] (YJ-P9)

MC as foreign or incompatible

The judges positioned the procedures and the laws of the MC as foreign and incompatible with the cultural norms of the Oromo people. According to the judges, since the laws of the MC has no cultural foundation in our country, the judges often face difficulty in handling some cases without violating the cultural norms of the people. In this positioning, the GC was described as gap filler for the MC. The judges also described copying the law of other culture or country as abnormal practice that our country followed.

Those cases which cannot be easily handled by the provisions of the modern court or issue which are related to cultural norms such as moral compensation are sent to GC. If there are loop holes in the provision of modern law, we send the cases to Gada Elders (ANJ-P3)...The law in our country were not designed to encourage the national cultural practices. It is copied from the laws of other western countries (seerumti jiru bu'uuruma aadaafi amantii biyya keenyaatirratti hinhundoofne (LCJ-P3). As we all know the law of a given country is derived from the tradition and norms of the society. For instance, the law of our country is copied from those countries that follow "common Law" such as French (substantive) and India (procedure). These countries derived the law from their own beliefs and culture and made it more scientific. We can also amend and use our own indigenous practices to solve disputes especially those related to family disputes... (LCJ-P8)

This is true because the laws/civil of our country is not in line with the culture and norms of our society. They are copied from foreign culture. It reflects foreign culture (aadaa biyya ormaati). It has no base in our culture in general and that of the Oromo people in particular. YJ-P7...First of all, I strongly believe that the current law of the country should be revised to align it with the cultural norms of our society (YJ-P 11).

MC as less preferred and corrupted

In several story lines, the judges also described the MC as less preferred by the people. According the judges, the MC is the last option that disputants resort to when they fail to settle their disputes through the elders' mediation.

Had the disputants had gone through all the structure of elders' mediation from the lower strata i.e elders of the neighbors to the highest stratum i.e elders of GC, they wouldn't have brought their cases to MC. (ANJ- P7). Only those cases that elders fail to resolve in their locality are brought to court. We know that especially spousal disputes are first treated by local elders according to our culture. That is why I said my reference is those cases brought to us (LCJ-P5). However, I believe that such interventions shouldn't have happened because once we give the responsibility for the elders, we should allow them to do it their own way. They should do it based on the cultural norms and belief of the society (YJ-P10)

CHAPTER FIVE

Summary, Conclusion and Implication

The primary focus of the current study was to examine how actors of two different institutions: elders of the GC and judges of MC describe each other's practice and institutions. To this end, a total of ten interview texts which lasted for seven hours, twenty-one minutes and five seconds were collected from three districts, transcribed verbatim and analyzed using Positioning Theory as a theoretical framework and tools of analysis. *Self* and *Other* positioning were given priority in the analysis. The major findings of the analysis have been summarized in the subsequent sections.

Summary of major findings

Positioning by elders of GC

Results of the analysis revealed that in the story lines of both the elders of GC and the judges of MC, the elders and the GC were positioned predominantly positively,

- The elders and their GC were positioned as providers of fair justice or truth (*dhugaa*) that equally satisfies both parties. They were described as healers of social wound with the capacity of normalizing the disturbed social order. The procedures in GC was also described as a democratic, humane and through procedure that can cleanse the feeling of enmity and lead to lasting peace between the disputants.
- The practice of the elders or GC was also described as a long established organic practice which is neutral or independent of political ideologies. The elders were positioned as caring and philanthropist that give priority for the wellbeing of their society by filling the gaps in the Modern court.
- Going to the elders or GC was also described as respecting own cultural norms and identity; whereas, going to MC disregarding the elders, was positioned as abnormal and unwise decision.
- The GC was also described as reliable, institutionalized, socially legitimate, and better preferred institution by the Oromo people. Both the elders and the judges describe disputants who go to GC as seekers of fair justice.

- In the story lines of both the elders and the judges, the elders of GC have been positioned as capable, self-sufficient, more critical and systematic in investigating cases and revealing the truth. They have been described as an authority having better informational power when it comes to investigating dispute cases.
- The GC was described as better potential alternatives that could share the burden of the MC by resolving any kind of conflict that occur in their society including homicide cases which the MC hardly resolve.
- The elders of GC were positioned as ethical, reliable bodies that keep the secret of the disputants and as promoters of the cultural norms and guardians of their society who selflessly serve their community.
- The elders' mediation was positioned as an organic or indigenous practice that has foundation in the existing socio cultural norms of the society. Having such foundation, according to the respondents, makes the elders' practice more acceptable and suitable in resolving any kinds of conflict that occurs in the society.
- The elders' claim that the selection of elders of GC are done carefully based on the established norms of the Oromo people considering their age seniority, cultural knowledge and wisdom. However, some judges in the MC believe that some elders who are working in the newly emerging GC are selected based on their political affiliation with the ruling party.
- Though there are some doubts among the judges on the formality of the decision of the elders from legal point of view, both sides described the GC as well structured and institutionalized system that can handle cases hierarchically based on their level of severity.
- The elders of GC are positioned as messengers of God who execute only the will of God and refrain from actions that go against the will of God. Hence, the elders legitimized their practices by appealing to religion or God and the established socio-cultural norms and values of the Oromo people.
- In spite of the above positive positioning, both sides agree that there is an emerging malpractice among some elders of GC. There is a growing tendency among the elders to seek unfair benefits and making unfair justice. The elders admitted that the change in the practice and behavior of the elders of GC is an inevitable change that has happened due

to external pressure such as lack of incentive and lack of support for the elders for the service they render.

- Some judges also positioned the elders of the GC as less knowledgeable about human right and as coercers' that uses their social power to make the disputants accept their biased decision.
- The elders in GC were also described as unauthorized, informal institution which has no government recognition or authorization to deal with some cases. It was positioned as untraceable to formally communicate and collaborate with. In such positioning, the judges seem to indirectly delegitimize the indigenously recognized structure of the elders of the GC.
- The judges in one of the woredas described the GC as culture specific tool that is not fit to address the dispute that occurs among other ethnic groups and the urban dwellers. Although such gap in the service GC has been raised only by the judges in one of the three districts, the researcher believes that the problem is reflected in other districts as well.
- Lack of proper support and follow up of the elders of GC, absence of legally recognized structure and the lack of clear borderline between the mandates of the MC and That of the GC were found to be among the major challenges that have hampered proper functioning of the GC.
- Results of the analysis of the data also reveals that the existing relationship between the MC and that of GC were more of competition rather than collaboration. The elders described the MC as a contender that attempts to undermine the established indigenous system of the Oromo people and as a system that is forcefully imposed up on the society.

Positioning by judges of MC

Unlike that of the elders, the judges of the MC were predominantly positioned negatively by both the elders and the judges themselves.

- Both the elders and the judges described the procedure in MC as mechanical and less critical or less flexible in investigating the truth and differentiating fake witnesses or evidences presented by some unethical disputants.
- Both the elders and the judges positioned the judges of MC as corrupt and providers of unfair justice. The decisions of the MC was also described as temporary, incomplete and

less capable of bringing lasting solution between disputants or less effective in deterring people from further crime.

- Both the elders and the judges described the MC as bureaucratically complex, less efficient, and costly in terms of resolving conflicts on time. It was positioned as a destination of sinful, ignorant disputants who seek justice unfairly by bribing the judges and by organizing false evidences.
- The MC was also described as less concerned about the coexistence of the society or less capable of restoring peace. It was positioned as promoters of sense of enmity and competition between disputants to win rather than resolving their disagreement
- The MC was also described as a foreign practice that has no cultural base or incompatible with the established cultural norms of the Oromo people. The judges in the MC were also positioned as intruders that disturb the longstanding and stable socio-cultural norms and practices of the Oromo people.
- The law of the MC was also positioned as incomplete to properly address all cases in the way that can satisfy the cultural norms of the study community.
- Most of the findings of this study are in congruence with the findings of several local studies (Enyew, 2013; Negewo, 2013; Woubishet, 2011; Zeleke, 2010; Mutisi and Sansculotte-Greenidge , 2012)

Conclusion and Implications

Based on the major findings of the study discussed above, the researchers have drawn the following conclusions:

- One can easily conclude from the results of the current study that the contribution of community elders in general and that of the newly emerging GC in particular in resolving social conflicts and maintaining peace and order is very significant. Hence, strongly suggest tapping into this long established indigenous practice of conflict resolution by giving it legal recognition and mandate at national and regional level. This could largely reduce the work load of the MC in addition to establishing lasting peace among the Oromo people.
- The relationship between the GC and the MC can be described as more of competition rather than cooperation. There is less formal communication between the two institutions

in their practice of resolving the social conflicts. Especially, the elders of the GC considers the MC as intruder or counter-productive of the well-established indigenous practice of conflict resolution.

- Though attempts have been made by Culture and Tourism Offices of some woredas to select and formally organize the elders of the re-emerging GCs, by the time the data for the current study was collected, there was no legally recognized structure and mandate given to the GCs. This seems to have hampered the proper function of the GCs and the collaboration that they were supposed to establish with the MCs.
- In spite of the enormous contributions of the GC mentioned, the growing tendency of malpractices such as dragging cases and seeking benefit from disputants by the elders of the GC could spoil this long established indigenous practice of the Oromo people. Hence, the need to introduce a legal framework that gives recognition and incentive packages for the elders of GC.
- Regardless of some gaps in their practices, the majority of the study community still considers the elders of GC as its first option in settling their disputes. The elders legitimized their roles and practices by appealing to religion and the long established cultural norms and values of the Oromo people.
- Hence, the measure that the Oromia Regional Government has recently taken in legalizing and institutionalizing the GC or Customary Court across the region is a timely and significant step in tapping into this indigenous practice of conflict resolution. The stipulations in the proclamations and directives of the newly established Customary Court of Oromia also addressed almost all loopholes and bottleneck of the GC mentioned by the judges on the MC and the GC elders themselves (Oromia Region Customary Court Proclamation No. 240/2021).
- Conducting further study that assess public satisfaction on the services of the newly re-established Customary Courts of Oromia and the impacts it has brought on the quality of the justice system of the region and new dynamic of the interaction between the MC and the Customary Court are important topics for further studies. Conducting such studies could help in expanding the practice of utilizing Customary Courts in all regions of the country.

Limitation of the Study

It is common that every study has its own limitations. The possible limitation of the current study is mainly related to data acquisition and analysis. First of all, in spite of all the attempts I made, I still can't claim that my analysis is absolute and immune from criticism as no qualitative research in general and discursive analysis in particular dares to make such claim. Discursive analysis of larger coups is often susceptible to researcher bias and is hardly complete by its nature. Being a qualitative study, there is a possibility that the social desirability bias of the respondents might have impacted the quality of the data of the current study. Time constraint had also limited the researcher from collecting and analyzing the disputants' perspective.

Finally, because of the very nature of the theoretical framework of the study which is meant for two way interaction of subjects, including the clients' perspective was found to be inconvenient in the current study. Hence, the investigation of the customers' attitude has been omitted from the current study.

References

- Abebe, A. (2001). Indigenous Mechanisms for the Prevention and Resolution of Conflict: The Experience of Oromo in Ethiopia. Paper presented to the workshop on conflict in the Horn Prevention and resolution Organized by Ethiopian Chapter of OSSREA, Oct 2001, Addis Ababa.
- Aberra Degefa Nagawo (2013). The Impact on Offenders of Rivalry between the Formal Criminal Justice System and the Indigenous Justice System: Experiences among Borana Oromo in Relation to the Crime of Homicide. The Danish Institute of Human Rights: Wilders Plads 8k.
- Adebo, T and H. Tsadik .(eds) (2008). Making Peace in Ethiopia: Five Cases for Traditional Mechanisms of Conflict Resolution. Addis Ababa: Master Printing press.
- Araba Abdella and Birehanu Amenew (2008). Customary Dispute Resolution Institutions in Oromia Region: The Case of Jaarssa Biyyaaa. In Pankrust, A. and G. Aseffa (Edn), *Grass root Justice in Ethiopia: The contribution of customary Dispute Resolution*. Addis Ababa: United Printers Plc
- Asmarom Legesse, (1973). Gada: Three Approaches to the Study of African Society. New York: The Free Press.
- Asmarom Legesse, (2000). *Oromo Democracy: an Indigenous Political System*. Asmara Eritrea: Red Sea printing Press.
- Bahta, G.T. (2014) Popular dispute resolution mechanisms in Ethiopia. *African Journal on Conflict Resolution*, Vol. 14 (1), <https://journals.co.za/doi/abs/10.10520/EJC156249>.
- Belachew Getnet Eneyew and Mersha Ayalew (2023) The role and challenges of indigenous conflict resolution mechanism: The case of aboled in Borena Woreda, northeast Ethiopia. *Heliyon* 9 (6).
- Belew, K.A. (2021) The virtue and limits of gereb as an aboriginal conflict reconciliation device among the Wejerat people: the case of hintalo-wejerat wereda southeastern tigray, *Society* 58 (2021) 290–300, <https://doi.org/10.1007/s12115-021-00589-5>
- Bizuneh Amare (2009) Traditional Dispute Settlement mechanisms among Ittu Oromo of Hararghe in Family Case. Unpublished MA Thesis: Addis Ababa University.
- Constitution of the Federal Democratic Republic of Ethiopia (1995)
- Dibaba, A.T. (2012) Theorizing ‘Waadaa’ as a non-violent principle in Salale: Confronting law without justice. Addis Ababa, Oromo Folklore and Resistance Studies.
- Edward, J.A. (2007). The Transcription of Discourse: The Handbook of Discourse Analysis: Blackwell Reference Online. [DOL: 10.1111/b.9780631205968.2003.00018.x]
- Elechi, O.O. (2004). *Human rights and the African Indigenous justice system*, A paper for presentation at the 18th International Conference of the International Society for the Reform of Criminal Law, August 8-q2, 2004, Montreal, Quebec.
- Enyew, E.L. and Ayalew, M. (2023) The role and challenges of indigenous conflict resolution mechanism: The case of aboled in Borena Woreda, northeast Ethiopia. *Elsevier, Heliyon, Volume 9, June 2023*.
- Enyew, E.L. (2019) , Ethiopian customary dispute resolution mechanisms: Forms of restorative justice?. *Journal of Case report*, Vol. 14 (1) Ethiopian customary dispute resolution mechanisms.
- Gale, J. (2010). Discursive analysis: A research approach for studying the moment-to-moment construction of meaning in systemic practice. *Human Systems*, Vol. 21 (2), pp- 7-37).

- Gemechu, D. (2002). Some aspects of conflict and conflict resolution among Waliso Oromo. MA Thesis: Addis Ababa University.
- Gemechu, D. (2007) Conflict and conflict resolution among Waliso Oromo of Eastern Macha: The case of the Guma. Addis Ababa, Addis Ababa University Press.
- Gregory, I. (2003). *Ethics in Research*. London: Continuum.
- Haider, H. (2009) Community-based Approaches to Peacebuilding in Conflict-Affected and Fragile Contexts, International Development Department, University of Birmingham,
- Haimanot Moges (2006). Customary Conflict Resolution Mechanism in Raya. Unpublished MA Thesis: Addis Ababa University.
- Harre, R. (2004). Positioning theory. Retrieved on January 14, 2011, from www.massey.ac.nz/~alock/virtual/positioning.doc
- Harré, R., & Moghaddam, F. (Eds.) (2003). *The self and others: Positioning individuals and groups in personal, political, and cultural contexts*. Westport, CT: Praeger
- Harré, R., & Van Langenhove, L. (Eds.). (1999). *Positioning theory: Moral contexts of intentional action*. Oxford, UK: Blackwell
- Harré, Rom., Moghaddam, F. M., Cairnie, T. P., Rothbart, D. and Sabat, S. R. (2009) Theory & Psychology: Recent Advances in Positioning Theory. *Ebsco Electronic Journals Service (EJS) on September 30, 2009 VOL. 19(1): 5–31*. Sage Publications.
- Hebo, M. (2006). Land, local custom and state policies: Land tenure, land dispute and land dispute settlement among Arsii Oromo of Ethiopia. Kyoto: Shoukadoau Book Seller.
- Hirvonen, P. (2013). Positioning in an inter-professional team meeting: Examining positioning theory as a methodological tool for micro-cultural group studies. *Qualitative Sociology Review*, Vol. 9 (4), 100-114. Retrieved from http://www.qualitativesociologyreview.org/ENG/archive_eng.php
- Hirvonen, P. (2016). Positioning theory and small-group interaction: Social and task positioning in the context of joint decision making. *SAGE*, 1 (15)
- Jalata, A. (2007). Applying Gada principles in constructing the state in the 21st century Oromia. In: Adugna 2008, pp. 25–41.
- Jones, R. H. (2013). Positioning in the analysis of discourse and interaction. In *The encyclopedia of applied linguistics*. doi:10.1002/9781405198431.wbeal0919
- Karlsson, H.G. (2020). Identities through words: Analyzing character positioning in Richard Yates's Revolutionary Road. Master's thesis, Linnaeus University, Sweden.
- Keneni, T. (2013). Exploring Gumaa as an indispensable psycho-social method of conflict resolution and justice administration. *African Journal on Conflict Resolution*, Volume 13, Number 1, 2013.
- Koang, T. (2011). Dispute resolution mechanisms of the Nuer. In: Yntiso et al. eds., pp. 408–433
- Kohlhagen, D. (2005). Alternative dispute resolution (ADR) and mediation: The experience of Frenchspeaking countries. How to Make ADR Work in Ethiopia, A Course held on 17 and 18 April at the EACC. Addis Ababa
- Likasa, T.O. (2023). Indigenous conflict resolution mechanism among Wollega Oromo: The case of jaarsummaa in East Wollega Zone, Ethiopia. *Journal of Data Mining Genomics Proteomics*, Vol.14 Iss.3 No:1000303
- Macfarlane, J. (2007). Working towards restorative justice in Ethiopia: Integrating the traditional conflict resolution system with the formal legal system. *Cardozo, Journal of Conflicts Resolution*, 8:487-509

