
State Intrusion into Customary Dispute Resolution Mechanisms in Ethiopia (1991–2018)

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Abstract

Based on fieldwork largely conducted in 2017 at Ankober Woräda of Amhara Region, this paper shows the intrusion of the state into the jurisdiction of Customary Dispute Resolution Mechanisms (CDRMs). Studies on CDRMs in Ethiopia have mostly focused on documentation of different institutions practiced among different ethnic communities. They have also focused on legal pluralism and the cooperation or competition between the state courts and CDRMs, as well as how the 1995 federal government constitution limited the jurisdiction of CDRMs to family or personal matters only. This paper shows how the role of CDRMs, such as *Šəmgälanna* of the Amhara community in Ankober, in resolving disputes of family and personal matters was even further constricted by the ruling party of Ethiopia which introduced a national reform agenda called "change army" in 2011. Through the framework of the "change army" that lasted until 2018 when Abiy Ahmed came to power as the new Prime Minister of Ethiopia, the government used existing local government offices and the ruling party lines, created new committees, and co-opted local elders to make them handle disputes that are the jurisdiction of *Šəmgälanna*. The paper suggests this kind of intrusion will weaken CDRMs, and therefore the state should respect the role and practice of these institutions. If any cooperation between the two is necessary, it should be in a way it does not further narrow down the role of the customary institutions upon whom the community for a large part relies for their dispute resolution.

Keywords: Ankober, Customary Dispute Resolution Mechanisms (CDRMs), state intrusion, state-affiliated institutions

1. Introduction

The inception of intrusion of government-driven formal or semi-formal dispute resolution mechanisms into the public domain hitherto managed by Customary Dispute Resolution Mechanisms (CDRMs) is rooted in the modernization zeal exerted by the Imperial regime of Ethiopia since the early 20th century (Tuori 2010; Singer 1970; Abera 2000). The Imperial regime

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massively transplanted laws from abroad through a grand codification process in which six codes² were produced from 1957 to 1965. These codes ignored CDRMs and focused on modernizing the legal system. The Civil Code of 1960 under its Article 3347 rejects CDRMs: “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”. In addition, the Criminal Procedure Code is silent and is different from the existing traditional practices (Fisher 1971: 746). The Penal Code also makes no mention of customary laws and was applied uniformly to all Ethiopians (Singer 1972:477). Informants who experienced the *Derg* regime also mentioned that there was a strong grip on local institutions by the *Derg* cadres through the *Šāngo* (local assembly or council of cadres).

While until 1991 Ethiopians were formally forced to visit the state or quasi-state system in matters of dispute settlement, the 1995 Constitution recognized CDRMs. Yet, the Constitution limited the jurisdiction of the latter to personal and family matters only. Besides, the state intrusion appears to be much more expanded and intensified by the Ethiopian People’s Revolutionary Democratic Front (EPRDF), the party that ruled the country from 1991 to 2018. EPRDF, among others, used existing local government offices, created new committees, and co-opted some elders of CDRMs so that they could do dispute resolution at the local level within the government oversight, thus undermining the role of pre-existing practices. Some of these actors in dispute resolution had their structures laid down at the family level.

Academic research on the relationship between state institutions and CDRMs in Ethiopia focused on the documentation of individual CDRMs. These studies have canvassed CDRMs of “almost all major ethnic groups” (Tsehay 2012:270). Since 1991, studies also focused on topics such as the role of the 1995 federal constitution in cutting down the jurisdiction of customary institutions to family or personal matters only. To understand the focus of the existing literature, it suffices to see collections in the annotated bibliography by Fekade Azeze, Assefa Fiseha, and Gebre Yntiso (2011) which has fifty entries. One can also see edited volumes by Epple and Getachew (2020), Pankhurst and Getachew (2008), Tarekegn and Hanna (2017), Tarekegn and Hanna (2008). Additionally, a look at digital or manual catalogs by using key search terms resulted in the literature that focuses on the documentation of

² Namely, the Penal Code, the Civil Code, the Maritime Code, the Criminal and Civil Procedure Codes, and the Commercial Code.

individual CDRMs or other aspects of legal pluralism such as cooperation or competition between CDRMs and the state courts. In fact, some sources in passing allude to the topic of state intrusion into the activities of CDRMs such as Dawit (2017:66), who briefly observes: "Traditional dispute resolution mechanisms are facing challenges from the expansion of government institutions like the police station and formally formed justice centers from *woräda* to the grassroots levels".

By focusing on the case of Ankober Woräda in the Amhara Region, this research discusses state intrusion into the jurisdiction of CDRMs by focusing on the period between 2011 and 2018. During this time, peace committee, community policing, women's affairs office, militia office, and social courts had a profound connection to the real life of the community regarding the resolution of disputes, rivaling with or replacing the indigenous institution of *Šəmgəlännä*³. The paper came up with a locally specific case study with suggestions to liberate local institutions from state dominance and subsequently enhance balanced power relations between local government and political institutions on the one hand and customary institutions on the other.

In the following sections, I will briefly discuss methodology; provide a context for state-community relations regarding dispute resolution at the local level in Ankober Woräda from 2011 to 2018; and describe competing actors in dispute resolution and show how numerous state-affiliated actors in dispute resolution at the local level constricted the role of *Šəmgəlännä*. This issue was already being debated locally between those who take the existing government approach and those who oppose it. I will summarize this debate before concluding the paper.

But before going to the next section, let me at least briefly discuss the concepts that are underlying this article and that do not seem to be obvious for readers. The first one is the concept of "dispute" and the second one is "intrusion". As to the former, many conflict scholars distinguish between conflict and dispute. However, John Burton's (1990) distinction based on time and complexity of issues is helpful and common. Burton contends disputes are transient disagreements that are simpler to settle while conflicts are long-term, ingrained concerns that appear to be non-negotiable and are more difficult to resolve. Although both conflicts and disputes might arise separately from one another, they can also be related. A more protracted battle

³ To read CDRMs per se in Ankober, readers can refer to Desalegn (2017).

may contain smaller and more recent issues. I do not believe it is the place to enter the debate in this article. For the sake of consistency, I use dispute throughout the paper. Commonly, scholars use "dispute" for local-level conflicts that are settled by customary institutions. The second concept is that of "intrusion". This term in this paper refers to the state becoming involved in a situation where it is not wanted or do not belong to. Resolution of disputes related to personal and family matters is the jurisdiction of CDRMs in Ethiopia which the 1995 Constitution granted them. These conflicts are expected to be handled by CDRMs and the involvement of the state by using its institutions or committees at local level is undesirable or even harmful-hence intrusion.

2. Methodology

In 2012, I conducted fieldwork in Ankober Woräda for a research activity that is different from the one this article is developed. In the course of my data collection back then, I was astonished that the state had founded and funded several local-level institutions to play a role in the resolution of disputes between individual members of the community in Ankober. The themes of dispute resolution mechanisms and legal pluralism continued to be one of my research interests subsequently and my research interest that had begun back in 2012 sustained. In 2017, I returned to Ankober to collect more data on the topic of how the government and the ruling party had made their way to the villages by introducing and empowering institutions or committees affiliated with it to play an active role in dispute resolution.

I intermittently visited Ankober three times in 2017 for fieldwork, each time spending various lengths of time but all in all a total of three months. By following an ethnographic approach, by which I refer to a research approach I looked at the local setting to understand the interaction between CDRMs and those of state-created entities in the field of dispute resolution. I did in-depth interviews with a total of 41 individuals by which I gathered data including individual stories, of which six are used to develop the argument in this article. I also conducted three focus group discussions, from which the last section of this paper benefited more. Group discussions were conducted to develop the people's opinions on the advantages and disadvantages of the existing intervention of state-affiliated institutions in dispute resolution. The participants of the focus groups discussion were leading community elders, which means those individuals who do not see themselves as affiliated with any state machinery at the local level and thus oppose state intrusion on the

one hand and individuals who work in government offices or are party members who support the state intervention to “modernize” the “traditional” dispute resolution mechanisms on the other. Participants in the interviews or focus group discussions representing the “modernization” approach were drawn from *woräda* level government offices of the Women and Children Affairs Office, Justice and Administration Office, Militia Office, Community Policing Office, *Woräda* First Instance Court, and Social Courts. I also made observations on the presence of state-affiliated institutions at the local level, as well as their involvement in personal and family dispute resolution. I visited dispute resolution shades constructed by the government, attended events of dispute resolution, and more generally socialized with the broader everyday life of the community but with a focus on their life concerning the dispute and dispute resolution. I also reviewed documents, i.e., legislation, official reports, court cases, and other documents submitted to or produced by the government offices at regional, zonal, or *woräda* levels. Finally, Amharic is the source language for all oral as well as archival data used in this study, and I have attempted to translate the data into English as carefully as possible.

3. Setting the Context: the "Change Army"

The Ethiopian government led by EPRDF from 1991-2018 took several initiatives to national reform (World Bank 2019: xi, 24), but what is of interest for this article is the *change army* that lasted from 2011 to 2018 (World Bank 2019). The change army had three branches, or “development wings” as the government or party actors called them: the party wing, the government wing, and the public wing. Every government sector office was expected to set up a development army for each of the three wings. By following this reform agenda, the state intruded into CDRMs at the guise of modernizing them. Before I show what happened in the case of Ankober, let me give a more detailed context about “change army” below.

A *party wing* is a team of ruling party members organized into a change army. The party structure existed parallel to each government structure, and party members at each level were mobilized into the change army representing party wing. Since EPRDF was a coalition of ruling parties of four federations: Amhara, Oromia, Tigray, and Southern Nations, Nationalities, and People's Regional States, each member of the coalition ruled a regional state it represented. The Amhara National Democratic Movement (ANDM) ruled the Amhara region and had a structure that spanned all levels of government. The “cell” (or “*həwas*” in Amharic) was the lowest level party structure.

Each government sector office had also a *government wing* (civil service) containing four or five hierarchies of workplace groupings: one for the highest-ranking government officials, one for the middle-ranking officials, one for team leaders, one for the best-performing employees, and one for "others". The last level was further subdivided into several teams called *yäläwut budän* (change team), which usually contained fifty to sixty employees. Occasionally, employees of a particular department formed a change team, or employees from different departments could come together to form it if there were a smaller number of employees in each department. One-to-five organizations were still smaller unit groupings than the change team. Five employees came together and one of them would become their team leader. Each level of the army had its meeting and reporting procedures. For example, one-to-five members met, theoretically, every week (Ministry of Civil Service 2014; World Bank 2019).

Each government sector office also established a *public wing* with the help of its key service recipients and stakeholders. If the Ministry of Justice is an example, the public wing would comprise representatives from the community, professional associations like the Ethiopian Lawyers' Association, and "other" service recipients (Ministry of Civil Service 2014; Gebre and Nigussie 2022; World Bank 2019).

Offices might contextualize the implementation, for example, by contextualizing the nomenclature for their groupings. The agriculture sector, for instance, used the terms "development army" and "development team" instead of "change team" and "development army". Likewise, the education sector used "education army" and "education team" while the health sector uses "health army" and "health team" (Ministry of Civil Service 2014).

For this paper, the relevant institution is I would like to concentrate on the peace and security sector. The peace and security sector is a collective name for different offices whose responsibility was related to peace and security. The sector includes the Administration and Security Affairs Office, Community Policing Office, and Militia Office. At each level of the government office, i.e., from the regional state at the highest to *qäbäle* administration at the lowest, this sector was also organized into three wings I discussed above and each of these security sector offices organized each of the wings. At the local level, the community policing office, for example, had a public wing that included members of a household. The Administration and

Security Affairs Office created peace committees, peace clubs (in the schools), and what are called integrated peace committees. Three of the security sector offices have also co-created a dispute resolution committee at the village level. Following this, I will discuss the role of these institutions in dispute resolution.