- Mayr, A., and Bastow, T. (2008). Researching institutional discourse. In Mayr A. (ed) *Language and Power: An Introduction to Institutional Discourse*. London: Continuum International Publishing Group:
- McVee M., Baldassarre M., Bailey N. (2004). Positioning theory as lens to explore teachers' beliefs about literacy and culture. In 53rd Yearbook of the National Reading Conference (pp. 281–295). Oak Creek, WI: National Reading Conference Inc.
- MEGELETA OROMIA (2021) *Oromia Region Customary Courts Proclamation No. 240/2021*,
- Meseret Abaye (1995). Qaallu as dispute settling institution among Oromo with especial reference to Mecca and Tulama: Unpublished MA Thesis at Addis Ababa University.
- Mulleta, A.D. (2013) A Discourse Analysis of Jaarsummaa, a Traditional Method of Dispute Resolution by Community Elders: Arsi Oromo in Focus. Unpublished Doctoral Dissertation. Addis Ababa University, Ethiopia. Retrieved from. <http://etd.aau.edu.et/handle/123456789/21215>
- Mulugeta, A. (1999). Anthropological approach to Ethiopian law: Legal pluralism, and the nature and status of customary law in Ethiopia. LL.B. Thesis. Addis Ababa, Addis Ababa University.
- Murithi T. and Sansculotte-Greenidge, K., editor (2012). Integrating traditional and modern conflict resolution: Experiences from selected cases in Eastern and the Horn of Africa. *Africa Dialogue Monograph Series No. 2/2012*, <https://lib.ugent.be/catalog/ruq01:001895831>
- Mutisi, M. eds. (2012). Local conflict resolution in Rwanda: The case of abunzi mediators. *African Dialogue Monograph Series No. 2/2012*, pp. 41-74, ACCORD)
- Nagawo, A.D. (2013). The Impact on Ofoenders of rivalry between the formal criminal justice system and the indigenous justice system: Experiences among Borana Oromo in relation to the crime of homicide. The Danish Institute for Human Rights Denmark's National Human Rights Institution
- Pankhurst A., Assefa G. (eds). (2008). *Grass-root justice in Ethiopia: The contribution of customary dispute resolution*. Addis Ababa: French Center of Ethiopian Studies.
- Qajeelfama Dambii Manneen Murtii Addaa Naannoo Oromiyaa Hojiirra OolHuuf Qophaa'e Qajeelfama Lakkoofsa 15/2014
- Stobbe, S. P (2011) Traditional Conflict Resolution Processes: Mediation and Rituals to Address Conflicts in Multi-Ethnic Cultures of Laos: A PhD Thesis submitted to Faculty of Graduate Studies of The University of Manitoba.
- Tirado, F. and Gálvez, A. (2007). Positioning Theory and Discourse Analysis: Some Tools for Social Interaction Analysis. *Forum: Qualitative Social Research, Volume 8, No. 2, Art. 31*.
- Tracy, K. and Mirivel, J.C. (2009). *Discourse Analysis: The Practice and Practical Value of Taping, Transcribing, and Analyzing Talk*. New York: Routledge.
- Tsega Endashaw. (2005). Luba Baasa and Harma Hodha: Traditional Mechanisms for Conflict Resolution in Metekel, West Gojam. In Conflict in the Horn: Prevention and Resolution. Proceedings of the Second National Workshop of the Ethiopian Chapter of OSSREA October 2005: Addis Ababa University Press.
- Tullu Bayisa (2001). Dispute resolution mechanisms among the Oromos' with especial reference to Mecca and Tuulama: Unpublished MA Thesis: Addis Ababa University.
- Winslade, J.M. (2003). *Mediation with Focus on Discursive Positioning*. California State University: Unpublished Manuscript

- Woubishet, S. (2011) Spirit Medium as an Institution for dispute resolution in North Shoa: The case of Wofa Legesse. In: Yntiso et al. eds., pp. 181–201.
- Yemanebrihan, Y. (2016) Indigenous Conflict Resolution Mechanisms Among the Oyda People of Southern Ethiopia: An Exploratory Study. MA Thesis, Addis Ababa University.
- Yewubneh Yemanebrihan .(2016). Indigenous Conflict Resolution Mechanisms among the Oyda People of Southern Ethiopia: An Exploratory Study. MA Thesis, AAU.
- Yntiso, G., Assefa, F.and Azeze, F. (2011). The state of knowledge on customary dispute resolution in Ethiopia. In: Yntiso, Gebre, Fekade Azeze and Assefa Fiseha eds. 2011,pp. 21–36.
- Zelege, M. (2010). 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), pp. 63–82.
- Zelle, G. (2009). Exploring the application of positioning theory to the analysis of organizational change. Research Online: University of Wollongong. Retrieved from <http://ro.uow.edu.au/commpapers/574>.
- Zilber, T. B., & Meyer, R. (2022). Positioning and Fit in Designing and Executing Qualitative

Annex I: Interview Guides

Gaaffilee Marii Garee Xiyyeeffannaa Jaarsolii **Abbootii Gadaa**

Kabajamtoota Hirmaattota:

Duraan dursee yeroo keessan naaf kennitanii marii garee kanarratti hirmaachuuf waan asitti argamtaniif galatoomaa!

Maqaan Koo: Dr. Alamu Disaasaa , Yunivarsitii S.T Adaamaa irraa

Kaayyoon qorannoo kanaa, dhimmoota waldhabbii hawaasaa furuu keessatti gahee jaarsoliin abbaa gadaafi gaheen manneen murtii mootummaa taphachaa jiran xiinxaluudha. Kanaafuu marii keenya gaaffilee armaan gadii kanarratti bu'uureffachuun adeemsifna. Yaanni isin naaf kennitan qorannoo kana qofaaf tajaajila.

1. Waldhabbiwwan garagaraa hawaasa keessatti uumammu furuu keessatti gaheen jaarsotiin abbaa gadaa qaban maal fakkaata?
2. Abbootiin gadaa dhimma jaarsummaa keessatti hirmaatan ulaagaa maaliitiin filatamu?
3. Wldhabbii jidduu issaatti uumamu furachuu yoo barbaade, yeroo baay'ee hawaasni gara qaama kam deemuu filata?
 - a. Jaarsa biyyaati moo manneen murtii mootummaa?
 - b) Yoo kan jaarsa biyyaa filatu ta'e, osoo manni murtii jiruu hawaasni maaliif dhimmoota waldhabbii kana gara keessan fidan jettanii yaaddu?
 - c) Fedhii hawaasaa kana ilaalchisee jijjiiramni yeroodhaa gara yerootti jiru maal fakkaata?
4. Dhimmoonni waldahbbi jaarsolii abbaa gadaatiin furaman kanneen akkamiit? Dhimmoonni kunneen akkamitti/karaa kamiin gara keessan dufan?
5. Rakkoo waldhabbii hawaasa furuu keessatti jaarsolii abbaa gadaa manneen murtii mootummaa waliin qindoominaan hojjachuu irratti maal fakkaata?
 - a) Yoo walitti dhufeenya yookiin qindoominaan kan hojjachaa jirtan ta'e, mee gahee keessaniifi ka mana murtii akkamitti ibsitan?
 - b) Manneen murtii waliin waltajii uumtanii mari'attanii beektuu?
 - c) Yoo qindoominaan hojjataa kan hinjirre ta'e maaliif? Rakkoo fedhii dhabuuti moo?
6. Manneen murtii gahee jaarsolii abbaa gadaa waldhabee furuu keessatti taphachaa jiran kana akkamitti ilaalu? Gargaarsa akkamii isiniif godhaa jiru?
7. Rakkoo waldhabbii hawaasaa furuu keessatti gahee jaarsoliin abbaa gadaa taphachaa jiran gahee manneen murtii mootummaa taphachaa jiran **waliin walbira** qabdanii yoo madaaltan kamtu irra gaari? Yeroo qusachhuun? Furmaata waaraa kennurratti?

8. Murtii abbaa gadaa fi murtii abbaa murtii mootummaa walbira qabnee yoo madaallu graagarummaan isaan qaban maali?
9. Hojii waldhabbii hawaasaa furuu raawwachaa jirtan keessatti rakkooleen jajjaboon isin qunnaman maal fa'a?
10. Mee fuula duratti, rakkoo waldhabbii hawaasaa furuu keessatti gaheen jaarsolii abbaa gadaafi kan manneen murtii mootummaa akkam maal yoo ta'e akkamitti yoo waliin hojjatan bu'a qabeessa ta'a jettanii yaaddu?

Yeroo naaf kennitaniif heddu galatooma!

Gaaffilee Marii Garee Xiyyeeffannaa Abbootii Murtii

Kabajamtoota Hirmaattota:

Duraan dursee yeroo keessan naaf kennitanii marii garee kanarratti hirmaachuuf waan asitti argamtaniif galatoomaa!

Maqaan Koo: Dr. Alamu Disaasaa , Yunivarsitii S.T Adaamaa irraa

Kaayyoon qorannoo kanaa, dhimmoota waldhabbii hawaasaa furuu keessatti gahee jaarsoliin abbaa gadaafi gaheen manneen murtii mootummaa taphachaa jiran xiinxaluudha. Kanaafuu marii keenya gaaffilee armaan gadii kanarratti bu'uureffachuun adeemsifna. Yaanni isin naaf kennitan qorannoo kana qofaaf tajaajila.

1. Waldhabbii namoota/hawaasaa walqabatan keessummeessuu keessatti, qaamolii hawaassaa kanneen akka abbootii Gadaa waliin hojjachurratti maal fakkaattu?
2. Qaamolee hawaasaa kana wajjiin akkamitti waliin hojjachaa jirtu? Dhimmoota kana isintu gara jaarsolii abbaa gadaa erga moo jaarsoliitu gara keessan erga?
3. Yoo dhimmoota waldhabbii kana isin gara jaarsolii kan ergitan ta'e, yeroo baay'ee dhimmoota akkamiit garas ergitu? Maaliif?
4. Dhimmota waldhabbeen walqabatan furachuu keessatti yeroo baay'ee abbootin dhimmaa qaama kam irra filatu? Maaliif?
5. Rakkoo waldhabbii hawaasa furuu keessatti, jaarsolii abbaa gadaa manneen murtii mootummaa waliin qindoominaan hojjachuu irratti fedhiin isaan qaban maal fakkaata? Tajaajilli jaarsoliin abbaaootii gadaa gama kanaan gumaachaa jiran akkamitti madaaltu?
6. Murtii abbaa gadaa fi murtii abbaa murtii mootummaa walbira qabnee yoo madaallu graagarummaan isaan qaban maali?

7. Dhimmoota waldhabbii furuu keessatti tajaajila jaarsoliin abbaa gadaa kennaa jiran ilaalchisee mudannoo addaa isin qunname otoo nutti himtanii?
8. Walumaa galatti, hojii waldhabbii hawaassa furuu keessatti, ciminaafi hanqinni jaarsolii abbooti gadaa maal fakkaata? Fuula duratti hoo maaltu ta'uu qaba jetta?

Yeroo naaf kennitaniif heddu galatooma!

Annex II: Transcript of the data

A: GC Elders Interview Transcript

Transcript of Interview with Elders of Gada Court

Woreda: **Arsi Negelle**

Interview Duration: 01:24:08

Interviewee: (Tufa Drarso (vice chair GE council), Gish Delta (chair GE Council), Haso Abdella, Hamad Yachiso)

00:02:16'

1. **S1(Tu)-** The role of elders is big. When a conflict occurs between two families, elders talks to the two sides and bring them to mediation/reconciliation (araara). Sometimes the magnitude of the conflict extends to the clan (gosa) level. The elders of GC resolve all kinds of conflicts that occur between individuals, families, and clans. They work on ensuring peace in society by cleaning the feeling of enmity between disputants.

06:15'

2. **S2 (Gi)-** The difference between the GC and MC is that the MC may decide based on false witness. But the elders of GC dig into the issue and find out the truth and reconcile the two sides from the bottom of their hearts (garaan wali araarsa). That is where the difference of the two institutions lays. The other point I would like to add here is that we (elders of GC) have decided not to treat those cases that are already taken to the MC. However, we later started to treat such cases when the government (MC) complicated things and fail to settle some of the complicated cases. Because this country has a father/owner (to mean protector God), next to God is these elders. So, the difference between them (MC) and us (GC) is that the MC relies on witnesses (ragaa) whereas we make decisions based on truth. We carefully look at both sides very carefully and reconcile the two sides based on truth. Since the transformation, the GC is playing the biggest role compared to all government institutions. We resolve numerous issues.
3. **S3 (Nu)-** The role of the elders starts at the grassroots level. There are elders that settle disputes at the neighborhood level. If these elders cannot resolve the issue, they refer to

the elders of the clan (jaarsa gosaa). Again, if the elders of the clan couldn't solve it, they refer the case to this GC.

4. **S4 (Go)**- We have our elders at the clan level. We mediate disputants in our clan. Disputants cannot go to the MC bypassing us. Only those criminal cases are taken to the police. We reconcile the two parties. We make the plaintiff give compensation for the victim. The plaintiff slaughter animal, prepare drinks and prepare a reconciliation ceremony that can heal the wound or clan the enmity between the two sides.
5. **S1 (TU)**- The Oromo people have its own social structure. The young respect their elders. There is also the Gada system in which the Oromo people select its leaders every eight years. Age seniority is given especial place in selecting the elders of GC. The other criterion is personal wisdom (hayyuu). Hayyuu or individuals having the knowledge of Gada laws, wisdom, patience, and rhetoric skill to manage customary practices of the society are often selected to serve as elders of GC. These are the criteria for the selection of elders of GC. We don't elect elders of GC by voting.
6. **S2 (Gi)**- As stated before, seniority plays a big role. But I have been selected based on the knowledge I have about customary law and practices of the society. Other personal qualities such as genuineness and fairness in making decision are also among the criteria of selecting elders of GC.
7. **S3 ()**: With regards to the question "Who is selected as elders of GC?" It is the elder/senior one (Hangafa). The elder sibling may sometimes give this honor/responsibility to his younger brother if he believes that the latter is wiser and more knowledgeable. Otherwise, the younger (brother, clan) cannot bypass his elders/senior and try to involve in such social service. It is un ethical for the younger to do so.
8. **S2(Gi)**- People of these days are not behaving as our society of the olden days used to behave. These days, most people have become brokers (*dallaala*). They simply live by selling their word of mouth (telling lies). These brokers push the disputants to go to MC because they get something (bribes). Truth is the sibling/son of God (dhugaan ilmoo Waaqaati). It is a sin to lie as an elder. These elders do not have a salary. Only God will pay them back when they serve genuinely or based on truth. So, in short, people don't prefer to go to MC had it not been for the influence of the brokers (*dallaala*). There is an

Oromo saying which goes “ Gubatee hinarginee daa'imni ibiddatti gama” meaning, “ *A baby that has never seen burnt run to grasp a fire*”. They (judges in MC) usually make them (disputants) pay a large sum of money up to thirty-forty thousand as they take their cases from woreda up to the supreme court. After feeding the judges (paying bribes), eventually, the disputants come back to these elders to settle their disputes.

9. **S1 (Tu)** – Okay, the way I see it, people do not prefer MC. There is an established culture and norms that our people believe in. They prefer the elders to settle their disputes because this is the system or the culture which is entrenched in their mind since the time of their ancestors. They never prefer to go to MC. Society doesn't like to go to the police or the MC because solving their disputes with the help of elders is a practice that they have inherited from their parents. It is a place where truth (dhugaa) can be revealed because when elders mediate, they carefully investigate the issue on both sides. Since they live with the disputants, nothing will be hidden from them. They know the ins and outs. There is a big difference between us (GC) and the MC. We know that very well. Elders rely on the customs, and norms of society which have been accepted since earlier times. That is why society prefers to get service from GC. The truth can be revealed only in front of elders.
10. **S3 (Nu)** – The MC relies only on witnesses. Both sides come with their own witnesses. It is difficult to prove whether the words of the witness from both side is true. So, the MC does what it can do and then send the cases back to us. This is why disputants are normally supposed to come here. Those who have good understanding come here (GC), and those who have no good understanding go there (MC). They go there (MC) usually with a sense of competition and defeating one another. They unnecessarily waste a large sum of money extravagantly (birria ofii cafacafaatuma deema). But they all end up here (GC), and they come back here. For instance, last week a man got his arms broken in a personal conflict. Then he took the case to court. But the MC has no idea how to settle and give a solution to the case. Then the court sent the case back to us (GC) with a formal letter to handle it. Why did the Cort do so? Because they don't have the knowledge and skill to handle such type of cases. Here they don't pay any expense. The elders listen to

their issue and find out the truth (dhugaa baasa). They convince the parties to accept the truth. Therefore, those who understand this come here (GC), those who don't have a good understanding go there (MC). The court simply listen to the witness of both sides. It doesn't try to identify the one who deserves the truth (dgugaa). So, in MC who usually wins? It is the one who has more money (abbama qarshiitu moo'ataa jira).