4. The New Actors in Dispute Resolution in Ankober

The Amhara of Ankober Woräda is located within the Sämen Shäwa Zone, a sub-regional division of Amhara Region. The *woräda's* headquarters, Goräbella town, is 172 kilometers from Addis Ababa. Three kilometers to the east of Goräbella is the historic settlement of Ankober. Ankober Woräda Government Communication Affairs Office (AWGCAO 2016) estimated that the population of Ankober *woräda* in 2016 was 89,691. The Central Statistics Agency (CSA) (2008), the latest census of the country so far, determined the Amhara people made up 92.77 percent, the Argobba 7.04 percent, and all other ethnic groups 0.19 percent of the population in Ankober Woräda. The census also shows that the Amhara are largely Orthodox Christians, while the Argobba and Afar are entirely Muslims (CSA, 2008). The Amhara predominantly live to the west of Ankober town as a part of the overall Amhara community of Shäwa. The Argobba and Afar ethnic groups live in the east. The Amhara inhabit the highlands, the Argobba in the midlands, and the adjacent Afar in the Afar region's lowlands. In terms of subsistence, the Amhara are ox-plowed farmers who grow highland crops such as barley, peas, and *t'eff*. The Argobba, besides traditional weaving and trading, are farmers, and the Afar are pastoralists.

4.1. Peace Committees in Ankober Woräda

The Amhara National Regional State (ANRS) established the Administrative and Security Affairs Bureau at the regional level following article 10 (10) of Proclamation 16/2010. According to the Proclamation, the Bureau had the mandate to issue directives to realize its objectives of maintaining peace and order in the regional state. Accordingly, in February 2010, it issued a directive known as Administrative and Security Affairs Peace Committee Working Manual Directive No. 001/2002.

According to the Directive, the Administrative and Security Affairs Bureau of the Amhara Region would form the Peace Committee at each of its regional, zonal, *woräda*, and *qäbäle* levels, from the highest level to the lowest. Members of the Peace Committees at each government structure are selected

from the two wings, i.e., government or public. The ones who represent the government wing at each level of the government structure are a chief administrator of a given level of the government administration, the head of administrative affairs and peace office, the head of the women's affairs office, the head of the education office, and head of youth and sports office. For the public wing, individuals, usually leaders are selected from religious institutions and various cultural institutions. The government also recruited *Šamagallewoč* (plural for *Šamagalle*, meaning elders) and invited them to be members of each tier of the peace committee to represent the public wing. Known personalities and "others," as may be appropriate, can also be included in the committees. Each level of the committee should have twelve to fifteen members. Since there were twenty-two *qäbäles* in Ankober Woräda during the fieldwork, there were correspondingly twenty-two peace committees for all *qäbäles*. Peace committees should conduct meetings as may be necessary, but it is mandatory to meet for the regional committee two times a year, zonal committees four times a year, and *woräda* and *qäbäle* committees every month.

A function of the peace committee is dispute resolution. Each level of the peace committee resolves disputes referred to it from the lower level. The *qäbäle* committees entertain first-instance dispute resolution cases. The characteristics of disputes that are to be resolved by *qäbäle* level committees are simpler, such as minor disputes between two individuals. The report from the 2016/2017 fiscal year shows Ankober Woräda peace committee had resolved 173 disputes. These conflicts, had not been for the Peace Committee, could have been resolved by CDRMs. An elder who served as a *Šamagalle* for a long time described:

Previously, the elderly played a significant role in resolving disputes at the local level. Today, those institutions under the guidance of the government want the cases to be submitted to them. You will probably encounter a member of the peace committee telling *Šamagallewoč* to abort a dispute resolution process so that the parties in the dispute take the cases to them. One or two *Šamagallewoč* take part as members of the peace committee, but overall, we are now on the outskirts of the dispute resolution exercise, even for those matters involving family and personal matters.

It is not only the fact that the *Šamagällewöč* represented in the peace committees of various levels are numerically small (one or two), even those are usually selected by the government or party leaders, at *qäbäle* level for example, by *qäbäle* administrators or other government officials, instead of the community. This makes the community members suspect the neutrality of *Šamagällewöč* that participate in those committees. Informants from the local elders stated that in fact, it is *Šamagällewöč*, whether those in the peace committee or outside, who take the lion's share in an investigation of disputes, but for decision making, their voices are not influential. Those committee members other than the *Šamagällewöč* are individuals affiliated with the ruling party and influence decisions. My informant who was a member of the Peace Committee as a *Šamagälle* provided the following case.

Case 1

Ato Gashaw and Ato Berhan (both pseudonyms) were friends who lived in a *qäbäle* in Ankober Woräda. Both of them lived in a rural neighborhood, farming on their land. Each of them was married and had two and three children, respectively. Berhan's eldest son earned a BA degree from Gonder University in 2012. Ato Berhan wanted to celebrate his son's graduation because it was his first experience in life. Although most rural farmers force their boys to be farmers, the community had recognized Ato Berhan for sending his children to school, the result of which was the graduation of one of his sons, a rare accomplishment in his community during his time. Ato Berhan had enough crops, but he needed money to plan a graduation ceremony at home. Based on an oral agreement, Ato Gashaw loaned Ato Berhan 3,000 Ethiopian Birr. According to the terms of the agreement, Ato Berhan was required to repay the funds within a year. Unfortunately, Ato Berhan could not repay the money as agreed orally. The explanation was that because Ato Berhan's crops had low yields during the harvest year, during which he agreed to repay the loan, he did not have enough crops to sell and repay the loan. Ato Gashaw was not pleased, claiming that all members of the rural neighborhoods faced a low yield for the year and that Ato Berhan's situation was not unique. The two disagreed, and Ato Gashaw brought the case to the attention of the peace committee, which intervened to settle. Ato Gashaw waited a few months longer for Ato Berhan to settle the debt, which he did after six months grace period. The arbitration by the peace committee achieved this accord.

According to the Federal Government constitution of Ethiopia, parties in dispute can handle such personal and family disputes either through customary or statutory courts, whichever venue they prefer. However, the Peace Committees step-in and handle the disputes sidelining CDRMs.

4.2. Community Policing

Speaking of the period generally between 1991 and 2018, mainly individuals in the community liaised the relationship between the community and the police. The elderly or some educated younger community members were the entry points for the police to reach the community security problems. These individuals collaborate with the police by participating in periodic meetings, neighborhood association meetings, decentralized offices/storefronts in the community, and team beat assignments (See also Denney with Demelash 2013:12; Dawit, 2017:64).

Unlike the peace committees, community policing had existed earlier than the change army. Ethiopia's government proclaimed the national policy on community policing in 2005. In Amhara, the Amhara National Regional Police Commission also developed a regional-level community policing strategy in 2005 (Denny and Kassaye 2013:8). North Shäwa Zone, where I conducted this research, introduced community policing in 2007, including in Ankober Woräda. Community policing is aimed at setting up collaborative partnerships between the police and the community to develop solutions to problems and is aimed at increasing trust in the police. During the time of data collection for this article, community policing had a structure that penetrated deep into the household level. The four “packages” of community policing include *family police*, *village police*, *an assistant village community police officer*, and a *village dispute resolution committee*. Concerning their role in dispute resolution, I will describe each below.

Family Police

At the time of the fieldwork for this study in 2017, there was one community police officer for each of the 22 *qäbäles* in Ankober Woräda. A police officer in charge of a certain *qäbäle* approached each household, taught them about "crime" prevention, and convinced them to choose one family member to serve as family police. The police officer would require family members to choose a person who was more educated and had a good moral standing among the family. If the father had no formal education or his education was

low, or was not well mannered, the family members would be asked to select a son.

According to participants in the interviews, the following are the duties of a family police officer. First, he would (male members usually take this role) get training from the *qäbäle* police officer on crime prevention and community policing. Then he would in turn to teach his household members a number of topics, such as family policing roles, the essence of community policing, the importance of peaceful relationships with neighbors, the equal rights of all family members, the right of children to education, the problem of harmful traditional practices (HTPs), such as genital mutilation and child marriage, and the problem of prostitution. He would report or make other family members report "intruders" in their village to the police. He should also report to the police if any of his family members committed an offense. He had the responsibility to resolve family-level disputes and correct a family member who committed an offense. If resolving a family-level dispute was beyond his competence, he would forward the case to be settled by *Šamagällewoc* chosen by family members themselves or designated dispute prevention committee members at a certain village or *qäbäle* level (discussed below). Family police held a meeting at least once a week with a police officer at a *qäbäle*. During the fieldwork, the family police served as a one-to-five organization and as a public wing. The following case compiled from data provided by my informant who was family police himself is an example of the role of family police.

Case 2:

Asegid Goshu (pseudonym), M, 24, was a family police in a *qäbäle* in Ankober Woräda. Asegid is the third member of the family; he has two female elder sisters. His family has six children; he has two young male brothers. He had his mother and his father and made their livelihood by farming. According to Asegid who told his story, there was no problem in his family- in the sense that there was no one who has drinking, theft, or other habits. He received training on what constitutes a good family, sending children to school, staying away from crimes, and working hard. He used to report about his family regularly, but he always reported no problems with them. Without having any discussion, he also reported as though he held a discussion with them which was expected from family police. According to Asegid, calling a family for a meeting and acting as a chairperson of the members was very uncomfortable.

The introduction of family police challenged long-held family values in Ankober where the father is a family head. The father is active in both society and his family as well as he holds all positions of power and authority. When a dispute arose, it was usually the father, together with the other family members, who resolved the issue. Appointing sons as family police became against the values the community held toward family. As a result, informants observed during the research that family police are the least recognized state-affiliated institution by the community. The community considered this system simply as the surveillance mechanism of the government. Yet, supporters of this approach argued the goal of the family police, or one-to-five, is to protect one another rather than to harm or spy on one another. The government meant to reinforce constructive changes that were believed necessary, such as reducing harmful traditional practices such as child marriage and working hard to attain growth. However, many informants believed that the practice was problematic; its goal was repression by the then-party members, and therefore the community did not accept it.

Village Police

Village police were a higher-level structure than family police. They comprised selected family police representatives. For example, a *qäbäle* may be divided into twenty villages. In each village, there may be fifty households, each with a family police officer. Five to ten family police representatives were to make up the village police. The village police had their chairperson and secretary.

According to informants, the major functions of the village police were the following. They meet once a week with all family police members in a village to discuss the situation of peace and report, in writing, through their secretary, the results of their discussion to the *qäbäle* police officer. When necessary, they also called a meeting of all the villagers to discuss situations of security. They set up key security checkpoints in their village and discussed with residents how to keep them. They recruited villagers and deployed them, in rotation, to keep the checkpoints. They identified disputes in their village and referred them to the dispute resolution committee discussed below. Together with the armed local government militia (discussed below), they make surveillance to make sure there is no "intruder" in their village. They identified the youth with drinking habits, adultery, drug addiction, and criminal behavior and advised them to be good members of the community. They taught villagers about the importance of children's and girls' education and the

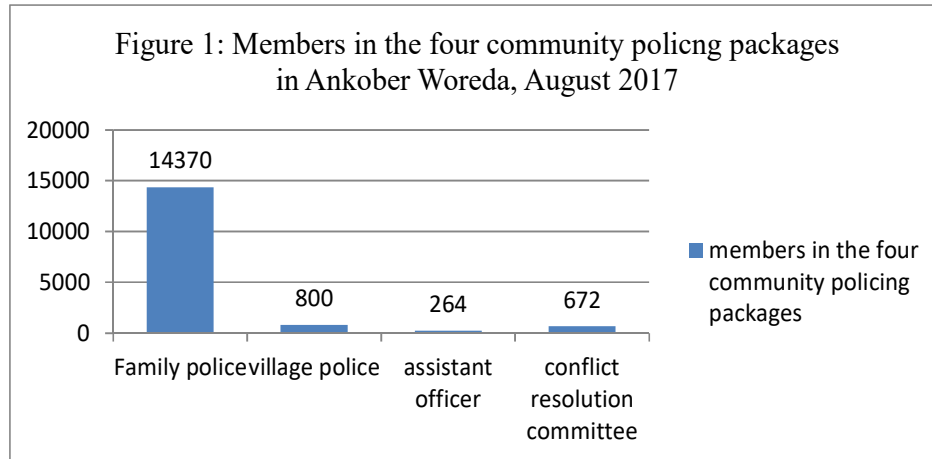
prevention of harmful traditional practices. They set up a structure at the family level where an early warning about potential crimes could be detected. They referred disputants to the dispute resolution committee if they were beyond their competence.