11. S1 (Tu): Ok you asked “Why do people go to MC while this beautiful culture (GC)? My culture is my identity and within my culture is norm (dudhaa). The Oromos have their own constitution/law (tumata). While this cultural law, the law that different Oromo clans and elders had agreed upon is there for them, why do some disputants prefer to take their cases to MC?” In addition to these laws, there are traditional norms and ethical principles (Safuu). So, why do people leave all these values of their ancestors behind and go to MC? There is a saying which goes “ Namni waa lamaaf dhalata. Ofiif hindhalata Biyyaaf hindhalata” “ A person is born with two purposes: to fulfil personal ego and to serve the society”. Those who prefer to go to MC are those who are born to serve their personal need at the expense of their social value. They are the ones who want to win by cheating and misleading. A normal person does not disregard this beautiful cultural practice (GC) and go for MC because he respects the norms and ethics of his people. The majority of the people, the rich the poor, the strong and the weak prefer this GC. Only those people who want relief by their power; those who want to win using their power, their financial power; those who want to win by committing sin (cubbuu) go to MC. It is only the need to satisfy the sinful competition that pushes them to go to MC. Otherwise, one does not go to MC because of the hatred he has towards GC.

12. S3 (NU): Like what the previous speaker stated, society largely respects Abba Gada. They trust Abba Gadas. Why? Because they are administered by these Abba Gadas. They are children of Abba Gadas. If you consider the police station, it doesn't investigate cases and find the truth. The court also does not clean cases and find the truth. It is only Abba Gada that refines and thoroughly investigates cases. An Abba Gada has the power. He blesses and curses. The curse of Abba Gadaa is bad. It can destroy. Those who disregard Abba Gadaa and go to MC are sinful ones.

13. S4 (MU): Like what has been said, it is only the hose of Abba Gadaa that can find out the truth (Ka dhugaa baasu, Abbaa Gadaati). It is the elders of the clan that can see the truth. There is a special culture of swearing. There is a saying which goes “Waakkataan jilba, Amanaan dhibba” and “Those who deny the truth are made to swear, while those who admit the truth are forgiven (their issues settled)” Those who reveal the truth are given forgiveness and reconciliation. Those who deny the truth will be made to swear in front of the elders. There are cultural procedures to do so. The disputants do not make false accusations against each other. If you look at MC, it is a place where enormous sins are committed. There is sin (cubbuu) in the words of most of the witnesses in the MC. Some witnesses present false accusations against the disputants and will be judged later in front of God(rabbi). Those who speak the truth will get the blessing of God. If the witness lies, he/she will be disgraced in front of people and God. However, for those who come to Abba Gadas, the elders, the truth will be served/revealed. He/she will be respected/honored in front of people and God. So, those who disregard GC go to somewhere else (MC), are those who want to hide the truth; they are those who want to lie or commit sin. Those who seek the truth go to the elders of their community and to GC.

14. SP 1(TU): We usually settle those cases that the MC couldn't resolve because of a lack of knowledge of the norms of the customs of the society. We never blame disputants for going to MC, never. We just accept their cases and resolve it. There are three different kinds of groups within our society: those who rely on politics (MC), those who rely on *Aadaa* (traditional norms and culture), and those who rely on religion. However, all are governed by the cultural norms and values of society. The law of Abba Gadaa (GC) relies on these cultural norms and values ... Normally, the MC cannot give conclusive resolution to homicide cases. There are traditional rituals that cannot be missed to reconcile the two parties. This cannot be handled by the MCs. No matter how the MC punishes the offender, this will not end the enmity between the two parties. In the case of homicide, the relatives/clans of the two sides cannot live in harmony until they carry out the reconciliation ritual with the help of the GC. This ritual will take place even while the offender/killer is in jail. The offender is also expected to go through the ritual once he completes his prison life. Otherwise, the possibility for revenge is out there. The

government (MC) also gives orders to the offender to hold the reconciliation ritual when the offender is released from prison. Unless he does so, his life will be at risk. So, once he finishes his imprisonment, the offender directly goes to Abba Gadaa and requests for reconciliation with the victim (*araara*). By the way, Those offenders who are imprisoned usually do not learn from their mistakes in prison. They rather learn bad behaviors from one another and become even worse. However, the rituals in the reconciliation procedure of GC will calm down and shape the behavior of the offender.

15. S1 (TU): We (GC) summon twice in a week to solve the problems of the community. This is a free service. The elders of GC serve society for free; for the benefit of our sons and daughters. The MC usually send us cases with a formal letter. We (GC) have also its own logo. So, we can write a formal letter back to MC. We never send cases to MC. It is the MCs that send us cases when they could not solve an issue. We (GC) never send cases to MC. We have rich cultural wisdom and norms (Aadaa). The MCs do not have customary knowledge on how to handle issues related to traditional marriage. That is why they ask for our support. Again, in the case of the homicide, the MC requests us how to reconcile the relatives/clans of the two sides (of the victim and the killer). The MCs do not know how to heal this social wound. We (elders of GC) can resolve the issue. We can reconcile the two sides or the conflicting clans. Again, there could be a border conflict between the two clans. It is only the elders of GC who understand the basic causes of the conflict. So, the MCs send us such cases also. They request we to investigate and find the truth. The elders of GC never send cases to MC. Occasionally we meet with the MCs, Police, and Women's affairs and discuss on how to work together. This is just an informal discussion. We don't have formal meetings.

16. SP 2 (GI): We don't make official meetings with the MC. I personally go to the President of MC in our woreda. I usually say to him, "Please serve the truth. Give justice based on truth. Sometimes, there is unfairness". That is what I told him. They (MC) never call us formally and ask us what difficulties we are having. How we are running our activities. They give us no support.

- 17. SP 3(NU):** What I want to add is, there is no regular communication. We just meet on an annual meeting of the general assembly of the woreda once. It is the meeting where all sectors present their reports. Sometimes, there is miscommunication between the MC and GC. Last year, there was a homicide case that we settled. We investigated the truth and reconciled the two sides following our traditional healing procedure. We also formally communicated the reconciliation of the two parties to the woreda court. However, later we heard that the victim took the same case to MC and the offender has been sentenced to ten years in jail. This is unfair. This shouldn't have happened.
- 18. SP1 (TU):** Let me say something here on this point. Abba Gada is the father of nature and the traditional norms of society. When disputants take their cases to GC, the elders give their trust and reconcile the two sides in a way that ensures the will of God and the social well-being of the society. Once dispute cases are settled like this, the MC should not reverse the decision of the elders. This affects the harmonious relationship between the Abba Gadaa and the community. The community no more trusts GC if this continues to happen. It would have been better if the MC respect and accept the decisions of the GC. If we go in different directions, if we do not communicate and respect each other's decisions, the conflicts may be aggravated. GC reconciles homicide cases based on established norms of the Oromo people. We reconcile the two sides and compensate the victim. We give truth to the victim. The disputants and clan/relatives of the two sides also go through serious of cleansing rituals of reconciliation in GC so that the victim never goes for any revenge in the future. That is how we establish lasting peace between the two sides. However, sometimes the MCs disregard all these efforts of GC and sentence the offender to imprisonment. Unless this issue is resolved, if those cases that GC has resolved based on established norms are again taken to court, the community will begin to say to us, "If your decision is not the final one, if I have to go to court for the same case, why don't I take my case directly to MC?" This will have a negative impact on our endeavor. Those judges working in the MC are also our children. They should take our decision as final and refrain from treating the same case in two places. What has been brought to Abba Gadaa shall be finalized by Abba Gadaa (GC). What has been taken to MC shall be concluded there. We (MC and GC) should not get into a clash. They should not intervene in our work and we (GC) should not do the same.

- 19. SP 2(GI);** What I also want to add here is that once Abba Gadaa makes decision means, the issue has been resolved once and for all. It is the final decision one can get from a human being under this sky, below the verdict of God (Waaqaa Gaditti). Once we (GC) settle a case (especially homicides) we report it to them (MC). So, if the same case is brought to them (MCs), they should say, “Your case has already been resolved in GC. Here is the report.” Look, those who are working here (GC) are Oromo, and those who are serving there (MCs) are also Oromos. Whether they like it or not, the law of Abba Gadaa (GC) overrules. Gadaa is the origin of democracy. It governs the world. They (MC) should not disregard this by force. They should not rely on their force.
- 20. SP3 (Nu)-** The elders of GC do not give verdicts like that of the MC. They rather work on bringing the two sides to reconciliation. They engage in activities that heal the wound and clean the sense of enmity between the two sides. They give truth (dhugaa) to the victim.
- 21. SP 2(GI):** Since the establishment of the government (Modern) and the Menelik regime took power away from Gadaa, and forbid us not to rely on our wisemen, this system has been working secretly. The government (MC) can punish those who commit homicide. We (GC) have also our own procedure to resolve such cases. First, we put restrictions (gadabaa dhaabuu) on the movement of the two sides to avoid possible revenge. Then we scrutinize the issue and order the offender to send his request for reconciliation to the victim through Abba Gadaa. That is how we smoothly settle the cases. That is how we systematically establish peace. However, there are some bodies which envy what we are doing. In my opinion, the Abba Gada together with some religious institutions can administer the society in the absence of the Government. However, there are diversity of interests.
- 22. SP 3(NU):** It is GC that better reconciles based on truth (Qulqullinaan ka araarsu, Mana Abbaa Gadaati). GC reconciles even those who commit homicide and makes the two sides kiss each other. However, in MC, those who bring better evidence and witness can win. This does not avert the possibility of future revenge because it doesn’t reconcile the two sides.

- 23. SP 1 (TU):** Let the truth be the winner (Rabbi dhugaa haa moosisu), I tell you, the service quality of Abba Gadaa can score 97 out of 100. GC reconciles the two sides, let them eat and drink together and bring them back to normal life. Abba Gadaa also does not take a long time. It resolves the issues as soon as it occurs. Most of the time, GC finalizes homicide issues in three appointments. However, in MC, there is a practice of giving several appointments. The disputants need to attend several appointments. After several appointments, the disputants finish their money and become poor. They eventually come back to us. You know what? When we informally discuss with judges of MC. They tell us, “We rely on the three witnesses. Whatever sin is committed in the course, it goes to the three witnesses. “. However, GC dig deeper into the case and finds out the truth.
- 24. SP 4 (RA):** For the question that you raised regarding the difference between the services of GC and MC, like what has been said, elders of GC can maintain broken rope (haada citellee hinsufa) meaning heal the broken relationships, cleans the mind of the disputants and bring them to reconciliation. However, the MC makes decisions based on a single article. The disputants make their apples up to the highest structure of the MC (supreme court) . Then if one of the disputants is not satisfied with the decision of the MC, he may go for revenge and commit homicide. Then the case will be back to this GC. The problem that this GC solve is almost equivalent to the problems that the supreme court resolve is comparable. So, the MC usually throws difficult and complex issues to these elders of GC (waan shameefi waan ajaaye gara jaarsaa darban). These elders never reject these cases because they are morally obliged to serve their society. So, the MC shall not make decision-based on a single article. These decisions never heal the wounds of the disputants. There must be regular discussion forums between the MC and GC...Our society runs towards MC and the police. They finish all their money (on bribe) to the extent of selling their jackets and eventually come back to this GC. So, the society must be given awareness creation training so that they can resolve their issues in this GC and with local elders... Whenever there is chaos, these elders of GC and Haadha Siinqe will settle them using the power vested on them by God. The youths also never disregard them and involve in further conflict.
- 25. SP 2 (GI):** My answer is, if we need to establish peace in the country and create a conducive environment, there shall be dedicated and genuine elders of GC, and this

institution needs to be strengthened. If you simply give the whole responsibility to these young university-graduated judges who rely only on articles of written law, it will be disastrous for the country. These days, it is false witness that spoils the community. The elders of GC have the ability to investigate issues in detail and find out the truth. We (GC) and them (MC) do the same job. If we have to work for the peace and stability of the country,

26. SP 1 (TU): in my opinion, we better leave the issue related to traditional norms up to the GC (Waan aadaa aadaa kennuu) and those legal issues to the MC (waan seeraa seeraf kennuu). I also recommend the two bodies fix dates for regular meetings to discuss how to collaborate and give the necessary service to the community side by side. However, if the two bodies (GC and MC) sit on different sides of the river and fail to collaborate, it will be bad for the government and the community as well.

27. SP 3 (NU): I recommend holding a regular meeting and discussing how to collaborate. For instance, there is a regular annual or biannual meeting of the sector bureaus of the district...

28. SP 1 (TU): ...Gada is all about Truth; Truth is the Son of God (Gadaan dhugaa; dhugaan ilma Waaqati). The Gada (elders of GC) do their work carefully. They never commit sin for the good future of their kids. These elders are like shades of Odaa (tree).

29. SP 2(GI): The other world has no such cultural practice (Gada System). I can say that modern democracy has its base in the Gada System. So, the government should provide all the necessary support. There is a proverb that goes

“A Son argued with his father saying ‘I am better than you (Aabba natuu sin caalaⁱⁱ⁷)’.

The Father replied, ‘How? It can’t be. I am your father.’”

The Son continued, ‘You see that tree on top of that mountain?’

Father replied, ‘Yes’

The Son continued. ‘You are the mountain and I am the tree. That is why I am better/greater (caaluu) than you’

The Father replied, ‘Yes now I understand’”

(According to this proverb, Mountain/Father symbolize the elders of GC and the tree/Son judges of MC)

⁷ *Caaluu: In this context is to mean I am taller than you or better than you*

30. SP 3 (NU): The challenge currently facing elders of GC is that they usually spend most of their time serving the society for free. They don't have time to do their own business. They don't get a salary for this. This is a problem. They call us Abba Gada, but the government never gives us attention. The government starts to look for us only if there is a conflict or chaos. They say us "Why don't you go and solve the problem?" They (Government officials/Judges) don't want to go out there and solve the chaos. They arrive only after we settle the issue. So, the government should not come to us only during the chaos. The government has to do something for Gada elders at the country level...Can you imagine what will happen if these elder of GC stop their service? Who else can solve such problems? The government pays even for guards. However, these elders you see here are paid nothing. All these people (service seekers) are here to get the services of the elders of GC. So, why don't the government treat these elders like the others (civil servants/judges)? This issue must be taken seriously. Like what has been said, these elders give free service for fear of God. They don't take a penny from these people. No matter how long it takes, even the service receiver do not invite us to this bottle of water that you have invited us. Every day, these elders of GC travel on their expense. There is a big challenge that you have to bring to the attention of the government.

Transcript of Interview with Elders of Gada Court

Woreda: (Adea) Liben Chukala

Interview Duration: 00:39:20

Interviewees: (Jalde Waqtola; Bedhaso Dayaso)

1. **S1-** The services that GE is giving in resolving conflict and building peace are big in my opinion. To solve the conflict, first of all, the GEs investigate/listen to the claimant (*himataa*) than the defendant (*dachafata/himatama*). They check if the complaint is right or wrong. They bring it to the right track and find the truth. Filter the false accusation (*dhara*) or clean the dirt (*xurii*), find out the clean one (the right information), and look at the past and the future. We (GEs) investigate our past, our present, and our future. When a person starts a journey, he has a beginning, the right path, and a destination. Conflict resolution is like that. GE resolves various conflicts including homicides, harms executed

in a hidden manner (stealing), and treachery. GEs passes the right/ethical decision (*waan seeraa kaa'ee*), tells the disputants this (the decision) that brings peace to you and peace to your family, and your cow/heard (*sa'aa*). They give them what is clean (*waan qulqulluu*), the truth (*waan dhugaa*), what is good for heard, and what is good for humanity and for the whole country. This is a big/valuable service. For example, if they take their cases to modern court, they may organize false witness, and there is the possibility of denying the truth/justice (*dhugaa dabsuu*). There is the possibility of giving false witnesses. In order to prevent these, the GEs carefully scrutinize the issue. Sometimes individuals who give false witnesses at the court reveal the truth here at GC, because the elders carefully warn them (disputant) that telling false witnesses is bad for your health, for your family. Then those who lied at MC ask for forgiveness here (at GC). Therefore, the GEs reconcile the disputants giving clean and fair decisions. The elders start scrutinizing the case even two-three days before handling the case as soon as they are requested by the disputants to handle the case

2. S2- Elders speak on truth and reality because this chair, the chair I am sitting on or the jury, belongs to God (*wanbarii Waaqati*). If I make an unfair decision in favor of someone, I will take the Sin (*cubbuu*) to my home, to my family. So, when he takes a case to be resolved, first the elder tells the disputants to tell the truth. He gets the promise of the disputants, to tell the truth. Sometimes when we handle a homicide case, we tell the defendant to bring his relatives (up to nine people) to the mediation session. These people will take an oath. There is a special ritual for the oath ceremony. First, a hole will be dug. Then **a stone, a bone, a bullet, ash, yarn, and a peeled logⁱⁱⁱ** will be collected. All the nine witnesses of the defendant give their oath holding these materials. If they are confident in the defendant, they give their oath and witness that he is clean from the accusation. However, if they are suspicious of the defendant, they don't give oath. Then the person will be fined with hundred heads of cattle. The same ritual will be applied to a person accused of stealing an animal. This means, elders rely on truth and convince with truth. **How about in the case of MC? A** witness will stand in front of a judge and give false witness or lie. People who know the truth may not go to court. Here in GC, all kinds of people: respected local elders, and trusted individuals are included as witness. That is

why the work of GE is respected; that is why this shade (gaaddisa)^{iv} or session of GC is respected. That is why Gada Elders are respected and these people are here. This court (GC) always go for the truth. This bureau of Abba Gada recruits and organizes trusted elders who can give justice based on truth. If people lie here in front of Gada Elders, bad things happen to them within a short time, may be a year. This is because Elders give decisions sitting on the Chair/Jury of God (Wanbarii Waaqaa). This is how GEs work. However, in the MC, there are other processes, it is accompanied by money (bribe) though the judges also apply oath in their service. Those who go for the service (MC) take money to the judge. The judges also sit on money (give unfair verdicts by taking bribes). This is it. The Elders resolve conflicts based on truth (*dhugaa*).