Assistant Police Officer

Since there was a shortage of police officers, it was not possible to deploy the police in every village. Instead, the people, not the police, chose two-to-three people to do activities on behalf of a police officer in a village. If possible, assistant village community officers should be at least 6th-grade level. Assistant police officers facilitated the selection of family police; identified crime causes; trained or recruited for training family police and villagers; mobilized people to build dispute resolution centers (houses); supported dispute resolution committees and facilities for the selection of missing members. They also taught villagers about dispute prevention methods, such as traffic accidents, HTPs, and HIV/AIDS. They did all activities that a police officer could do.

Village Dispute Resolution Committee (VDRC)

A VDRC comprises five to seven members selected from the community, representing *Šmagalles*, religious leaders, and ordinary villagers. It has a chairperson and a secretary. All VDRC members receive training from the police officers and *woräda* officers. VDRC meet every week to discuss the situation of peace in their village, such as identifying potential causes of dispute; resolving them, or reporting to the concerned government office when they occur. There are dispute resolution centers (also called *yäsalam ma'ekäl*) in each *qäbäle* where the committee meets for dispute resolution. The four packages described above are public-wing organizations, while the police structure is the state wing.



Source: Community Policing Office of Ankober Woräda, August 2017.

Each year, the so-called four packages of community police resolved several disputes. Each level of the community policing package can resolve disputes in their own competence or can refer them to the next level if they think they could not resolve them. In the 2016/2017 Ethiopian fiscal year, 960 disputes were resolved within the framework of community policing. The VDRC resolved 451 of them while the police officer resolved 509. The cases resolved are family and personal matters, which are the competence of *Šamgalanna*. The head of the woräda community policing gave the following case as an example:

Eighteen years ago, two people went into a dispute over land claims at Harambe Qäbäle, Qobo village. The cause of the dispute was the following. A person demanded his opponent return land he had taken unduly. When the latter resisted, the claimant in collaboration with his friend, stabbed him. The police imprisoned the two individuals who were involved in the stabbing for two years. After they served their prison sentences, the two men again joined the community and lived for eighteen years, moving from one village to another and from one town to another. In all those years, they were angry at the opponent who refused to return them the land. When they saw that the value of land had been increasing from time to time, they demanded their land again from the person who had already refused and another dispute was about to break out. VDRC members learned about the situation and reported it to the *qäbäle* police officer. The police officer advised

members of the VDRC to solve the dispute based on “community policing sciences” and the tradition of the community. VDRC members advised potential disputants. The two men who served in the prison put their claims afresh before the committee members. They asked the committee to oblige the other opponent to return the land and even to solve another problem that later arose, which was a dispute over the land border. The dispute was resolved in August 2017 after 18 years. Part of the disputed land was returned to the claimant, and the border dispute was resolved, too.

4.3. *Militia Office*

The militia office is an important organ of dispute prevention and resolution. According to Ankober Woreda Head of Militia Office, each *worāda* level government structure has a *Šalāqa* (battalion) of militia. For each of the 22 *qābāles* in Ankober Worāda, there are four *gantas* (militia units below *Šalāqa*), totaling 88 *gantas* for the 22 *qābāles*. Below, the *qābāle* level, there is still a smaller militia unit called *hail*. Further at the village, each *hail* is subdivided into “teams”. At the time of data collection, there were 103 teams, each team comprising 12 to 16 members. Further again, there were *yātābāqa budān*, each *budān* comprising about five members. The lowest level, one-to-five, comprised community members that were not formally part of the militia. There were 2646 *yātābeqa budāns* in Ankober Worāda. All in all, there were 1327 individual militia members in Ankober Worāda, both armed and non-armed. According to the informant mentioned above, the ideal ratio was to have 15 militias for every 1000 people, while it was at 14.6 militias for every 1000 people during the fieldwork, meaning additional militia needed to be trained.

Militias had different roles. Gun administration and control, crime and dispute prevention, and dispute resolution are the major ones. They resolved disputes by themselves or referred them to a resolution by the peace committee or VDRC. Every one of the 1327 militia could resolve disputes if they were minor. The one to five members also did the dispute resolution in their respective competence. If a case was beyond their competence, they referred them to the VDRC, which was described earlier in the section on community policing. Team members could also solve simpler disputes while they would refer it to the VDRC if a case was more difficult. *Yātābāqa budān* members, individually or as members of VCRC, may also engage in dispute resolution. According to figures from Worāda Militia Office, in the 2015/2016 fiscal year,

there were over two hundred disputes identified by the militia office. Of these, the militia members resolved over 160 of them. According to an informant, the following is an example of cases resolved by the militia office.

Case 3

During the 2012 fieldwork, Gerawork and Melisew (both pseudonyms) were militiamen in Ankober Woräda. They were on foot patrol to assess security at market entrances and exits. Theft, rioting, and other illegal activities were occasionally observed on market days. One day in April 2011, at 6:00 p.m., the two militiamen came upon two people carrying guns and traveling through the forest. The militiamen eventually discovered that the two people's names were Muluneh Chane and Negash Wosene (both pseudonyms). The two men were told to lay down their guns and surrender or they would be shot down. Fortunately, the two gunmen surrendered calmly to the militiamen on patrol. The militiamen brought both of them to the office, arrested them for two days, and questioned them about their plans. The gunman showed everything to them. They told the militiamen that they were pursuing a guy (known as Ashagre Yisru (Pseudonym)) with whom one of the gunmen (Muluneh Chane) was in a quarrel, according to the informant who quoted them. The genesis of the conflict dispute was a dispute over a girl. Muluneh Chane wanted to marry a girl; however, the girl didn't want him. Muluneh was waiting for a suitable moment to assassinate Ashagre Yisru, with whom the girl had agreed to get married with. The militiamen summoned both sides and scheduled a dispute resolution meeting. The two men settled their dispute in front of the militia commanders and lived in peace.

When problems are addressed in venues such as the peace committee or militia office, the traditional rituals involved in the process of dispute resolution by the traditional *Šəmgälanna* proper become shorter or do not exist at all. *Šəmgälanna*, as a traditional dispute resolution mechanism, employs profound techniques and symbolism. Depending on the intricacy of the disagreement, it might take days, weeks, or even months to settle a dispute. When disagreements are settled before “modern” institutions as the new actors call it, however, traditional rituals are often neglected, and the process of dispute resolution is frequently shortened. This erodes the traditional values entrenched in CDRMs, such as *Šəmgälanna*. For detailed procedures employed in *Šəmgälanna*, see Desalegn (2017).

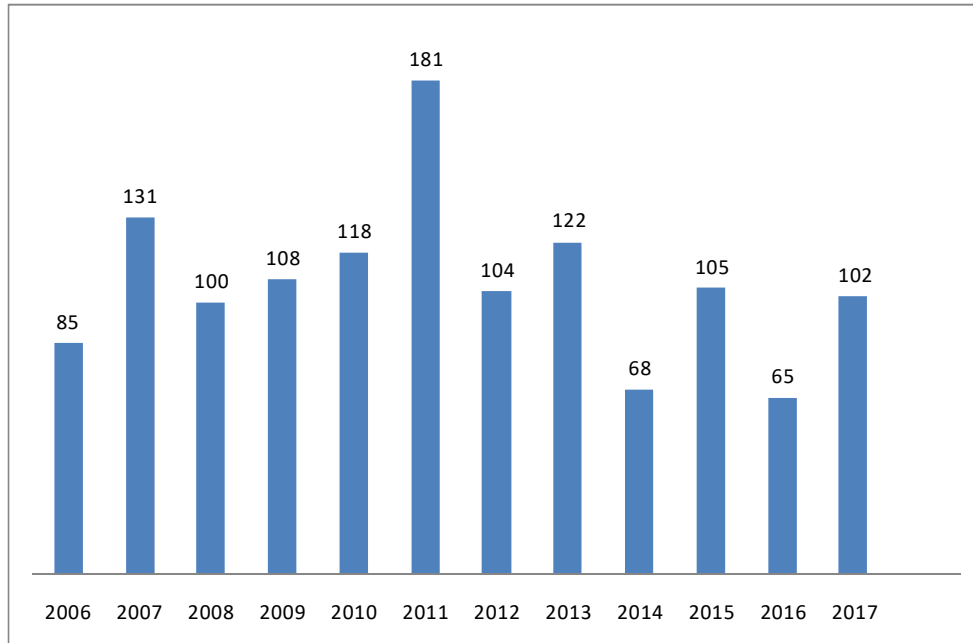
4.4. *Women's Affairs Office*

According to informants, *Šəmgəlanna* is considered insensitive and an institution that operates virtually in the realm of men. It views disputes from men's perspectives and passes decisions in favor of men. The major actors, be it arbitrators or arbitrated, are, in most cases, men. Women's cases enter only incidentally, usually concerning marital disputes. From the modern conception of gender equality, *Šəmgəlanna* is a male-centered institution.

To rectify this "weakness" of the institution, local government offices such as the Office of Women's Affairs intervene or take over matters of dispute resolution involving women. Training is often given to the community, mainly the elders in the arbitration, women, and members of the community at large. Besides, there are also practical measures of women's representation in some government structures, such as in *qābāle* social courts, where cases are seen at the lowest level. Measures are taken to ensure an equal representation of women in CDRMs. The result, however, is that *Šəmgəlanna* lost control over an important section of society. Women now less often go to the so-called patriarchal customary institutions. Alternatively, they go to Women's Affairs Office or the court, all of which are more sympathetic to women's cases. The involvement of the Women's Affairs Office in CDRMs has been strengthened since 1991 when the equality of men and women has been put in the constitution. The change army discourse gave only a new impetus to the intervention of this government office.

The following figure shows the number of complaints Ankober Woräda Women's Affairs Office had been received from women applicants. As the figure shows, from 2006 to 2017, the office received 1289 complaints; it resolved some of them and referred others to the court.

Figure 2: Disputes resolved by Women's Affairs Office (2006–2017).



Source: compiled from reports by Women's Affairs Office (2006-23017)

The qualitative analyses of the disputes also show that they are indeed personal and family matters. The following case taken from the Ankober Woräda Women's Affairs Office can be an illustration.

Case 4

Date 06-06-06

Bad governance issue resolved

Chairperson- Atinafwork Dejene

Participants- Woineshet T/Mikael
Negese G/Yohannes

Subject: marriage contract

We lived in marriage for 18 months. However, we had not concluded a marital agreement in writing. As a result, we often had disputes, and we were not happy in our marriage. However,

we agreed to start anew after we resolved our disagreements through the Women and Children Affairs Office. We have agreed hereto as follows. The following are expected from me, Ato Negese G/Yohannes (husband).

- I agree to receive her as my wife and will conclude the marital agreement in writing in fifteen days.
- I will contribute money as much as I can [for my wife] to be able to make *areqe* (local liquor).
- I will stop beating her and insults triggering dispute

Expected of W/roWoinisht T/Mikael (wife)

- I will stop uttering words that trigger a dispute
- I will not disturb our marriage in hearsay

Applicants

1. Winisht G/michael
Signed
2. Negese G/Yohannes
Signed

Witnesses

1. WorkalemTefera Signed
2. MisrakAbriham Signed

Chairperson

Atinafwok Dejene Signed

Stamp

According to an interview with the head of the Women's Affairs Office, disputants visit the office for several reasons.