3. **S1.** The oath is very critical. To build their confidence in him, the defendant first convinces the witness of his side by pulling a string of hair from his child's head and searing them by saying "My God unroot/destroy my of springs like this hair if I tell lie." He also puts the child between his thighs and swears to the Elders by saying "May God deprives me of a child if I lie to you." Then the witnesses come to the GC and testify for him/her. As we know, a stone is dry. The defendant also swears to the GEs, by saying "May God make me dry like this stone or kill me." This is what Oromo Elders' do in resolving conflict. Those elders who speak the truth are selected. Those who has wisdom and rhetoric skill to solve problems are recruited to serve as mediator.
4. **S1-** Disputants usually take their cases to the elders as soon as they face it. Only those ignorant runs to the MC. Sometimes, the Elders themselves voluntarily approach the disputants and resolve the conflicts that occur in their locality. They tell to the disputants by saying, "Please don't take your case to another place (MC) and increase your enmity. We reconcile you based on truth and heal your wound." That is how the elders resolve the conflicts in their locality. The truth will be given by the elders. One cannot be considered innocent only for taking the cases to the elders first. The truth may be given for the opponents. Because of the critical procedures, we follow in finding the truth, society prefers us (GC). Except for disputes related to land ownership, GEs resolve all kinds of conflicts. Even when disputants take their cases to MC and falsely accuse each other, the accused person brings the case to local elders. Witnesses lie in MC. They witness something they haven't seen or heard about. People give false witnesses in favor of their

relatives or their friends. For example, I know a person who was sent to seven years in jail based on false witness. Eventually, the elders of the GC summoned all those witnesses, investigated the issue, and found out that the accusation was false. Then the elders of the GC communicated the case to the MC that gave the verdict. Then the court reevaluated the case and the person was released after one year. This is why society prefers the GC. That is why we sit here. Elders of GC work for truth and relies on truth. The judge work sitting in an office. As explained before, the judges give verdicts by taking money or bribe or based on some kind of personal relation. So, sitting under the shade of God (gaaddisa Waaqaa jala taa'ee), sitting on this land elders give truth because this shade (gaaddisa) and this land are respected. Both the shade and the land we are sitting on belongs to God. This shade (gaddisa) has its own low (seera), this land as well. Gada Elders are preferred because they work or give verdict sitting on the chair/jury of God (Wanbarii Waaqaa). If this kind of service is availed everywhere, the load at GC will be minimized. There won't be too many appointments (to GC) for the service. These elders of GC do not request money for the service they render. Only those who are willing would buy them drinks for their service. They don't have shoes; they go without food (garaa duwwaa deemee) and give the mediation service. So, God will sympathize with them. Gad also stands by their side. That is why elders of GC are preferred.

5. **S1.** Elders settle all kinds of disputes including homicides. As you know killing someone is not a simple thing. In this case, the killer runs to the elders of GC as soon as he commits the homicide. He requests the elders to intervene and stop possible revenge. Then the elders together with the killer's family go to the victim's home and beg them for days to accept the mediation. Then the elders go through all rituals of reconciliation. They slaughter a sheep and made the two sides eat from each other's hands as a sign of reconciliation. They made the disputants clean their mouths with water from a fresh container made of a gourd (water with sour test) as a symbol of cleaning the enmity between them. They tell them to break the container as a sign of eliminating the enmity and declare that peace has prevailed between your two as of today. The elders call upon women from both sides to spray water with honey on both parties as a sign of reconciliation. Then the two sides dine from the same dish. They slaughter an ox together

and smear each other with the blood of the ox. Then small pieces of meat will be cut from important parts of the slaughtered ox and roasted. Then the killer makes all relatives of the victim eat from his palms or feed them with his hands. The victim side also feeds him in return. Eating from each other's hand symbolizes that the two sides never go for revenge in the future. It is to mean that afterward, we are relatives mixed in blood and flesh. Then the killer sleeps with the victim's family sharing the same *gabi* (a local blanket made of cotton). The next day, the elders tie up the fingers of the killer and that of the victim's father or brother with the intestine of the slaughtered ox. Then the two sides take an oath not to break their reconciliation and go for revenge in the presence of the elders. Several rituals take place to create lasting peace between the two sides. That is how elders handle homicide cases. We are doing it. We did it last week. Elders have mechanisms of convincing the two parties. They use these spiritual tools (*waadaa*). They examine both sides (*bitaa mirga ilaalee*) and bring reconciliation. An elder never commits sin in doing so.

6. S1- The GC usually orders the local officials to support us. They sometimes send us the police when we need them. The MC also sends us back cases and tells us to mediate. The judges in the MC also advise the disputants to take their cases to the elders of the GC. Then we take the cases, settle them and report to the GC. Then the court closes the case. Usually, the MC calls us (elders of GC) and requests for advice on difficult cases. Over the last five years, the MC has been sending us some cases saying "Let the elders of GC settle this case." Then the elders settle the case. So, somehow there is communication between the two bodies (GC and MC). However, sometimes when the judges already take the bribe (*yoo loon fudhatan*), they never agree to give the case to the elders of the GC. Giving and taking the bribe is mainly to distort the truth and give an unfair verdict. The one who gives bribe money to the judge also know that he has no truth and so never allows his cases to be referred to the elders of GC because he knows that he will obviously lose the case in the GC. He cannot tell lie in front of elders of GC.
7. S 1- Yes, of course, the MC usually supports us and considers us as their collaborators.
8. S2. It all depends on the personality of the judge. There are judges who serve fairly and work based on the truth. On the other side, there are some who take money (bribes) and

distort the truth. Still, there may be disparities between the woredas and kebeles. Sometimes the judges in MC say “This is none of the business of the elders of GC.” So, there are differences based on the personality of the judges not the existing law of the country.

9. **S1-** Usually elders of GC give their service based on the request of the disputants. The disputants come to us and beg us by the name of our ancestors’ spirit because they know that we do not distort the truth. We cannot refuse such a request since we belong to this society. But we never get anything in return. The only thing we sometimes get is a drink. There is nothing else we take; elders do not take bribes (matta’aa). Nobody plows the land for us. The GC also gives us nothing even a per diem for the services we deliver. But we are spending our time on a very big issue that is valuable for the government. We are doing something which largely supports the government and solves big problems. We are doing a well-recognized and valuable job. We used to get some support from the wider public during the Durg (previous government) regime. But now, as I told you already only the soft drink invitation that we get from the disputants on their willingness.
10. **S1-** I request the government only to build us space. I want the government body to evaluate our services by interviewing our service receivers. Ask them how we did it. Then take our photo and give us the recognition that can be passed on to our siblings. There is no such service. We get our payment only from God.
11. **S2.** With regards to the kind of support that should be given to the elders, as I said, elders often don’t get even lunch. They work with an empty stomach. They couldn’t properly conduct their farming. Elders who are engaged in such kind of jobs often face big challenges. Every day there are cases to be resolved. For example, today we come from a very far place, from the border of Bora District (neighboring district). We left our home yesterday. Our farm work is left undone. Elders engaged in such business is suffering from extreme poverty. Look at the number of our service seekers. **The MC cannot solve the issues of these individuals even in one year.** So, there must be support from the government to the elders.

12. S2. The two sides must closely work together. Sometimes there are complicated issues that cannot be easily resolved by the MC. So, the court better calls the elders and work with them. Elders can solve complex issues which could take the MC a year to resolve within two days. This could curb the burden of the MC. This could reduce the disputants' challenge as well. Going to MC may cost them a lot of money and time. They have to go to MC for several appointments. In the case of elders of GC, there won't be too many appointments. The decisions of the elders are also fair. For instance, if the defendant has to pay one thousand for the victim, the elders convince the victim to leave some amount, let's say 300 hundred, for the defendant as a sign of commitment to reconciliation and take only 700. Elders reduce unnecessary compensations. For example, in MC, the defendant is requested to compensate for all the expenses of the victim when the verdict is given in favor of the victim or the plaintiff. This will widen the gap between the two parties. It doesn't heal the wound and leads to reconciliation. So, if the MC, get the support of the elders of GC, peace will prevail in the country and the expenditure of unnecessary cost will also be minimized.
13. S1- There is a story or saying about a judge who was serving during the regime of Haile Sillassie (Jaanooy). There was a local governor (*chikaashuumii*) who claims to have eliminated the theft. Then the judge of the same district responded to the governor, "If you did so, that means you have closed a government office (i.e the Court)". This is to mean that the very existence of the court depends on the existence of the theft and thieves. Had the elders of GC had been strengthened to provide their services properly, nobody would have gone to the MC (*firdibeetii*). This is why they (MCs) hate elders. They don't like us really. They come to us only when they face difficulties. The police also don't like us because they do get nothing if the elders peacefully resolve the dispute. The door (means of getting a bribe) is closed They get nothing. That is why they don't like us.

Woreda: Yabello

Interview Duration: 01:24:08

Date of Interview: July 20 /2021

Interviewee (Abba Boru Dirre Guyo , Abbo Galgalo Diido)

1. **S1: 01:18”** ... We largely depend on our culture and norms even though there is the government structure. Dispute is natural. There is no society on this Earth where there is no conflict. The saying in Borena goes, “even one’s tongue and teeth get into conflict” . So, conflict happens even between one’s body organs. There are several types of conflict in our society both in urban and rural areas. We resolve all these conflicts except for those conflicts that have political cause or based on political motivation. All social conflicts can be settled by the elders’ mediation. It starts with prayed and blessing. Blessing and prayer can sooth the disputants and make them come back to normal thinking. Reconciliation starts from the good words we use; the way we address others. Always, the elders do not force you to take a blessing [decision] that you do not believe in because this does not heal the relationship between the disputants. It is not acceptable to force disputants to hid his/her emotion and accept the blessing. First the truth must be revealed. The victim must be given recognition or truth that he/she has been hurt. The plaintiff must admit he/she committed the mistake and apologize. Then, the elders give their blessing for the reconciliation of the disputants.

2. **SP 2 :09:30-** People [disputants] do not go to go to court unless they are forced or have especial problem. It is not considered as norm of the society. In Borena culture, only those troublesome people (nama hamaa) go to court [MC]. Those people who go to court are not genuine. They want to get justice on fake evidences. They want to commit sin. Elders consider the norms and cultures and truth. They obtain all the evidences regarding the cause of the dispute from the local community and give resolution.

3. **SP 1 (:11:07)-** We have our own culture and norms. Previous time, cases are not taken to MC. We have our own experts or scholars (hayyuu). Our experts are not like the modern educated doctors and judges. The title of hayyu is given by abba Gada for those people with unique ability and wisdom to solve social problems. They are the ones who have expertise and cultural knowledge to make decisions. We usually don’t know MC (mana murtii). It was not there in our culture and norms. The one used to be called as ‘Firdi Bet’ is now renamed by Oromo’s as mana murtii. Ours is not mana murti. Its is called

Gaaddisa meaning shade of a big tree where elders sit and resolve conflicts. This Gaddisa has its own procedure and laws to make decision. The decision makers are hayyuu. The society in Borena have hayyuu at different level. There are hayyuu that solve minor conflicts in the neighborhood. There are hayyuu at sub-clan level and the whole Borena people have also have common hayyuu who can resolve complex dispute cases. MC is quite different from Gaaddisa. This MC is not compatible with our culture. These judges and prosecutors have no knowledge of our culture and norms and they can resolve nothing. At gaddisa, only hayyuu speak and make decision. Hayyuu are elected by the society based on their cultural knowledge and wisdom. They are given the right to make decisions...Gaddisa is different from MC. We call the decision at Gaddisa as Murtii Raabaa Gadaa (the decision of Rabbaa and Gadaa). People run to MC taking minor conflicts that could be solved by a single elder. The women run to MC and share property when they divorce. This is unlike our culture and norm. Our culture is Gaaddisa. Every sub-clan has its own elders and Gaaddis. For instance, he [speaker 2] is from Digalu [sub-clan]. Digalu has several families [balbala] and disputes in this sub-clan are referred to him. Besides, he has been given the mandate to represent his sub-clan [Digalu] and handle big case of his sub clan and that of Sabbo [neighboring sub-clan]. That is how our culture works. This modern law has not consulted our hayyuu and consider our culture. It is just enforced by the power of the government. It just follows the structure of the government through kebeles.

4. **SP 2 (:16:50)-** We don't have ways to communicate with the MC. We never do that. People go there when they want to make trouble seek unfair justice [dhiphuu barbaaduu]. When individuals quarrel, first it will be treated by elders of his neighbor, then by elders of the district [ardaa], then to the elders of the clan [gosa]. Finally, the case will be referred to Hayyuu [Gadaa Court]. For very serious cases, there are Hayyuu of Borena and there are cultural laws that these elders follow to resolve such issues. It is just like government structure. For instance, there is parliament, zone cabinet, then woreda cabinet in the government structure. Likewise, the Abba Gada are like a parliament. There are several Hayyuu working with Abba Gada during his eight years office. When this Abba Gada finishes his office time leaves the office to next Abba Gada, another group of Hayyuu will be elected to serve the new Abba Gada. As Borena elder, we never refer

cases to MC unless the person goes there without our knowledge. We never say to disputants, “It is beyond our capacity; Please go to MC” unless the disputants refuse our request and go there. It is not normal to tell somebody to go to MC while these elders are here.

5. **SP 1 :21:10-** Yes sometimes, the MC sends cases to elders. There are such occasions. These days, things are politicized and sent to government, but Borena never send cases to government [MC] to resolve. Borena has its own law (seera ofii itti qaba). However, there are problems that have faced our law. Another law and structure of government have been placed up on the already established laws and structure of Borena. The government has brought this new structure up to kebele. We used to have our own father of a neighborhood (Abbaa Olla). Everything starts from this person. Now this has been replaced with Cabinet members, DAs who are paid government salary. They are there in the society. This is against our norms and cultures. Had it not been for this new government structure, Borena is self-sufficient in resolving any kind of disputes. It has its own norms and cultures even for homicide cases. When the government intervene, there are police men, securities and others that aggravates even a minor clash. Had it not for such interventions, we have our own established norms to settle any cases.
6. **SP2: 23:01** - You know, the most serious crime is homicide. Even for such cases, we have our own ways of resolving. We never refer disputants to MC although the government [MC] claims that such cases shall be handled by them. We do have our own culture. For instance, for a person that commits homicide, there is fine by several heads of cuttle. First of all, it is considered shame for a Borena man to kill another Borena. A person who commits such crime will be deprived of his Borena hood social status until he goes through cleansing ritual of Abba Gada and regain his status. He will be reunited to the society after reconciliation has been made, after the victims are compensated and the offender and his clan is made to pay several heads of cuttle in the form of compensation to the victim. So, we never refer even homicide cases to MC.
7. **SP2: 24:50** - We believe that the elders’ decisions are better. The court sentences a person to life in prison. Then the whole family will be affected. That is not how we settle cases.

You cannot heal wound by sentencing the offender to life in prison. The offender has to be given advise by the elders of whole clans. He has to pay compensation and establish peace with the victim side. It is better to do so and make the two sides come back to their social life. It has no use if you beat an offender as punishment for committing crime of beating another person. That can't heal the wound and reconcile the two side. You need to investigate the case and reveal the truth and the wrong doings. Then you reconcile the two sides. That is what God wants (Waaqillee sunjaalata).

8. **SP1: 26:58-** You know what, before the last two regimes; Derg and the current government, the Borena people never refer to modern law to warn each other (Adaraa higgii waliin hinjedhu). This is because this law of Ethiopia and the Borena culture and norm are quite different. This modern law has come to Borena since the occupation of Borena by Menelik [former regime of Modern Ethiopia considered as the conqueror or colonizer]. Borenas have their own law which was declared more than five or six hundred years back... The way the MC and the cultural GC investigate dispute cases are quite different. For instance, if someone is suspected of homicide, in the cultural GC, the suspect will be asked by the elders to reveal the truth. The elders warn him not to bring sin to his relatives by telling lies. You may hide the truth from us, but not from God (Waaqa). They ask him to tell the truth that God already know (Dhugaa Waaqaa Dubbadhu Jedhaniin). When we ask by the name of Waaqa, no Borena attempts to lie. However, since the introduction of the MC, people deny the truth, even what they have admitted in front of elders here. The tell lies to the court and argue even though they know that they have committed the mistake. That is not the practice in GC. People do not dare to lie to a Borena elder. First of all, why do we need law? It is to make people learn from their mistakes... The elders question the offender. It is what the offender reveals, the way he admits his action to the elders that decides what punishment to put on the offender and how much to forgive him. The current practice of collecting evidences (ragaa walitti guuruu) is not in line with our culture.

9. **SP 1 (00:31:57)-** We recently discussed with government bodies on how to strengthen these cultural court (GC) at Oromia level... Strengthening the cultural courts can help the

government a lot. I sometimes feel the government added unnecessary challenges up on itself. It tries to address all cases including very minor issues that could be easily addressed by the local elders. There is tendency to make minor spousal disputes as big political conflicts triggered by external forces... in general, if we come back to our culture, elders can resolve disputes in a better way... Our culture (GC) has been before Prosperity Party [current ruling party] and Derg regimes [former ruling party]... We do have our own Abba Gada, Kuraa Jaarsoo. This Abba Gadas has his own cabinets (Yaa'ii) who are established to govern the Borena People. There is no need of sending cabinet members to solve conflicts that could be easily solved by the local elders... It is like religious practice. For instance, can a woreda governor go to church or mosque and teach people how to conduct their prayer? No, he cannot do that. Our culture is like that. For instance, whoever comes to Borena, call it President or other officials, there is nothing that he can tell us. So, I recommend to leave cultural practices up to the people and take care of their political issues... The elders are aware of all issues that happen in Borena. Some individuals would like to go to MC and try to win cases by presenting false evidences or politicize some issues. The government [MC] must tell those individuals to come back to the elders and resolve the issues. The elders can easily solve the issue here. In Borena, disputants are supposed to present their cases first to the elders of their neighborhood. They cannot to the next hierarchy of elders without doing so.