Some visit just over minor disputes, such as a woman accusing her husband of not sharing meals with her. Others approach accusing their husbands of not giving money for household expenses, of being drunk, or of beating them. Others come for land disputes. Most of the "customers" of the office are women. Because women believe in government bodies, especially the ones specifically dedicated to women, i.e., women's affairs, are more favorable to them than *Šəmgəlanna*.

While the *woräda* Women's Affairs Office is a state wing, there are also public-wing organizations that do the resolution of disputes involving women. The public-wing organizations are Ankober Woräda Women's Association and Ankober Woräda Women's Federation. Their activities were not, however, documented and it was not possible to find statistical data on the number of cases resolved by these associations. However, it was possible to learn from interviews with the heads of the two associations that they were doing several dispute resolution activities, not only at the *woräda* level but also at *qäbäle* and village levels. For example, at the *woräda* level, the women's association has resolved three marital disputes recently. The following case is taken from an interview with the head of the *woräda* women's federation.

Case 5

Husband: Gorfneh Mekuria

Wife: Asresh Abebe

(18 years in marriage)

Cause of dispute: The husband is a mud kneader and the wife does not work. They have five children, three girls, and two boys. The wife works by herself. She took out a loan from a credit association and set up a sheep breeding business. But, the wife complained: the husband was not helping her even with the small income he gets from daily labor as a mud kneader. They have a house. They used to have farmland too, but it was taken away since their land was incorporated into the government premises. From the Women's Affairs Office, an officer named Menen Hailu (pseudonym), and from the Women's Federation and the Women's Association, Alemu and Zinash respectively sat together to solve the dispute between the spouses. The wife intended to dissolve the marriage and divide marital property. However, those mediators called the husband and the wife and discussed the problem together. After hours of discussion, the husband and wife agreed with each other to solve their respective problems: the husband to support the family with whatever amount of cash he gets from the daily labor, and the wife to listen and understand the problem of on husband's side. This was done in 2017 in Goräbella 01 *qäbäle*.

Moreover, the party wing is represented through *Yäsetoch League* (Women's League). At the lowest level, called *həwas* as described in the second section of this paper, there is the *yäsetoč league* comprising 7–45 (902 members in

Ankober Woräda organized into 170 *həwas*) the ideal is to have 562 *həwas*, equal to *yäləmat budən* (562 *Yäləmat budən* in Ankober). *Həwas* also solved disputes together with women's associations at *qäbäle* level and with associations and federations at *woräda* level. Like the two wings above, this wing also resolved disputes; one of them is the following example, I took from an oral interview with the head of the League.

Case 6

Abebech (Wife, Pseudonym)

Arefe Ayene (Husband, Pseudonym)

The husband and wife had two children and lived for five years in marriage. The spouses went into a dispute in 2014. The husband alienated the common property to his holding. He argued that the land was an inheritance from his family and did not want his wife to share it with him. The woman complained about the matter to the *həwas* (the lowest level in the party wing). Then, members of the *həwas* discussed the matter together with the women's association at the *qäbäle* level to resolve the problem. The *həwas* members were the principal actors, and the chairperson of the dispute resolution process was from *həwas* too. After a dispute resolution that took a long time, the husband agreed to share the land with his wife and they dissolved the marriage. The informant who took part in the dispute resolution remembered, "On the last day, we met in the early morning. Without even having lunch, we continued discussion and the resolution ended in the late afternoon. Altogether, the case took a long time".

5. Summarizing Debates

The intrusion of state actors into resolution of disputes that are normally handled by SDRMs triggered debate between those who are in favor and against it. For those supporting the existing approach, the relationship between *Šəmgälənnä* and state-backed institutions is best described as one of the functional complementarities. According to interview sources as well as official documents, government officers consider *Šəmgälənnä* to be outmoded and rely only on "traditional" approaches. First, *Šəmgälənnä*'s approach is reactive. It deals only with the reconciliation of disputes *ex-post*. On the other hand, they consider the approach followed by the state is modern and focuses on the prevention of disputes rather than just conciliation after they happen.

Second, supporters of the existing approach also believe that *Šəmgəlanna* does not treat women and children equally. It is biased toward men, both in terms of the composition of *Šəmagəllewoč* and the outcome of a decision. They argue *Šəmgəlanna* should change and adapt in response to new challenges in the current disputes, cultural change, and the needs of local populations. It also needs to comply with constitutional principles of equality for every social group.

Third, supporters also believe that the current approach followed by the government provides facilities necessary for dispute resolution. The actors in dispute resolution have houses, which they call dispute resolution centers, constructed at least for each *qäbäle*, but each village also has centers. Local government administrations, in collaboration with the community, had built 30–40 steel sheets in every village. Instead of resolving disputes in the trees' shades, supporters of this argument deem, dispute resolution at centers dedicated to this purpose makes the approach "modern". There are 85 villages in the Ankober Woräda. Each has a dispute resolution house. The houses have chairs, and they had a regular date for the meeting. Fourth, the existing approach had also introduced record keeping practice. Besides, people involved in this activity received training. According to pro-state actors, the community now prefers working with the government to *Šəmagalles*. In the "modern" system that this paper discussed, one can appeal to the next responsible organ; but there was no such system in *Šəmgəlenna*. *Šəmgəlenna* is not democratic, not just.

For those on the side of *Šəmgəlanna* are against this infusionist approach, the state's role in weakening CDRMs is huge. In the first place, the Constitution has weakened the local institutions by a substantial amount by taking away criminal matters from the jurisdiction of CDRMs. Besides, state institutions are penetrating even to the family life. They suspect these institutions are an apparatus of control by the government. Community members who oppose the approach see it as a state intrusion into the jurisdiction of CDRMs and as a grassroots surveillance mechanism by the same.

6. Conclusion

This case study shows that the state intrusion into the jurisdiction of CDRMs in Ankober was profound following an implementation of a reform agenda called "change army" by the EPRDF-led government from 2011 to 2018. As part of the reform agenda, the state had created or co-opted several local level

offices and committees affiliated with it ostensibly to generate a new impetus for "development", and in the field of dispute resolution, to "modernize" CDRMs. However, community members who oppose this approach see that the state was intruding into the jurisdiction of CDRMs to handle personal and family disputes that at least the 1995 Constitution of Ethiopia granted the latter. What conclusion can the case study suggest? While the state's ambition to "modernize" *Shəmgəlanna*, in the case of Ankober, can be acceptable, the approach is not. The endeavor, if at all genuine, could be more fruitful if the state used CDRMs themselves as an entry point. It is important to endorse the best experiences from CDRMs first and make such "modernization" initiative also shared with them. A top-down imposition of "reform" will weaken the CDRMs. In the existing practice during the fieldwork, the new actors not only took away the multitude of cases CDRMs entertain, but also led to the deterioration of the trust the community have towards CDRMs as the new approach co-opted some individual members who were actors in *Shəmgəlanna*. The new approach also significantly removes cultural values associated to ending disputes through CDRMs. Finally, the state intrusion into CDRMs during the study period seems to be wider than this case study may suggest. It seems possible to generalize that similar experiences existed with other parts of the country since the "change army" was a national agenda. The approach could be the same across different places and thus had a significant implication in the role of CDRMs.

References

- Abera Jembere. 1999. *An introduction to the Legal History of Ethiopia*. Africa studies center, Lei den, Netherlands.
- Amhara National Regional State. 2010. *Amhara National Regional State Executive Organs Re-establishment and Determination of their Powers and Duties Proclamation No. 176/2010*. Bahir Dar: Amhara National Regional State.
- Desalegn Amsalu. 2020. "Use and abuse of 'the right to consent: Forum shopping between *Shimgilinna* and state courts among the Amhara of Ankober, north central Ethiopia.' In *Legal Pluralism in Ethiopia Actors, Challenges and Solutions*", edited by Susanne Epple and Getachew Aseffa. Bielefeld: transcript.
- Desalegn Amsalu. 2017. "Traditional Mechanisms of Conflict Resolution among the Amhara: The Case of Shimgilinna in Ankober Woreda." In: *Making Pace in Ethiopia: Nine Cases of Traditional Mechanisms for Conflict Resolution*, edited by Tarekegn Adebo and Hannah Tsadik. Addis Ababa: Life and Place Institute, Peace and Development Center.
- AWGCAO. 2016. *Soreni. Ankober Woräda Government Communication Affairs Office Bulletin*. Ankober: AWGCAO.
- Azeze, Fekade, Fiseha, Assefa, and Gebre Yntiso. 2011. *Annotated Bibliography of Studies on Customary Dispute Settlement Mechanisms in Ethiopia*. Addis Ababa: The Ethiopian Arbitration and Coalition Center.
- Burton, John. 1990 *Conflict: Resolution and Prevention*. New York: St Martin's Press.
- Challa Amdissa. 2020. "Implication of Ethiopian Civil Service Reforms on Performance Management" *Public Policy and Administration Review* 8(2):17-31.
- Denney, Lisa and Kassaye, Demelash. 2013. *Securing Communities for Development: Community Policing in Ethiopia's Amhara National Regional State*. www.odi.org
- Epple, Susanne and Aseffa, Getachew, eds. 2020. *Legal Pluralism in Ethiopia Actors, Challenges and Solutions*. Bielefeld: transcript publishing.
- FDRE. 1995. *The Constitution of the Federal Democratic Republic of Ethiopia*. Addis Ababa: FDRE.Gebre Miruts and Nigussie Daba.
32022. "Change Army: The New Face of Modernizing Civil Service in Ethiopia Ethiopian". *Global Journal of Political Science and Administration* 10(2):.44–62.

- Ministry of Civil Service. 2014. *Manual to Build Civil Service Change Army*. Addis Ababa: Ministry of Civil Service.
- Norman J. Singer, 1972. 'Islamic Law and the Development of the Ethiopian Legal System' (1971–1973) 17 *Howard Law Journal* 130
- Pankhurst, Alula, and Getachew Assefa, ed. 2008. *Grass-roots Justice in Ethiopia: The Contribution of Customary Dispute Resolution*. Addis-Abeba: Centre français des études éthiopiennes.
- Singer, Norman. 1970. "Modernization of Law in Ethiopia: A Study in Process and Personal Values". *Harvard International Law Journal* 73:73-125.
- Stanley Z. Fisher, 'Traditional Criminal Procedure in Ethiopia', (1971) 19 *The American Journal of Comparative Law*, 709–746
- Tarekegn Adebo and Hannah Tsadik (ed). 2017. *Making Pace in Ethiopia: Nine Cases of Traditional Mechanisms for Conflict Resolution*. Addis Ababa: Life and Place Institute, Peace and Development Center.
- Tarekegn Adebo and Hannah Tsadik (ed). 2008. *Making Pace in Ethiopia: Nine Cases of Traditional Mechanisms for Conflict Resolution*. Addis Ababa: Life and Place Institute, Peace and Development Center.
- Tsehai Wada. 2012. "Coexistence between the Formal and Informal Justice Systems in Ethiopia: Challenges and Prospects" *African Journal of Legal Studies* 5: 269–293.
- Tuori, Kaius. 2010. "Legal Pluralism and Modernization: American Law Professors in Ethiopia and the Downfall of The Restatements of African Customary Law". *Journal of Legal Pluralism* 62:43-70
- World Bank. 2019. "Moving Further on Civil Service Reforms in Ethiopia: Findings and Implications from a Civil Service Survey and Qualitative Analysis". World Bank: Washington DC.
<https://openknowledge.worldbank.org/handle/10986/31206>.