10. **SP 2: 44:22** - There is nothing that the government can do for us. We just want it to stay away. We have our own culture and laws. We are self-sufficient. Government intervention is not good. The government has to leave the disputes up to the elders. The elders can resolve disputes for free. There is nothing that the government [MC] can help the elders, rather they are complicating things.
11. **SP1:45:40**- Let me add some points. Look at what the government is doing on our Abba Gadas. It is paying them per diem and some other payments. This is what is spoiling our culture and norms. So, what the government Oromia should do is to take its hands off these cultural elders. There is no more culture if there is government intervention. The elders can share experience from various ethnic groups by moving to various parts of the

country such as Gondor, South nations nationalities and others... I strongly support the collaboration between the elders cultural institution of conflict resolution (Gaaddisa Aadaa) and the government [MC]. Elders cultural institution of conflict resolution can curb the challenges of the government. Elders cultural institution of conflict resolution is independent of any political party. We [Elders of gada Court] can solve the problems of Borena. We can even give recommendations that help the federal government.

12. SP1:50:00- Finally, what I recommend is to let the elders do their job in resolving disputes that happen in the society. These days, there is tendency by the government [MC] to try to handle very minor issues such as spousal disputes which the elders can easily settle in their locality. They [MC] should not go to resolve the disputes in the neighborhood. Look what is happening today. When a wife quarrels with her husband, she runs to the MC and get the husband punished or get divorced. Other women also take this as an example and go for the same. This has largely caused family disintegration and social crisis. The children suffer; the husband suffers and the wife also suffers a lot. As a result, the Borena elders even decided to go to the government [MC] and tell them to leave such issues up to the elders to settle. So, I suggest the MC to give such type of minor disputes to the elders. The Borenas have their own cultural procedure to resolve such types of disputes at family level, at clan level and at the level of Borena Abba Gada... As we all see these days, the number of women applying for divorce is increasing. A wife does not belong to only her husband. She belongs to the whole family and clan of the husband and the whole Borena because she bears children that protects the clan and Borena. Divorce is against our cultural norm. The same is true for disputes that happen among other family members. Such type of conflicts need to be resolved by elders. The elders have their own ways of resolving such conflicts...Actually, there are some problems regarding the elders' mediation these days. There are tendencies among the elders to seek something from the disputants. Previously, the Gada elders serve both the rich and the poor equally and fairly. Things have changed from the previous one. It is also impossible to do things as they used to be done in the past. It is natural that a given cultural practice also develops and changes from for instance. However, Gada Systems is an independent system that do not rely on

religion or politics. The Borena doesn't allow cultural practices [elders mediation service] to serve as source of income...

B: MC Judges Interview Transcript

Woreda: Yabello

Interview Time: 00: 41: 42

Interview Session: 1

Interviewees: (Mr Tokkumma Chala President, Esmael Hasen (Judge), Ramadan Fayer, Judge)

1. **S1. _:02:18”**- Ok, as per the law of the country, our court encourage the society to settle their disputes, especially civil cases, to the local elders and resolve them based on their cultural norms and beliefs. This saves the expense and time of the disputants. However, the problem we are facing in this regard is that there are issues of cultural diversity especially in urban areas. Several nations and nationalities such as Oromos, Gurage, Konso and like live in this town. Since these people have diverse culture and norms, it is a little bit difficult to effectively utilize elders' mediation here. The other challenge is that these elders [GC] are not institutionalized. It has no its own legal structure. We just send cases informally to the elders and the elders try to solve what they can and send back others to us. I think the government is working on the procedure of institutionalizing the elders' mediation or GC so that they can permanently give their services in resolving disputes in the society. There are traditional structures of the elders in the society but they are not given recognition by the government.
2. **S2: (00:06:25”)**- Most of the points are presented by our president [previous speaker]. The main goal of the court [MC] is minimizing the number of cases coming to the court as much as possible. To do this, we encourage disputants to settle their cases using their cultural procedure by elders of the community. To answer your question, we have never

tried to formally contact the elders of GC or Abba Gadas and communicate them to collaborate. However, we encourage disputants who come to our court to settle their case by elders. We have posted this notice everywhere for the people. Besides, we refer civil cases and even minor criminal cases to elders by convincing the disputants. But we have never done such things formally by communicating with Abba Gadas (elder of gada Court). As it has been already mentioned, disputants coming from urban areas usually don't like to take their cases to elders because of various reasons including cultural diversity. Nevertheless, most of the cases related to family issues and coming from rural areas are resolved by the elder. There is rich culture here in Borena. In general, we have been working a lot on encouraging disputants to settle all their cases by elders.

3. **S3 (00:10:30)-** The pervious question has been addressed by pervious speakers. With regards to cases that are referred to elder, the court has no right to refer all cases to elders. Especially criminal cases such as homicides are not referred to elders. However, all civil cases can be referred to elders based on the willingness of the disputants. Especially spousal disputes are referred to elders because divorce is not encouraged. Referring cases to elders can reduce the load of the MC. Besides, when disputants settle their cases through elders' mediation, both sides will be winners because elders propose solutions that can be accepted by both sides. But the court [MC} decide in favor of one side. In such cases, the social bond of the two sides may be worsened. There are no cases that are formally referred to us from elders because the elders have no formal structure. But usually, disputants first take their cases to elders. They come to us when they fail to settle their cases there by the elders.
4. **S2. 14: 50-** In Borena culture, it is unnatural to go to court before going to elders and trying the mediation. Normally we do not refer criminal cases to elders because those cases are believed to affect not only the complainants, but also the wider community and the government interest. However, it is not bad to settle even such cases by the elders' mediation.
5. **S1 (16:35)-** The elders' motivation to contribute in the mediation process is good, but we have not communicated them well up to the grass roots level. These days, most of the cases brought to court are not genuine. There are attempts of seeking justice based on fake evidence. They cannot win with fake evidences during the elders' mediation because the

elders know everything. So, such type disputants bring their cases to MC. These kind of disputants do not want their cases referred to elders for mediation. However, those disputants who genuinely seek truth or justice want their cases to be referred to elders. In general, there are attempts, very sophisticated attempts of cheating by some disputants who come to court.

6. **S1 (19:03)**- There is huge difference between the decision of the MC and that of elders. There is a saying which goes “Manni murtii haqa hojjata malee dhugaa hinhojjatu” meaning, “the modern court can give verdict, but cannot give the truth [it relies only on evidence brought to it and hence may not be fair]. For us verdict (haqa) is the resolution that we arrive at based on what the disputants brought to us as evidence or based on the witness. But the truth could be different. So, there are possibilities of giving verdict wrongly to someone based on fake evidence. Fake evidences are very common problem these days.
7. **S2. (20:30)**- I encountered an experience with regards to fake news. The case is dispute on house. A person married two wives. He married his second wife after he got divorced with the first one. He built a house after he married his second wife. The first wife had several supporters and relatives in the government structure. She organized fake evidences and brought to court to claim the house. Since, we had suspicion on the case, we did our best to search for the evidences. We checked the genuineness of every evidence. Finally, we discovered that the evidences she brought to court were all fake they have legal stamps and every formality. There is a saying which goes, “Both sides cry in the elders mediation” (jaarsummaa irratti gareen lachuu inboo’aa jedhama”. This is because the elders give resolution that equally satisfies the interest of both parties. That is not true in the case of MC. The verdict in the MC makes only one of the two sides to cry. One of the two side will be loser. The two parties remain enemies and prepare for revenge for the rest of their life. However, the elders dig into the case deeply and gives truth for those who deserve and convince the other side to accept it. They [elders] also restore the broken social bond between the two sides. They make the social bond of the two sides even stronger. In general, using elders mediation is like coming back to one’s original and normal way of living (dhimma jaarsummaa jechuun, dhimma waa’ee ofiitti deebi’uuti). It is a matter of getting justice service through ones language (dhimma afaan ofiitiin haqa argachuuti). This is true because the laws/civil of our country are not in line with the culture and norms

of our society. They are copied from foreign culture. It reflects foreign culture (aadaa biyya ormaati). It has no base in our culture in general and that of the Oromo people in particular. It is when the Oromo go to elders or Gada courts and settle their cases, we say that the Oromos have come back to their original norms and culture. It is beyond winning and losing cases. So, elders mediation is a very important issue that we all need to work on (dhimmi jaarsummaa kuni dhimma baay'ee faayidaa qabuufii dgimma irratti hojjatamuu qabudha).

8. **11. S 2 (20:42)**- I have personal experience even today in relation to elders mediation. It is criminal case. The disputants first took their case to Borena elders. Then the elders mediate the case and Guma (blood price/compensation) was paid to the victim. After that, the victim brought the case to us [MC]. He counted the elders who mediated the case as witness. Since, the society respects their culture and norms, they do not tell lies to elders. However, in MC, presenting fake evidence or lies is simple. The elders of GC came to me and told me that they had settled the case by giving compensation to the victim. But in MC, we just rely on evidence or words of witness. So, a disputant who was fined by the elders may come to MC and get the verdict in favor of him by presenting fake evidences or witness. These day's people are disregarding their culture and norms. It is very easy to organize fake evidences especially for those people living in towns. He/she swears holding holly Bible or Quran to tell the truth, but tells lies. It true that had the case had been handled by elders, the truth could have been revealed. But the judge gives verdict based on only evidences presented in court hearing. He she cannot give verdict against the evidence even if your conscious tells you that the evidences are not genuine or true. So, a victim could be denied justice only because of lack of evidence or due to organized fake evidences. Therefore, I recommend if people come back to their culture and norms and settle their cases by elder and the MC also push the disputants to go to elders.
9. **S1 (29:18)**- In the case of civil case, the decision made by the elders will be considered as final. However, in criminal cases, the court MC is forced to see the case if a disputant brings the case to court even after the elders' mediation. Sometimes the modern law contradicts with norms and beliefs of the society. For instance, in Borena Culture, if a person have sexual intercourse with domestic animal, the case is considered as taboo (dirma) and both the person and the animal will be killed. But in MC, this is considered

as a minor offence that entails three months imprisonment. The same is true in the case of insulting a person. If such case is brought to court, it is considered as minor offence punishable by two months imprisonment or three hundred Birr. However, the same case entails a serious fine up to five heads of animals if treated in GC, In such cases, the elders decision has better deterrent effect. I know a case in which the complainant refused to take her case to elders and brought to MC in spite of the efforts made by the offender to settle the case by elders. Eventually, the offender was punished only by two hundred birr and the complainant regretted very much for bringing the case to us [MC].

10. S1 (34:50) -The gap in the elders mediation is the partiality reflected in some cases especially in spousal dispute settlement case. There is tendency of making decision in favor of the males or husbands. For instance, after the couple get divorced, we select elders to do the property sharing work. In such case, the elders tend to favor the male usually because they look into an issue from cultural norm perspectives. So, we sometimes reject the elders' resolution because it doesn't equally respect the rights of the disputants even if both parties agree up on. We do so because we have to ensure the rights of people especially that of women. As a result, there are occasions when we call the elders and give them awareness or correctios so that their resolution does not go against the law. However, I believe that such interventions shouldn't have happened because once we give the responsibility for the elders, we should allow them to do it their own way. They should do it based on the cultural norms and belief of the society.

11. S2: (:37: 30") -First of all, I strongly believe that the current law of the country should be revised to align it with the cultural norms of our society. The other issue is, it would be better if the elders [GC] have its own structure (otoo caaseffama mataa isaa qabaatee). I know, there is traditional structure of the elder, but it has not been given recognition. The attempts so far made by the Ormoia regional government to give recognition for elders' mediation or GC is good. I know the government is preparing proclamations and regulations to formally establish and give recognition for the cultural court or mediation of elders. This will bring significant benefit for this society. Until then, we have to communicate with local elders who have respect and recognition among the society and work with them. We have to strengthen them. The law also supports this...

Woreda : Liben Chukala

Interview Time: 00:26:21” + 00:33:14”

Interview Session : 1

Interviewees : (Mr. Gemechu Lema, President Mr. Teshome Kitata, judge, Esayas Gemechu, Judge)

1. **SP- 1-** We are working with the elders of GC at Liben Chukala District, but I can't say that our communication is not formal one. That means we don't refer cases from our court to the elders directly. In some neighboring woredas, there are organized elders of GC and cases that could be solved through elders' mediation (jaarsummaa) directly sent to them. In our case, we just advise the disputants to settle their cases through jaarsummaa and tell them the benefits of using elders' mediation and the disadvantage of using MC. If the disputants are willing to accept our advice and select the elders that can handle their mediation, we refer the case directly to these elders. However, if they request the court to select the elders, we refer them to these Abba Gadas “elders working in the GC of the woreda). So, we collaborate with the elders, but it is not obligatory. It is based on the demand of the disputants.
2. In some woredas, the elders' resolution is considered as final and approved by the court, but in our woreda, if one of the disputants report his/her dissatisfaction with the elders' decision, we handle the case in MC. Often the disputants first accept the resolution of the elders because the elders make them to give oath before they start their mediation. But later, they come to us [MC] and tell us they don't agree with the elders' reconciliation. So, we occasionally work in collaboration.
3. 04:53” The major challenges of the elders are logistics and work space. They need room but we don't have space here. They also need financial support to purchase stationaries to write reports. The third and major one is the existing legal gap. Although we are advised to work in collaboration with the elders, the law in our country was not designed to encourage the national cultural practices. It is copied from the laws of other western countries (seerumti jiru bu'uuruma aadaafi amantii biyya keenyaatirratti hinhundoofne). The fourth challenge is, even if we have commitment to work with them

[elders], we don't know which institution organizes them. There is also legal gap on the procedure that we need to follow when we refer cases to the elders of GC. There is no binding law as to whether the decision of the elders shall be taken as final. It just depends on the interest of the disputants.

4. We refer social issue particularly spousal disputes to the elders. The law also encourages this. Besides, there are issues related to culture and norms which the elders are more knowledgeable about to solve. We also refer cases related to personal conflicts or land/border disputes. These cases are better resolved by the elders. We also refer minor criminal cases to the elders.
5. 08:24” -It is difficult to say, disputants prefer MC or elder (GC). Some prefer court, other prefer elders' mediation. Based on those who have come to us, I can say that they prefer MC. But we know that many cases are settled by elders in the remote countryside. We refer few cases to elders and only few of the cases are settled by the elders. Usually, fresh disputes do not come to us. Cases that come to us are first tried by the elders in the locality. Only those cases that elders fail to resolve in their locality are brought to court. We know that especially spousal disputes are first treated by local elders according to our culture. That is why I said my reference is those cases brought to us.
6. 10:46”- Elders have willingness to work with us, but not all of them. There are elders who are very much willing to help the society and preserve this culture. On the other hand, there are elders who consider this [elders mediation] as business, as source of income, as especial favor. This is manifested in various ways such as giving several appointments, making the disputants to spend a lot on the food and drinks of the elders [every time, the elders sit for mediation, disputants are expected to buy them food and drink]. So, the elders intentionally postponed the cases or give appointments repeatedly to seek such benefit from the disputants. Treating disputants impartially. They make one to give an oath not to refuse the elders decision. They take serious decisions such as social exclusions from local associations such as *Idir*. This is not morally and legally accepted. A disputant who refuses to the elders decision may even be denied funeral support. That is

why some people do not prefer their [elders'] decision. That is why we sometimes reject their decision. However, we can't say that this is the behaviors of all elders. There are elders who give fair decision according the cultural norm of the society.

7. **13:18"** -I can't say that all truth are accepted in front of the law. Some truth could be denied justice due to various reasons such as time, lack of evidence. For instance, if you utilize a given plot of land continuously for ten years, the law gives you the right to claim ownership of the land. But, elders of GC can easily find the truth and give the land to the owner. This is possible because they rely on the truth not evidence or information. But ours is a law. We depend on evidence. If there are no evidences, we just let the person free. A person who plead not guilty in this court, may be found guilty and punished by the elders. There [in Gada Court] since the offender will be asked to give oath or to swear by the name of his/her child, there is less possibility of telling lies. So, I prefer if the service or mediation of the elders are made scientific (Odoo kan abbootii gadaa kuni saayinsaawii ta'ee gaaridhan jeddha).
8. **00:16:24"** -As we all know the law of a given country is derived from the tradition and norms of the society. For instance, the law of our country is copied from those countries that follow "common Law" such as French (substantive) and India (procedure). These countries derived the law from their own beliefs and culture and made it more scientific. We can also amend and use our own indigenous practices to solve disputes especially those related to family disputes. It would be good if we prepare a law which is based on the norms and beliefs of our society. You can just shape these cultural practices in the way it does not affect the moral of the people.
9. **18:05-** In the future, I recommend supporting the elders technically by assigning some expert who support them and by providing logistics. The other support is giving them awareness creation trainings so that they [elders] can do their job without violating human right. The elders also must be careful not to violet the rights of individuals. These days, everyone knows his/her right. So, the elders must implement their indigenous practices without violating human right. I suggest elder to execute their job without violating the norms and cultures of the society. I remember once I gave verdict on a case and the victim was asking for the implementation of the verdict. However, in

the middle of the process, the disputants disappeared because they took their cases to Gada Court. After a long time, I met one of the disputants and asked him why they disappeared. He said, “haven’t you heard that Abba Gada dismissed your decision?” I asked how? To this he replied “Well they [elders of Gada court] decided in favor of her and I just quitted. Sometime people are afraid of the norms of the society. Truth also stops people”. There is another case I know from media. It happened in the Amhara region. The story goes like this, “A woman was found guilty of killing her daughter-in-law and sentenced to life in prison. Five years later, the daughter who was supposed to be dead reappeared.” Look, the court could do nothing. However, if the same case were treated by elders, the issue may end up differently. Those witnesses from the victim side could be made to give oath and the elders could have easily found out the truth.

10. :01:13- We work in collaboration with the elders especially on Cases related to Social Affairs or civil issue. The existing law also recommends us to do so. Such types of cases are supposed to begin by elders’ mediation in their locality. Only those disputants who are dissatisfied with the elders’ decision come to MC. Alternative dispute resolution is more preferred approach for all types of disputes because it saves money, time, and it has no appeal. The disputant’s agreement or the elders reconciliatory decision will be taken as final and we close the case based on this. Elders of GC are very powerful. They can settle even homicide cases which led to group conflicts. A criminal can be punished based on the kind of crime he/she commits. But there are several other victims that can be subjected to the victim especially in the case of homicide. This kind of cases better solved through a traditional reconciliation process called *Guma* which is executed by Abba Gada elders. If it ends like this, it minimizes the possibility of taking revenge. In this regard, alternative dispute resolution is better. But it has not been properly utilized. It [Gada Court] does not exist in formal way. It has no legally recognized structure and codified law. Had we had worked on it [Gada Court service] it would minimized conflict. Several international organizations resolve issues using alternative dispute resolution. However, in the case of our country, there are attempts being made by culture and tourism bureau, but it is not clear.
11. 09:10 -We refer cases related to family dispute, land dispute and in general civil cases. In the elders’ mediation (jaarsumma), genuine evidences can be easily found out

because several relatives of the disputants take part in the process. But some disputants are smart. If they think the law is in favor of them regardless of the truth on the ground, they don't want to go to the elders. This is supported especially by their lawyers. The lawyers don't want them to quit and take their cases to elders, because the lawyers don't want to lose their benefits.

12. I say alternative dispute resolution is preferable because it relies on the norms and beliefs of the society and hence work towards giving fair and reconciliatory decision. For instance, in the case of disputes on succession or inheritance, the law clearly stipulates the appropriate duration for application. Some relatives are not aware of this law. They just come after the legally allowed duration is over. However, law is law. Innocence of the person cannot be considered in the due process. So, such kind of cases could be fairly solved by the elders. The elders appeal to the norms and cultures of the society to convince the disputants to forget the law and fairly share properties. We sometimes dismiss the elders' resolution if it goes against the law of the country or when it violets the rights of people. Yet, if the disputants agree, the court is silent.
13. The resolution given by elders is more preferable. It depends on truth not only witness. Once the elders pass decision, there is no more appeal. The disputants can better solve their disputes in good faith, particularly those issues related to land dispute, if they go to GC. Some people may lose even if they have they deserve justice only because of lag of duration in bringing their case to court. Such issue, can be fairly resolved by elders in GC. So, GC or elders' mediation can save time and expenses. If you take court, the process may take five to six years even for the decision to get implemented. But the elders' resolution is effective immediately.
14. 00:18:02” - Sometimes the elders' decision is harsh. The exclude the person from social associations such as *Idir*. This is constitutionally unacceptable. The elders' resolution is better because it entails no appeal, no complain and keeps the social bond intact. However, when we look at the decision of the MC, the truth can be revealed, actually the truth can be revealed in both cases [MC and GC]. But the elders decision is accompanied by reconciliation so that the social relation of the disputants are restored.
15. 00:17:33”- Sometimes, disputants first go to the GC and then come to us [MC]. Here, the disputants may not reveal the truth they have told the elders. Then the complainants

request us to take the words their opponents gave in GC as an evidence or witness. This is difficult for us to consider because the evidence is verbal. It is not written.

16. 00:20:45”- I remember a family dispute case on inheritance of land. The brother and sister lost their parents several years back, but the sister did not ask for property sharing on time before the legally allowed gestation period of limitation is over. I think she has some mental problem. Then after the legal period of limitation was over, she filed a case for property sharing. I know from the outset that she can’t win the case because. I realized that the verdict will be made in favor of the brother who already legalized the land by his name. But I was touched by her situation and her innocence. Then I begged the husband to take their case to the elders’ court. Thanks to him he agreed. Finally, the elders managed to share her three *Kert* [nearly equivalent to a hectare] of the land owned by her brother. I was very much satisfied. This wouldn’t have happened in MC procedure.

17. 00:16: 32’ -In the context of our woreda, the contribution of the elders of GC is not that much. I haven’t come across organized structure [of elder]. However, I know that they are contributing a lot in Ginbichu Woreda [neighboring district]. In Hararge also, I observed elders using their religious knowledge and belief to do the mediation. We just aske the disputants to select elders of their preference to address their cases.

18. 00:23:28” -It would be better if this structure of the GC is given legal base from the grass roots level up to the top. They can help a lot especially on issues related to land or inheritance, spousal dispute. It is good to mix the formal and the informal mechanisms of conflict resolution. We have to train the elders on some legal issues. We need to encourage the elders. Currently also there are annual meeting of the two institutions called Conference of Justice (Kora Haqaa). The president [of the woreda court] knows more about this. There is annual meeting. Elders’ mediation is fruitful in almost all cases so long as the disputants agree to settle their cases through elders’ mediation. The challenge we are currently facing in our attempt to collaborate with the elders is that, they sometimes do not properly report the decision to us. For instance, when they share land among individuals, the simply mention the size of the plot given to the individuals. However, it is difficult to know the boarder of each individual’s plot. So, we send the report back to the elders because the conflict will continue. They sometimes make

unfair decision. For example, once I referred a spousal dispute case to elders of GC. Then they mediated the case and reported the result to me. In the report it says” the couple have no marital relationship but had children. She is not his wife though they lived together for some years. However, we decided that he [husband] shall take care of the children.” I couldn’t accept this decision because the law of the country does not support such decision. It is stated in the law that a couple who lived together for three and more years without certificate of marriage shall have equal right on their property... The elders lack legal knowledge and work in harmony. Public awareness has increased. The landlord law doesn’t work now. If we deny women the right to inherit land, it is not acceptable these days. ..

Transcript of Interview with Judges

Woreda: Arsi Negelle

Interview Time: :51’. 37’’+ :28: 31’’ +:40: 27’’

Interview Session 1:

Interviewees (Judges Mr. Yakob Mideksa, Mr. Tura Tota, Mr. Jibril Tola, Mr. Dereje Teshome, Mr. Girma Tabor)

1. **SP 1 (01:53’)** - In our court, we investigate the debate of two sides: the appellant and the defendant. In the process of such investigating, in the process of finding the truth, the local aba Gadas and elders support the court. This is a common practice everywhere in the world. All cases brought to court may not get solution there. Elders play big role in finding the truth. Before giving the final verdict, the court usually send the cases to local elders to settle it.
2. **SP 2 (05:15’)**- The court supports and show direction for the local elders to settle variuus disputes. Doing so, helps to speed up the process and to resolve the issue in time, to save time of the court. The elders also help in giving ultimate decision (Murtii dhumaa) that do not entail further appeal to the next higher court.

3. **SP 2 (07:24”)-** We don’t have formal communication with the local Aba Gada elders. We usually refer or send the cases to elders of the neighbor not directly to established Aba Gada Courts. However, there are unique cases that we refer to Gada Courts. Those cases which cannot be easily handled by the provisions of the modern court or issue which are related to cultural norms Eg. Moral compensation. If there are loop holes in the provision of modern law, we send the cases to Gada Elders. I personally encountered such cases two or more times. In general, I can say that our court is willing to cooperate with the local GC.
4. **SP1-** Especially cases related to family or spousal disputes are referred to local elders because it is more preferable to resolve such issues through reconciliation. We usually refer cases to local elders not to GC. However, the local elders or Gada elders do not carryout the mediation service unless they are ordered by MC. They don’t initiate such activities by themselves. They usually come to court to take the case after the disputants have started their case in MC. In general, the collaboration between the MC and GC is not that much. But MC always want cases to be resolved through reconciliation.
5. **SP 3-**Usually, people first take their cases to local elders to resolve through elders reconciliation. Disputants bring their cases to MC when the local elders try and fail to resolve their cases (Jaarsoliin yaalanii ijibbaata yoo gahan). Sometimes, when disputants refuse to accept their decision or advises, the elders tell the disputants to take their cases to MC. Only those disputants who could not solve their cases through customary laws bring their cases to MC. However, sometimes disputants directly take their cases to MC. In that case, elders come to MC and request us to take the cases and resolve it. The MC also advises the disputants to go to the local elders and resolve their cases. We usually ask the disputants to select elders whom they trust. If one of the disputants reject the nominated elder, we immediately exclude that elder from the process. Then we sed through formal letter ordering the selected local elders to resolve the case and report it back to us MC.
6. **SP 2-** Indigenous method of conflict resolution (Jaarsumma) is already there in the tradition and customs of the Oromo People. The Oromo people have established its own customary laws (Tubaalee garaa garaa since its reorganization at Mada Walabu. These customary laws help to handle cases related to economic matters, family matters, social matters, environment and many other. Nearly 80 percent of the cases handled in our court

are related to family matters. The Oromo people have mechanisms of resolving such type of conflicts. They first try to settle the issue at local level by the elders of the neighbor. Next, they take it to elders of the clan (Shanacha) then to elders recruited from various clans or sub-clan called (Bayima), then to Gada Court.

7. **SP3-** Sometimes, elders who settle spousal disputes at the level of Bayima may not be neutral since they represent the two sides; the husband and the wife. Elders of the wife side may argue in favor of the wife and vis versa although mediation need to be carried out by elders who are impartial or free from bias. When such incidence happens, elder usually fail to resolve the cases. So, they refer the case to MC. The modern court in turn sends the case back to the local elders. Then the disputants refuse to accept our suggestion explaining that they had already exhausted their cases at local elders level. What does this tell you? It tells you that the elders are not genuinely doing their job. They are partial. Had the disputants had gone through all the structure of elders' mediation from the lower strata i.e elders of the neighbors to the highest stratum i.e elders of GC, they wouldn't have brought their cases to MC. So, I recommend the disputants properly utilize all the structure of their Indigenous Institutions of Conflict resolution (Jaarsummaa) before they go for MC. Most of the time, we refer cases related to family disputes particularly spousal disputes, to the local elders. The next is cases related to inheritance. It is better to handle such type of cases by elders to save the disputants time and energy and to keep the confidentiality of family secrets. There are issues which are taboo to reveal at MC. Such issues can be told to local elders who are believed to keep the secrets confidential. So, resolving their cases through elders mediation or reconciliation helps to minimize the sufferings of the disputants and to resolve cases in line with the culture and norms of the Oromo people. Elders of GC give solutions which could be effective immediately. For instance, if a husband refuses to provide food for children, the MC may punish the person by sending to court. However, that is not the best decision for the hungry children. However, elders can convince the person to give the food immediately. That is why family cases are often referred to local elders.
8. **SP 2-** Homicide cases are often handled at MC. The offender is taken to prison. However, this procedure usually does not bring lasting solution. In such case, working on the reconciliation of the relative/clans of the offender and the victim is equally important.

There is a special cultural procedures and rituals of resolving such type of conflict called. Guma. Hence, such type of cases can be better resolved by the GC rather than MC. But currently, we handle such cases at MC. Yet we advise the two sides to complement it by Guma or Jaarsumma.

9. **SP1-** Criminal cases are of two types, up on compliant and up on accusation cases. Up on complaint cases are less serious cases which are filed based on the application of the victim. In the case of up on accusation cases, though there could be specific victim, the case is considered as serious issue which affects the public interest. These kinds of cases are forbidden for the elders to handle according to the Criminal law of our country. For example, cases such as rape, theft and homicides cannot be resolved through elders' reconciliation. Elders cannot entertain such type of issues. Even if such cases are handled by the elder, the MC can dismiss the elders decision if one of the two sides bring the case to MC. Still the mediation of the elders has big benefits in normalizing the relationship between the two sides.
10. **SP 3-I** had personal experience with regards to such case. Recently, there was a homicide case that was brought to our court. The crime or homicide happened in another neighboring district. It was a car accident. The local elders have resolved the case according to Sharia law. The two sides accepted the reconciliation of the elders and closed the case. However, after sometime, the victim's side brought the case to MC. Then prominent elders of the three clans involved in the conflict have come together and submitted statements of reconciliation to the court with their signature. In this way, the elders managed to stop the case from going to the process of MC. The local elder managed to bring peace and reconciliation between the two parties However, the modern law does not have room for such kind of issues.
11. The service of the local elders has big contribution and support for MC. The elders are cooperative in taking cases we refer to them and resolve them. Sometimes, they even come in person to our court and request for time extension when they could not mange it with in specified time. The disputants also easily accept the resolution given by the elders. There are no significant complaints on the resolution of the elders. This has significant benefit for MC. Their contribution is high especially in handling cases related spousal dispute, inheritance which are complicated and difficult to handle by MC. The elders

know the detail background of the case and can easily convince the disputants to settle their cases in fair manner. However, in the case of MC, we depend only on the evidence brought to our court and the words of the witnesses. We refer several cases to the local elders and this has helped us a lot.

12. Since we prefer spousal or family cases to end up in reconciliation, we refer them to elders. When we feel that a given case can be better handled by the reconciliation of the local elder, we send the case to particular elders whose names are indicated in the list. In such cases, they resolve the case with good motivation. However, sometimes when they handle spousal disputes, we observe some gaps or weakness since the elders are nominated from two conflicting sides. There are tendencies of speaking in favor of the parties they relate with. In MC, the two parties compete with each other (*Gareen lachuu morka ka'a*) meaning the two sides get into competition. They never think of reconciliation. In case of elders' mediation, however; the elders are supposed to carefully investigate the problem or feeling of both sides. The disputants also speak the truth. They do not tell lies like what they do in MC. The elders handle the case openly. So, the elder reconcile the two sides and bring peace to the family. However, these days, the local elders lack the initiative to handle disputes before the cases are brought to court like they used to do. They just wait until the case is brought to court and referred back to them. They come to MC and request to take back the case while they could have solved the case ahead "As dhufanii dhimma nukennaa jedhan odoo dursanii achitti furuu danda'anuu). We usually ask them, "Why don't you handle the cases in your locality before they are brought to MC?" and tell them "Since the MC wants reconciliation of the two parties, please mediate the parties there before they come to us." They wait for our order. But their support could have been very much better, had they had handled the cases before they are brought to court (Silaa Furmaataratti otoo cimanii hojjatanii Mana murtillee baay'ee gargaaru, maatii saniifillee fala ta'u).

13. SP 1- "Number one, impartiality hinqaban" meaning they lack fairness in their decision. They take cases from MC to make appropriate decision. They are given the power and mandate of the MC. They have enough evidence at hand. They can physically observe the evidences on the ground if the case is related to property. They can easily convince the two sides to accept the elders' decision. The law states "Decisions that the two sides or

disputants agree up on during elders mediation are be legally binding” Article 319 states such reality. Decisions given by elders and that the disputants agree up on is considered like the decision of MC. So, they need to act like a judge “akka kana kan gochuu qaban akka abbaa seeratti jechuudha”. However, when they go back to their community, the elders show tendency to become impartial. From the very beginning, both sides select their own elder; elders with whom they have closer relationship. When they do so, they select elders who have closer relation with them. These elders become imperial during mediation. They tend to debate in favor of a disputant that nominated them. Secondly, the elders sometimes request for something, some benefits. But according to Oromo culture, elders do not request for money. They even don’t accept any kind of invitation before resolving the dispute. They focus on resolving the conflict, but these days, there is tendency of favoring one of the disputant who can give them something [bribe them] or benefit. The worst thing is, these days elders do not worry about the dispute of poor people. They don’t come and take their cases like what they do for other people who have money. If a wealthy person is accused of something and the case is brought to court, about ten or more local elders come to our court to take the case and resolve it through mediation. This means elders also go after income or some benefits. I don’t know where they have learned this thing. So the elders are neglecting their moral obligation of resolving conflicts like what they used to do in the past. They just ignore the conflicts they encounter in their locality until the disputants request them to mediate them. However, in the previous time, elders voluntarily intervene and resolve conflicts they observe in their locality. So, there is no motivation among the elders. They tend to favor someone who can give them benefit or bribe. There is lack of impartiality. That is what the whole society and we know.

14. **SP 2** - The elders live in their respective village and we refer cases to these elder. These elders do not have formal structure like that of elders of GC. So, we don’t have particular institution of elders with which we can make formal communication. These days, elders’ mediation or reconciliation service has several gaps. In the past, the elders respect the norms and ethics of the Oromo people. They don’t go after benefits. They focus on revealing the Truth. But these days, they tend to give attention only to wealthy people who can give them some benefits. They tend to decide in favor of wealthy people and oppress

the poor. Especially they tend to put pressure on women (garee waa qabuuf looguu, isaan dhiibbaa irratti godhuu, dubartii keessattuu gadi qabuutu jira). The elders also tend to favor their relatives.

15. SP 3 (41') - These elders have big role in building the justice system of this country or "Sirna haqaa biyya kanaa ijaaruu keessatti 'efitih sire'at gimbata' gaheee olaanaa qaban". Elders can easily investigate the problem of both sides and resolve conflict. They can even reduce the problem of impartiality that is observed in MC (Manni murtii alloogummaa keessa akka hingalle godha). So, I suggest elders who have good ethics, who have fear of God, those who are impartial were formed in a group and given legal recognition, they could handle cases that MC face difficulty to manage (dhimmoota mana murtii rakkisan) could be referred to them. They can settle many cases. Elders mediation (Jaarsumma) in Oromo people has its own norms and cultures, it has mechanism of finding truth. It is different from MC because it does not entail any appeal (komii hinqabu). If they are given recognition at district level, we can refer those cases to them to investigate and settle. The MC can also easily communicate with them and give them support or trainings.

16. SP 1 (44.10") - Most of the issues is mentioned by him [previous speaker]. Among methods of conflict resolution EDR has very big role (Maloota walddhabbiittiin furan keessaa EDRn faayidaa guddaa akka qabudha". But to properly utilize these elders, they are not formally organized and it is difficult to trace their address. So, it is difficult for MC to refer cases to these elder. So, what we do is we simply give cases to anybody who claims to be an elder and show willingness to take the case. We don't know who is the real elder of the community, who is the real Abba Gada. So they need to be reorganized (Eenyutu jaarsa biyyaati, Eenyutu Abbaa Gadaati kan jedhu san, manni murtii hinbeeku..). The other issue is if they are believed to be helpful, there must be an institution that can supervise them. That institution need to work closely work with MC. ... I believe the elders traditional conflict resolution mechanism will be more productive if it is established as a separate alternative even side by side with MC. The government has to institutionally organize the Gada Elders to provide their services even with in the compound of MC. We should not call them only for blessing ceremony. That is how we can optimize their contribution. However, I still feel that when Abga Gada elders are made to work in the formal context, they may not get benefit (*inkamii mataa isaanii dhabuu danda'u*). They

may face logistics problem to go to remote villages and provide their services. So, the government has to solve their challenges and create conducive environment for the GC. If they have to get recognition at district level, their list must be sent to MC and communicated properly. Now we don't know who Aba Gada is, who is a proper elder [elders who give mediation service]. They just call them local elder of mediation (jaarsa biyya) but in practice, these elders are not the real elders of who give mediation. So these elders of the community, also called 'Shanacha' need to be properly organized and communicate with MC to make them more productive.

17. SP 3” 49” - According to Sharia law, God (Rabbi) permitted divorce, but considers it as undesirable. Family dispute and divorce is not something advisable though people have the right to it. As a judge in MC, there is nothing that worries us more than divorce or family disintegration. So, the elders play significant role ... For instance, in this district, of Arsi Negelle, there are 79 sub-clans. The overall leader [cultural] of these clans is Guta (name of Gada System/Court of the area). It is here in the compound of the Tourism Office [of the district]. All the 79 clans have their own respective structure of elders which starts from heads of family (Abba Manaa) , then elders of the neighbor (Saddeeta Naannoo) ... So, this Guta or Gada Court of the district shall not work on politicizing or spoiling the long-standing culture (aadaa Kalee), but work according to the aboriginal organic traditional practice of the Oromo people. I suggest them to feel the responsibility of the people they shoulder. I wish those elders speak truth (nammota dhugaa dubbatan) and give true justice. If the family disputes could be handled by the traditional structure of the elders like it used to be, I feel we can get better solution or result. I suggest if they are given awareness and they [elders] work not to meet political demands, but to solve the problem as per the long standing traditional procedures and practices. I wish they genuinely serve and justice is served for the society. That is what I recommend as solution.

18. SP 1 (01:23”) - With regards to working with local elders, we refer cases those elders selected by the disputants. We refer cases related to family dispute, land dispute and minor criminal issues to elders because we prefer these cases to be solved through reconciliation (araaran akka dhumu barbaanna). It is the disputant who suggests elders who can solve his/her problem. In this district, there are no properly organized and

institutionalized Gada Elders or Gada Court (Akka naannoo kanaatti Abootiin Gadaa Qindaa'anii Beekkaman hinjiru). If there were organized Gada Elders at Kebele and District level, they would have properly solve family conflicts and conflicts related to inheritance. They are known as elders of the community (abbootii biyyaa), not as organized Gada Court. So, frankly speaking our collaboration is very low.

19. We refer several cases, especially spousal disputes to local elders. We (MC) is obliged to work closely with the elders on these kind of issues. ... We believe a family is a big institution. So, we advise spouses to solve their cases through elders mediation. We advise them to select strong elders who can sympathize with them and genuinely solve their problem; a person who is matured and respected in their locality. There are also several occasions of volunteer elders coming to us (MC) and request us to give them cases of family dispute and solve through reconciliation.
20. 04:17” - Our Gada System is just reemerging. There no strong and organized groups or institutions of Gada Elders who can take cases and solve them. There is no practice of sending cases from Gada Court to MC. There is no such structure in our locality. According to the law of the country, it is mandatory to refer spousal dispute cases to local elder for reconciliation. The elders usually resolve the dispute and report to us. Sometimes, there are occasions where elders resend the cases back to MC explaining that it is more than their ability. I prefer is local elders and Gada Elders are organized systematically and solve cases related to family dispute, disputes related to land, they can reduce the load of the MC. It will be best for the government as well. But there is no such thing [structure of elders]. So, normally, we refer cases from MC to GC or community elders, but not the other way round.
21. 06:28”- We can refer any type of case to elders including spousal disputes which is almost mandatory. Other dispute related to land ownership, inheritance, and even less sever criminal cases such as threatening or insulting. These kinds of cases can be referred to elders. Most of Civil cases are better resolved through elders’ mediation. It is a must to refer or push such cases to elders... Even the civil code of the region suggests disputes related to land to be first handled by local elders. In case of land disputes, a complainant is expected to first try to handle the cases at kebele level through local elders. It is only if he/she is not satisfied with the decision of the elders that the case shall be brought to

court. Even the performance evaluation of judges in MC is based on their attempt to solve cases through elders' mediation, based on the number of cases they have referred to elders or resolved through reconciliation. We prefer cases to be handled by elders because resolving dispute through traditional elders' mediation is quite different from solving cases through judicial procedure at MC. The two are incomparable because, the MC reads decision, bare decision (murtii gogaadha). The procedure/process also troubles the disputants a lot and usually they are not satisfied with the decisions and hence appeals to the next higher courts up to the highest court of the nation called "dhadacha ijibbaataa". To go through all these, they spend a lot. However, in the case GC, the disputants end up in reconciliation and go through a cleansing ritual called "Mijuu qopheeffachuu" in which the disputants and elders eat and drink together as sign of creating lasting peace between the two parties. The parties are happy because it is a win-win solution. Afterwards, the two parties work together, they don't hate each other. So, the outcomes of the two systems are incomparable (bu'aan isaa walitti hindhufu).

22. 00:09:04" - Frankly speaking, the major challenge we are currently facing in the legal service provision is false/fake witness (ragaa sobaa). There is gap among elders in handling cases genuinely by considering the problem as if it is the problem of his own brother or sister or family. There are problems of impartiality based on blood ties (gosummaadhan deeggaru), There is gap in handling cases free from bias. Apart from this, the elders service has big contribution in creating peace. Especially in handling spousal disputes, its contribution [the elders traditional mediation] is unparalleled (faayidaan isaa hangana hinjedhamu).

23. 10:46" - When we refer cases to local elders for mediation, usually the complainant do not show willingness. For instance, most of the time if the complainant is a female, she resists going to local elder. Usually, the disputant do not directly jump and come to MC. First they try to solve their cases through elders' mediation. They come after exhausting this option. After the case is brought to MC, we refer the case back to local elder and that is why female complainants (wives) usually resist. They say to us "I have tried my best. I have exhausted all possibilities [of elders mediation]. The elders have sit for us and tried to settle our case trice or four times. I don't want to kill my time any more (jaarsi sadi'ii afur nuuf taa'e.hinfiladhu s'aatiin koo najalaa gubachuu hinqabu.)".

24. 12:20” - As I already told you, the contribution of elders’ mediation is incomparable. For instance, in the case of decision of MC, the disputants start to threaten each other even before the judge finishes reading his/her decision. Some request for appeal immediately. There are people who could not stand upright or start to shiver when the judge starts to read decision. Some even threatens to disqualify the decision at the next court. Several things happen in the process of MC. However, in the case of elders’ mediation, even the mood or atmosphere of the session is different. Both sides listen to each other carefully. Both the complainant and the defendant are happy with the decision. They create reconciliation and go back to their family and business. They don’t go to another body. They are not exposed to various expenses (baasii garaa garaaf hinsaaxilaman). They bow to the elders and say thank you. This has big contribution in the development of the country as well... So, MC usually deals with issues that could not be solved by the elders. So, now what has to be done is that now some elders falsely portray themselves as Abba Gada or elders of GC and try to go here and there. It should not be like this. It would be better to resolve cases genuinely through cultural procedure.

25. 14:14” - Things that could be mentioned as gaps of elders’ mediation is the problem of impartiality as I already mentioned. This is very serious (dhimma hamaa). As judges, we don’t know what is there in the community. Sometimes, female complainants strongly criticize some elders as impartial. They say “He [particular elder suggested for mediation] is the one who led my marriage to such trouble (ka gaa’ila kiyya diigaa jiru isa). This means there is problem of impartiality. There is gap handling cases sympathetically. There is problem of favoring own clan. For instance, in spousal dispute, the two sides nominate two elders of their side easily. They disagree on the fifth one, the middle elder. She says “I can’t accept him. He is a liar (Naaf hinta’u. Jaarsa Sobaati)”. You give them the other option to select another elder he/she consider as impartial. We don’t know institutionalized or structured system of elders to which we can refer cases Jaarsoleen qindaa’anii jiran hinjiran). Even those people we often see on TV as elders of GC or Aba Gadas in our district have little trust among the community or people do not trust them (namoon hinamananu). These days, those elders who show up have other purpose. They often work to get government acceptance rather than serving the community genuinely. This is the gap I observed. While I was serving as judge in Guji zone, I referred a spousal

dispute case to local elders. They resolved the case but sent me amusing decision. It says “If he[husband] commits another problem, he has to be sentenced to ten years in prison and this has to be executed by the higher court of the zone.” Look, the elders were supposed to reconcile the disputants. This kind of resolution has no benefit and is less practicable. The major issue in mediation is addressing the psychological problems. This occurs due to lack of awareness.

26. 01:08- In general, dispute cases are brought to court in two ways. The first one is disputes related to social relation and the second one is criminal cases. We often collaborate with local elders on issues related to social relations because such type of disputes can be easily settled at kebele or neighborhood level. Resolving disputes by local elders or Abba Gadas have a number of benefits. First of all, it can easily reveal the truth (dhugaa hinbaasa). People who get into dispute cannot hide the truth which is open to the wider community and because the elders know about the background of the disputants. Secondly, the disputants can agree on the truth (dhugaarratti hundaa’anii waliigalu). As a result, elders mediation can give lasting solution. However, the decision of the judges in MC is just a decision. It gives no attention to the reconciliation of the two sides. MC just listen to witnesses, gather evidences through various means and eventually decide in favor of one of the two sides. So, the elders’ mediation has better benefit in establishing peace between the two sides. That is why we often advise the disputants in the course of the court proceeding to solve their issues through elders’ mediation so that they can save their energy and their money. We tell them that peace can prevail between them (dhimma keessan jaarsan fixadha, bu’aa ba’iin isinirraa hafa, nagaatu jidduu keessan dhufa). So, elders’ mediation has big contribution in normalizing our social relationship. Sometimes, local elders pursue them and come to us and request us to allow them to settle the case. They say “please give us the case of these guys. We will settle it in our locality or give it back to you [to MC]” In the case of criminal offences, we often don’t advise disputants to take their cases to elders unless the request comes from the disputants themselves... There are criminal cases that could be resolved through elders mediation, but there are also cases that can’t be handled by the elders. However, even in those criminal cases, if the disputants settle their cases through elders’ mediation or reconciliation, if the offender admits his offence in front of the elders and give compensation for the victim, we may use

that result to minimize the punishment up on the offender because this tell us that the offender has learned a lesson and regrated about what he/she has done... In the cases of minor criminal offences, when the elders resolve the issue through mediation, they report the result to us (MC) and we close the case based on the request of the disputants. However, we cannot close sever criminal cases based on only the result of the elders mediation because it is believed that such issues affect public interest. However, I believe that even those cases of severe offences could be better solved through the elders mediation had it not been for the existing law because if the mediation of the elders can help to reconcile the two parties, it can help to create peace among the society. Ours [decision of MC] simply punishes the offender, but cannot reestablish peace and reconciliation among the society (kan keenya kuni yakkama san adaa malee, nagaa hawaasaa sana deebisee fiduu hindand'u). When the disputants resolve their cases through elders' reconciliation, both sides promise to refrain from their previous acts and agree to live together peacefully. However, if things end up in court punishment, there is possibility of appealing to the next higher court. So, we use elders mediation (jaarsummaa) for both civil and criminal cases even though the degree varies.

27. 00:10: 02"- Most of the time, first they [elders] look into the case or try to resolve the case in their neighborhood (qayeetti hinlaalamti). Those elders who mediates the cases have some difference. In some areas, there are elders or Abba Gadas well known for their ability to conduct mediation service. They settle the cases impartially and fairly. Some do not do things this way. Nevertheless, there are no dispute cases that are brought to MC before they are first seen by local elders or Abba gadas in the respective neighborhood or clan. They never come directly to us before exhausting that option (Osoo qayeetti jaarsa yookiin abbaa gadaa itti hinwaamin gara mana murtii kan dhifu hinjiru; *bafistum yelem*. Ijibbaata godhanii kan waldadhaban gara keenya dhufu...). So, we send cases back to local elders for the second round because the previous attempt of the elders was done before the disputants are given advice on best option by the MC. We the judges are also elders, we advise the disputants towards the beginning to settle their cases through mediation. We tell them what is best for them. They [disputants] say "we have already tried our best to settle our cases by the local elders. We don't need to go back again." However, we insist and advise them saying "please try it again. Previously, you might

have been in ad and angry mood. Now we are telling you what is best for you. Please try it again.” When try it again, they accept and try it [elders mediation] again there are possibilities of resolving their cases. So, we push them back and most of the time they [disputants] succeed.

28. 00:13:20”-However, sometimes there are problems of lack of trust in these areas. Elders in other places are often neutral and accepted among their society. Disputants often call their own relatives as elders of mediation. So, these elders face problem to balance things. They tend to favor the disputants who invited them. Eventually the elders themselves get into confrontation instead of resolving the issue. Why? Because the person invited as an elder to mediate the case is a relative of one of the disputants. Both elders argue in favor of their relative (innis kan nama ofiitiif, sunis kan nama ofiitiif falamata waan ta’eef). It would have been better if those impartial and accepted elders at district level are selected and cases are handled by these elders. These kinds of elders work towards finding the truth and reconcile the disputants. They don’t favor one of the two sides.

29. 15:15”- The elders contributions are too immense. They can help us in resolving those cases troubling us. Secondly, they can establish peace in the society. Third, they can easily investigate and reveal the truth (dhugaa baasu). Not all people coming to us are genuine and have true causes (mana murtii kana kan dhufan nama dhugaa qabu qofaa miti). There are individuals who organize fake evidences and witness and come to us. Some mix both true and fake evidences. Some others come to us with true reason and cause. Those individuals who organize fake evidences do not want to take their cases to the elders or Abba Gadas because the truth will be easily revealed when the elders during mediation, because the elders know the truth in their locality. However, sometime the elders drag cases. They don’t complete them on time (calluma jedhanii gangalchu) because of lack of giving attention to the case or sometimes just to force the disputants to invite them or incur some cost. Sometimes, the elders also consider their services as business (akka hojiitti lakka’uun jira). There are some elder who don’t want cases to be settled in time. They unreasonably give several appointments for the disputants. Since our target if the final reconciliation of the disputant, we refer cases to them. However, they push the disputants to com to towns instead of settling the case in their locality in the rural villages. They come to town to expose the disputants to expenses [inviting elders who take

part in the mediation] and get different benefits (waan adda addaa fayyadmudhaaf). In such cases, we take back the cases to MC and treat them according to the legal procedure.

30. 18:25”- Nevertheless, if the elders can do it on time, we never refrain from referring cases to the elders because treating a given case in the court has disadvantages for both the disputants and our court. We do have standards for treating or completing a given case. Each type of case has standard time of completion. If the elders fail to settle cases on time, it may lead to another problem or complication. We don’t have a formally selected and recognized group of elders to whom we refer cases. We simply accept the preference of the disputants. Usually, elders living in the neighborhood of the disputants come to the court and take the cases. If they were operating in an organized manner, we could have given them short term trainings for the elder on how to do their works without breaking the law. We can’t do this because, they are not organized formally. When they perform the mediation, the elders simply use their own cultural or religious procedures instead of taking some inputs from us (MC) on the legal issue, on how to do their work in a balanced manner, on how to avoid biasness, on what they should do. We have never given them such orientation because they are not organized. There are individuals working closely with woreda administrators. But these people are not working with us closely with us or MC. **But they are there at the woreda level.** But those elders working with us come from villages following the disputants. They are not people especially selected for the purpose of mediation. We never call elders and give them serious criminal cases such as homicides, but such cases are handled by the elders in the kebeles or villages. All cases including homicide, physical injuries all are treated by elders. There are no case that are not taken to elders (jaarsa bira wanni hingenye hinjiru). However, we never close such criminal cases based on the elders mediation result though the reconciliation of the disputants can help minimize the punishment of the offender. There is case when elders of the two sides get into serious clash or even physical attack each other instead of mediating and reconciling the disputants because these elders are selected by each disputant from respective clans and relatives of the disputants. These kinds of elders usually face difficulty in giving fair justice or resolving the cases in balanced manner. So, it would be better if prominent elders (namoon sirnaa) are selected and appointed at kebele level. These kinds of elders shall be given recognition by the MC and responsible government

bodies so that they feel responsible for what they are doing. So that they do their jobs fairly and get awareness creation trainings, because their contribution in revealing the truth which are often hidden from us is very big.

31. People respect cultural values and their religions. So, it is easy to reveal the truth that distinguish these elder from others if we use such values. It is impossible to organize fake evidences in the villages. The elders know the disputants' background and the root cause of the dispute. If the truth can be revealed or justice can be served there in the kebele, people have no reason to come to court. However, giving awareness raising training is very important for the elder. If they have awareness, they never get into trouble. It is also good to give them some identification symbols or something that indicates their identity, For instance, we the judges have our own peculiar clothe called "kabba". Giving the elders such symbol may make them feel more responsibility. Others may also motivate to follow their footsteps.

Annex III- Code Book

Type of Positioning	Color
Positive self-positioning (PSP)	Green
Negative self-positioning (NSP)	Red
Positive other- Positioning (POP)	Blue
Negative other-positioning (NOP)	Yellow

Category of Position	Description of position	Excerpts	Address of Interviewee
PSP Positive Self Positioning	Elders as: - Capable and Self-sufficient - Healers of Social Wond	The elders of GC resolve all kinds of conflicts that occur between individuals, families, and clans. They work on ensuring peace in society by cleaning the feeling of enmity between disputants.	ANE-P1
NOP Negative other Positioning	MC as: -Incredible, less trusted/credible -Mechanical or less Critical	MC is that the MC may decide based on false witness... So, the difference between them (MC) and us (GC) is that the MC relies on witnesses (ragaa) whereas we make decisions based on truth.	ANE- P2
PSP	Elders: Better at Uncovering the Truth Better off then MC Guardian of the Society	The other point I would like to add here is that we (elders of GC) have decided not to treat those cases that are already taken to the MC. However, we later started to treat such cases when the government (MC) complicated things and fail to settle some of the complicated cases. Because this country has a father/owner (to mean protector God), next to God is these elders.	ANE- P2
PSP	CG as We Structured or Institutionalized System	The role of the elders starts at the grassroots level. There are elders that settle disputes at the neighborhood level.,, If these elders cannot resolve the issue, they refer to the elders of the clan (jaarsa gosaa). Again, if the elders of the clan couldn't solve it, they refer the case to this GC.	ANE- P3
PSP	Elders resolution as: Lasting Healing	We reconcile the two parties. We make the plaintiff give compensation for the victim. The plaintiff slaughter animal, prepare drinks and prepare a reconciliation ceremony that can heal the wound or clan the enmity between the two sides.	ANE- P4
PSP	Elders as - Knowledgeable - Respected and - Have public acceptance	The Oromo people have its own social structure. The young respect their elders. There is also the Gada system in which the Oromo people select its leaders every eight years. Age seniority is given especial place in selecting the elders of GC. The other criterion is personal wisdom (hayyuu). Hayyuu or individuals having the knowledge of Gada laws, wisdom, patience, and rhetoric skill to manage customary practices of the society are often selected to serve as elders of GC. These are the criteria for the selection of elders of GC. We don't elect elders of GC by voting.	ANE- P5, 6,7

		a practice that they have inherited from their parents.	
NOP	MC as - Mechanical - Less Critical - Less Capable Mistakenly Selected Have Negative Output Less Capable Corrupted	The MC relies only on witnesses. Both sides come with their own witnesses. It is difficult to prove whether the words of the witness from both side is true. So, the MC does what it can do and then send the cases back to us. Those who have to understand good understanding come here (GC), and those who have no good understanding go there (MC). They go there (MC) usually with a sense of competition and defeating one another. They unnecessarily waste a large sum of money extravagantly (birria ofii cafaccafaatuma deema). But they all end up here (GC), and they come back here. - For instance, last week a man got his arms broken in a personal conflict. Then he took the case to court. But the MC has no idea how to settle and give a solution to the case. Then the court sent the case back to us (GC) with a formal letter to handle it. Why did the Court do so? Because they don't have the knowledge and skill to handle such type of cases. - The court simply listen to the witness of both sides. It doesn't try to identify the one who deserves the truth (dgugaa). • So, in MC who usually wins? It is the one who has more money (abbama qarshiitu moo'ataa jira). ... those who don't have a good understanding go there (MC). The court simply listen to the witness of both sides. It doesn't try to identify the one who deserves the truth (dgugaa). So, in MC who usually wins? It is the one who has more money (abbama qarshiitu moo'ataa jira).	ANE-P10
PSP	More capable Giver of True Justice Less Expensive	Here they don't pay any expense. The elders listen to their issue and find out the truth (dhugaa baasa). They convince the parties to accept the truth. Therefore, those who understand this come here (GC), ...	ANE-P10
PSP NOP	MC - No Moral or Cultural Base - Foreign	While this cultural law, the law that different Oromo clans and elders had agreed upon is there for them, why do some disputants prefer	ANE-P11

	- Serve personal interest disregarding social norms - meant to serve cheaters or liar or abnormal, socially disobedient people, sinful ones GC - Moral and Cultural Base - Acceptable - Established for Genuine	to take their cases to MC?” So, why do people leave all these values of their ancestors behind and go to MC? There is a saying which goes “Namni waa lamaaf dhalata. Ofiif hindhalata Biyyaaf hindhalata” “ A person is born with two purposes: to fulfil personal ego and to serve the society”. Those who prefer to go to MC are those who are born to serve their personal need at the expense of their social value. They are the ones who want to win by cheating and misleading. They are the ones who want to win by cheating and misleading. A normal person does not disregard this beautiful cultural practice (GC) and go for MC because he respects the norms and ethics of his people... The majority of the people, the rich the poor, the strong and the weak prefer this GC. Only those people who want relief by their power; those who want to win using their power, their financial power; those who want to win by committing sin (cubbuu) go to MC. It is only the need to satisfy the sinful competition that pushes them to go to MC. Otherwise, one does not go to MC because of the hatred he has towards GC.	
PSP NOP	Elders as - Socially respected and trusted - Having spiritual power MC as Less Capable in finding the truth or giving fair justice	Like what the previous speaker stated, society largely respects Abba Gada. They trust Abba Gadas. Why? Because they are administered by these Abba Gadas. They are children of Abba Gadas ... It is only Abba Gada that refines and thoroughly investigates cases. An Abba Gadas has the power. He blesses and curses. The curse of Abba Gadaa is bad. It can destroy. Those who disregard Abba Gadaa and go to MC are sinful ones. If you consider the police station, it doesn't investigate cases and find the truth. The court also does not clean cases and find the truth.	ANE- P12
PSP	- Capable for uncovering the truth	Like what has been said, it is only the those of Abba Gadaa that can find out the truth (Ka	ANE- P13

NOP	- Procedurally fair - Spiritually oriented and feared - Blessed Practice - Give fair Justice Preferred by Sinfu, Disgraced Works against the word of God Provide Unfair Justice	dhugaa baasu, Abbaa Gadaati). .. There is a saying which goes “Waakkataan jilba, Amanaan dhibba” and “Those who deny the truth are made to swear, while those who admit the truth are forgiven (their issues settled)” Those who reveal the truth are given forgiveness and reconciliation... Those who speak the truth will get the blessing of God. If the witness lies, he/she will be disgraced in front of people and God. He/she will be respected/honored in front of people and God. If you look at MC, it is a place where enormous sins are committed. There is sin (cubbuu) in the words of most of the witnesses in the MC. Some witnesses present false accusations against the disputants and will be judged later in front of God(rabbi)... So, those who disregard GC go to somewhere else (MC), are those who want to hide the truth; they are those who want to lie or commit sin.	
PSP	Elders as Capable Democrat Fair indiscriminately serve all Give Lasting Solution	We usually settle those cases that the MC couldn't resolve because of a lack of knowledge of the norms of the customs of the society. We never blame disputants for going to MC, never. We just accept their cases and resolve it. There are three different kinds of groups within our society: those who rely on politics (MC), those who rely on <i>Aadaa</i> (traditional norms and culture), and those who rely on religion. Normally, the MC cannot give conclusive resolution to homicide cases. There are traditional rituals that cannot be missed to reconcile the two parties. This cannot be handled by the MCs. No matter how the MC punishes the offender, this will not end the enmity between the two parties. In the case of homicide, the relatives/clans of the two sides cannot live in harmony until they carry out the reconciliation ritual with the help of the GC... Otherwise, the possibility for revenge is out there. The government (MC) also gives orders	ANE- P14
NOP	Incomplete or not self sufficient Less Efficient/ Not Provide Lasting Solution Incomplete Decision		

		to the offender to hold the reconciliation ritual when the offender is released from prison. Unless he does so, his life will be at risk. So, once he finishes his imprisonment, the offender directly goes to Abba Gadaa and requests for reconciliation with the victim (<i>araara</i>).	
PSP NOP	-More Concerned for the wellbeing of the society -Have Formal/Legal Entity - Capable and Self-sufficient can independently function - have better Access to Reliable Information , - Need no support MC -not in congruence with the norms and traditions of the society - incomplete to address all types of conflicts	We (GC) summon twice in a week to solve the problems of the community. This is a free service. The elders of GC serve society for free; for the benefit of our sons and daughters. The MC usually send us cases with a formal letter. We (GC) have also its own logo. So, we can write a formal letter back to MC. We never send cases to MC. It is the MCs that send us cases when they could not solve an issue. We (GC) never send cases to MC. We have rich cultural wisdom and norms (Aadaa). Again, there could be a border conflict between the two clans. It is only the elders of GC who understand the basic causes of the conflict. The MCs do not have customary knowledge on how to handle issues related to traditional marriage. That is why they ask for our support... Again, in the case of the homicide, the MC requests us how to reconcile the relatives/clans of the two sides (of the victim and the killer). The MCs do not know how to heal this social wound.	ANE- P15
PSP NOP	Elders - Provider of support MC - Recipient of Support	We don't make official meetings with the MC. I personally go to the President of MC in our worda. I usually say to him, "Please serve the truth. Give justice based on truth. Sometimes, there is unfairness". That is what I told him. They (MC) never call us formally and ask us what difficulties we are having. How we are running our activities. They give us no support.	ANE- P16
NOP	MC - Counter Productive - Work against each other		ANE- P17
PSP	Elders Messenger of God Gurdian of the Society Cultivator of Good	Abba Gada is the father of nature and the traditional norms of society. When disputants take their cases to GC, the elders give their	

NOP	Norm Give Lasting Decision Better Social Status (claim legitimacy by appealing to norms) MC Contender working against GC as Obstructor	trust and reconcile the two sides in a way that ensures the will of God and the social well-being of the society. ... We reconcile the two sides and compensate the victim. We give truth to the victim. The disputants and clan/relatives of the two sides also go through serious of cleansing rituals of reconciliation in GC so that the victim never goes for any revenge in the future. This will have a negative impact on our endeavor. Those judges working in the MC are also our children. They should take our decision as final and refrain from treating the same case in two places. This will have a negative impact on our endeavor. Those judges working in the MC are also our children. They should take our decision as final and refrain from treating the same case in two places. Once dispute cases are settled like this, the MC should not reverse the decision of the elders. This affects the harmonious relationship between the Abba Gadaa and the community.	ANE- P18
PSP NOP	GC Provider of Lasting Decision Most Powerful and respected MC - Disturbing Norms - Abuse their power	What I also want to add here is that once Abba Gadaa makes decision means, the issue has been resolved once and for all. It is the final decision one can get from a human being under this sky, below the verdict of God (Waaqaa Gaditti)....Whether they like it or not, the law of Abba Gadaa (GC) overrules. Gadaa is the origin of democracy. It governs the world. They (MC) should not disregard this by force. They should not rely on their force. Once we (GC) settle a case (especially homicides) we report it to them (MC). So, if the same case is brought to them (MCs), they should say, “Your case has already been resolved in GC. Here is the report.”	ANE – P19
PSP NOP	GC Healer of Social Wound MC- Simple verdict that Do not worry about the normalization		ANE- P20
PSP	GC Have standard procedure	The government (MC) can punish those who commit homicide. We (GC) have also our own	ANE- P21

	Have Power that can go beyond settling the conflict	procedure to resolve such cases. First, we put restrictions (gadabaa dhaabuu) on the movement of the two sides to avoid possible revenge. Then we scrutinize the issue and order the offender to send his request for reconciliation to the victim through Abba Gadaa.	
PSP NOP	GC More Reliable and Fair MC Mechanical Incomplete Not Give Lasting Soclution	It is GC that better reconciles based on truth (Qulqullinaan ka araarsu, Mana Abbaa Gadaati). GC reconciles even those who commit homicide and makes the two sides kiss each other. However, in MC, those who bring better evidence and witness can win. This does not avert the possibility of future revenge because it doesn't reconcile the two sides.	ANE- p 22
PSP NOP	GC More Efficient in terms of Time Heal the Social Wond MC Less Efficient Not Cost Effective	Let the truth be the winner (Rabbi dhugaa haa moosisu), I tell you, the service quality of Abba Gadaa can score 97 out of 100. GC reconciles the two sides, let them eat and drink together and bring them back to normal life. Abba Gadaa also does not take a long time. It resolves the issues as soon as it occurs. However, in MC, there is a practice of giving several appointments. The disputants need to attend several appointments. After several appointments, the disputants finish their money and become poor. They eventually come back to us. You know what? When we informally discuss with judges of MC. They tell us, "We rely on the three witnesses. Whatever sin is committed in the course, it goes to the three witnesses. ".	ANE-p23
PSP	Heal the Social Wond Final Resort More Powerful than MC Morally Responsible Have More Acceptance Execute will of God	For the question that you raised regarding the difference between the services of GC and MC, like what has been said, elders of GC can maintain broken rope (haada citellee hinsufa) meaning heal the broken relationships, cleans the mind of the disputants and bring them to reconciliation Then the case will be back to this GC. The problem that this GC solve is almost equivalent to the problems that the supreme court resolve. So, the MC usually throws rotten and stinking	ANE- P-24

NOP	GC as Original or Base or Best Example internationally Free service givers Ignored given less attention by the Government Guardians of the community Final Resort to address difficult issues Philanthropist MC - Mechanical - Lack Fairness and Human element - Bureaucratically not useful for the disputants	cases [difficult and complex issues] to these elders of GC (waan shameefi waan ajaaye gara jaarsaa darban). These elders never reject these cases because they are morally obliged to serve their society. ...Gada is all about Truth; Truth is the Son of God (Gadaan dhugaa; dhugaan ilma Waaqati). The Gada (elders of GC) do their work carefully. They never commit sin for the good future of their kids. These elders are like shades of Odaa (tree). (P-28) The other world has no such cultural practice (Gada System). I can say that modern democracy has its base in the Gada System. So, the government should provide all the necessary support. There is a proverb that goes (P-29) The challenge currently facing elders of GC is that they usually spend most of their time serving the society for free. They don't have time to do their own business. They don't get a salary for this. This is a problem. They call us Abba Gada, but the government never gives us attention. The government starts to look for us only if there is a conflict or chaos. They say us "Why don't you go and solve the problem?" They (Government officials/Judges) don't want to go out there and solve the chaos... Can you imagine what will happen if these elder of GC stop their service? Who else can solve such problems? The government pays even for guards. Like what has been said, these elders give free service for fear of God. They don't take a penny from these people. No matter how long it takes, even the service receiver do not invite us to this bottle of water that you have invited us. Every day, these elders of GC travel on their expense. (p-30) However, the MC makes decisions based on a single article. The disputants make their apples up to the highest structure of the MC (supreme court) . Then if one of the disputants is not satisfied with the decision of the MC, he may	ANE
-----	---	--	-----

		go for revenge and commit homicide. If you simply give the whole responsibility to these young university-graduated judges who rely only on articles of written law, it will be disastrous for the country. These days, it is false witness that spoils the community. (P25)	
NOP	MC/Judges as Intruders Lack of Coordination between the two Competition rather Cooperation	In my opinion, we better leave the issue related to traditional norms up to the GC (Waan aadaa aadaa kennuu) and those legal issues to the MC (waan seeraa seeraf kennuu). I also recommend the two bodies fix dates for regular meetings to discuss how to collaborate and give the necessary service to the community side by side. However, if the two bodies (GC and MC) sit on different sides of the river and fail to collaborate, it will be bad for the government and the community as well.	ANE- P26, 27

11. Assurance of the researcher/s

The Undersigned researcher/s agrees to accept responsibility for

1. Scientific and the technical conduct of this research project,
2. The handover of fixed items purchased for the project during/after completing the project to the respective dept./School,
3. Settling the budget used,
4. The provision of the required progress report, and
5. The presentation of the final report as required.

NAME OF THE INVESTIGATOR (S)	SIGNATURE	DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

APPROVAL

HEAD OF THE DEPARTMENT	SIGNATURE	DATE
_____	_____	_____
SCHOOL ASSOC. DEAN, R	SIGNATURE	DATE
_____	_____	_____
DEAN OF THE SCHOOL	SIGNATURE	DATE
_____	_____	_____

Approval: For Research Affairs Office Use

Amount _____ of _____ Approved _____ Budget: _____

Period of Allocation: _____

For Research Standing Committee:

NAME	SIGNATURE	DATE
_____ Assoc. Dean, RPMO	_____	_____
NAME	SIGNATURE	DATE
_____	_____	_____
Dean, Research Affairs		
NAME	SIGNATURE	DATE
_____	_____	_____
VP for R & TT		
NAME	SIGNATURE	DATE
_____	_____	_____

ⁱⁱⁱ The whole symbolizes a grave, bone (accident), bullet (means of death), stone, ash, and yarn (symbolizes death, burial, and decay) of a human being, the peeled log (person without clothes or protector).

^{iv} Shade, Gaaddisa is a place where the elders sit (shade of a tree) and resolve conflict.